

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
UNCOVERED INNERSPRING UNITS) Investigation Nos.:
FROM CHINA, SOUTH AFRICA) 731-TA-1140-1142
AND VIETNAM) (Final)

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 FROM CHINA, SOUTH AFRICA) 731-TA-1140-1142
 AND VIETNAM) (Final)

Wednesday,
 October 22, 2008

Room 101
 U.S. International
 Trade Commission
 500 E Street, S.W.
 Washington, D.C.

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

APPEARANCES:

On Behalf of the International Trade Commission:

Commissioners:

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

APPEARANCES: (Cont'd.)

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS
COORDINATOR
SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT
JENNIFER MERRILL, INVESTIGATOR
RALPH WATKINS, INDUSTRY TRADE ANALYST
KELLY CLARK, ECONOMIST
DAVID BOYLAND, ACCOUNTANT/AUDITOR
PATRICK GALLAGHER, ATTORNEY
JAMES McCLURE, SUPERVISORY INVESTIGATOR

In Support of the Imposition of Antidumping Duties:

On Behalf of Leggett & Platt, Inc. (Leggett):

PERRY DAVIS, President, Bedding Group, Leggett
LEIGH SALYER, Group Vice President, Demand
Management, Bedding Group, Leggett
WENDY WATSON, Associate Special Counsel, Leggett
DEIRDRE MALONEY, Senior Trade Analyst, White &
Case, LLP

CHRISTOPHER F. CORR, Esquire
FRANK H. MORGAN, Esquire
YOHAI BAISBURD, Esquire
White & Case, LLP
Washington, D.C.

On Behalf of Hickory Springs Manufacturing Company
(Hickory Springs):

JAMES BUSH, Executive Vice President, Wire
Products Group, Hickory Springs

JOHN M. RYAN, Esquire
Weil, Gotshal & Manges, LLP
Washington, D.C.

APPEARANCES: (Cont'd.)

In Opposition to the Imposition of Antidumping Duties:

On Behalf of Ad Hoc Innersprings Importers' Coalition:

KENNETH KARMIN, Chairman and Chief Executive
Officer, Ortho Mattress, Inc.
KERRY TRAMEL, President, Lady Americana
ROBERT ENOCH, Director, China Logistic Partner
Network Co., Ltd.
QUANG NGUYEN, President, Crystal Bedding, Inc.

JULIE C. MENDOZA, Esquire
DONALD B. CAMERON, Esquire
R. WILL PLANERT, Esquire
Troutman Sanders, LLP
Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN ARANOFF: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Nos. 731-TA-1140-1142 (Final) involving Uncovered Innerspring Units From China, South Africa and Vietnam.

The purpose of these hearings is to determine whether an industry in the United States is materially injured or threatened with material injury by reason of less than fair value imports of subject merchandise.

Schedules setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of time allocations. Any questions regarding the time allocations should be directed to the Secretary.

Finally, if you will be submitting documents that contain information you wish classified as

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1 business confidential, your requests should comply
2 with Commission Rule 201.6.

3 Before we get started with the hearing this
4 morning, I do want to acknowledge our guests who are
5 seated in the back of the room. We have visiting a
6 number of attorneys from Jiangsu Province, China,
7 being sponsored by the International Law Institute.
8 Welcome to the International Trade Commission. We
9 hope you find today's hearing interesting and
10 educational.

11 Mr. Secretary, are there any other
12 preliminary matters?

13 MR. BISHOP: No, Madam Chairman.

14 CHAIRMAN ARANOFF: Very well then. Let's
15 proceed with the opening remarks.

16 MR. BISHOP: Opening remarks on behalf of
17 Petitioners will be by Christopher F. Corr, White &
18 Case.

19 MR. CORR: Good morning. My name is Chris
20 Corr from the law firm White & Case representing
21 Leggett & Platt, the Petitioner in this proceeding, on
22 behalf of the U.S. innerspring industry.

23 We thank the Commission and staff for this
24 opportunity to present our case today, and a
25 compelling case it is when we focus on the statutory

1 factors.

2 First, subject imports increased in absolute
3 and relative terms over the POI. The market presence
4 of subject imports during the POI was significant and
5 growing regardless of whether demand was increasing or
6 decreasing.

7 Second, the adverse price effects of imports
8 are indisputable. In this commodity product, the
9 record shows that subject imports took sales from the
10 domestic industry, undersold domestic prices by
11 staggering amounts of up to 50 percent and more and,
12 most dramatically, caused substantial price
13 suppression as the domestic industry was unable to
14 pass through increasing input costs due to the
15 presence of dumped imports.

16 Third, subject imports caused material
17 injury to the domestic industry, correlating directly
18 with significant declines in operating margins, sales
19 volumes, production and capacity, among other factors.
20 Tellingly, it was only after the Commission issued its
21 affirmative preliminary determination and dumped
22 imports declined that the U.S. industry started to
23 recover.

24 Around four years ago, during the Section
25 421 investigation of Chinese innerspring imports, the

1 exporters of Chinese innersprings assured the
2 Commission that exports from China would remain tiny
3 and negligible due to limited capacity. Today, the
4 record unquestionably belies those claims.

5 Now, in this proceeding, Respondents take a
6 similar tact, asserting that they are a small,
7 limited, supplemental source that is closed out of all
8 but a minor portion of the U.S. innersprings market.
9 However, the record does not support these claims
10 either.

11 As we will demonstrate today and in the
12 confidential briefs, dumped imports compete head to
13 head with the domestic like product for the vast
14 majority of sales in the innersprings market, a price
15 sensitive commodity market, across all types of
16 customers -- large, medium and small -- and across
17 virtually all types of innerspring products.

18 In short, the record demonstrates that an
19 affirmative determination is warranted in this final
20 investigation, and the trends clearly indicate that
21 absent a final affirmative determination low priced
22 imports will quickly re-enter the U.S. market, take
23 market share and undermine a U.S. industry that has
24 successfully and fairly competed for many years.

25 Thank you very much. We look forward to

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1 presenting our case.

2 MR. BISHOP: Opening remarks on behalf of
3 Respondents will be by Julie C. Mendoza, Troutman
4 Sanders.

5 MS. MENDOZA: Good morning. My name is
6 Julie Mendoza, and I'm appearing on behalf of the
7 Innerspring Importer Coalition.

8 This is a case about China, and that is
9 where the similarity between this case and the normal
10 case against China ends. In this case, the
11 Petitioner, one company, Leggett & Platt, is the
12 goliath. It has a virtual stranglehold over the U.S.
13 market for innersprings. Overwhelmingly, purchasers
14 identified Leggett as the price leader in the market.

15 As you listen to the testimony this morning,
16 ask yourself whether it is credible the small volume
17 of subject imports and the small absolute increases in
18 that volume could possibly account for the volume and
19 price effects that Leggett claims, particularly where
20 the overwhelming market presence of a large,
21 multinational corporation that controls virtually the
22 entire U.S. merchant market for innersprings and a
23 large share of other bedding components.

24 The effectiveness of Leggett's strategy is
25 indisputable. Leggett has systematically bought out

1 every domestic competitor of any size in the U.S.
2 market with the exception of Hickory. Nonsubject
3 imports are virtually zero. Not every company would
4 come before this Commission and ask you to eliminate
5 the last vestiges of competition in this market.

6 But even Leggett can't control market
7 forces. You will hear from our witnesses this
8 afternoon that innerspring demand has declined in part
9 due to the fact that innerspring mattresses have lost
10 market share to air and foam mattresses.

11 You will also hear that in 2007, Sealy
12 undertook a very aggressive pricing strategy. The
13 fallout from that strategy is not and must not be
14 attributed to imports.

15 The pricing data that the Commission
16 collected confirms the point that imports are not the
17 cause of the industry slowdown. Look at the two
18 largest producer products in 2007. The U.S. industry
19 increased its absolute volumes in those categories and
20 share by dramatic growth and increased prices over the
21 period.

22 Note that underselling was small. U.S.
23 producers were able to grow significantly in pricing
24 categories that they favored without cutting prices or
25 being undersold.

1 Competition is not material injury. I
2 understand how Leggett, lacking any such competition,
3 could confuse the two, but the Commission must follow
4 the statute as it always does.

5 Another important distinction between this
6 case and the normal case against China is that imports
7 declined and declined very significantly in the first
8 half of 2008 long before the Commerce Department's
9 preliminary determination in August.

10 The Petitioner asserts that this decline was
11 due to the filing of the petition, but they don't
12 support that assertion with any empirical or credible
13 evidence. As the Commission is aware, a much more
14 typical pattern in cases involving China would be for
15 imports to remain steady or, frankly, even increase up
16 to the date of the Commerce Department's preliminary
17 determination.

18 I ask you this. If, as Leggett maintains,
19 Chinese producers have taken such an aggressive stance
20 in the U.S. market, why would they cooperatively pull
21 back just because the petition was filed? In fact, in
22 the case of South Africa and Vietnam, their imports
23 had already declined in late 2007, in the second half
24 of 2007. In the case of China, imports declined in
25 the first half of 2008, reflecting declining orders in

1 late 2007, as well as early 2008.

2 You will hear testimony today that Chinese
3 producers lost their competitive edge in late 2007.
4 Other empirical evidence confirms this conclusion. We
5 will show you that mattress imports from China also
6 declined between 2007 and 2008.

7 Let me just say this about how the
8 Commission should deal with the fact that there are
9 two market segments. A comparison of the captive and
10 merchant market segments can be useful for purposes of
11 seeing how the segment of the industry performed that
12 is not affected by imports and comparing that to the
13 merchant market segment where imports compete. If
14 both segments are performing in a similar fashion,
15 that is strong evidence that factors other than
16 imports are causing the trends.

17 But the legal question remains whether
18 imports have had a materially adverse effect on the
19 industry as a whole. Any claims of adverse effects by
20 Petitioner on the merchant market should not be given
21 weight unless they can show that this translated into
22 significant effect and material effect on this
23 industry as a whole, including both captive and
24 merchant producers.

25 We've discussed threat in our brief. I will

1 just say that the threat case is very weak.

2 I'll comment on one issue, which is that
3 mere capacity in China does not equal exports to the
4 United States. After all, Leggett invested in four
5 facilities in China that it claims is servicing the
6 domestic market and markets in Asia.

7 Thank you.

8 MR. BISHOP: Would those in support of the
9 imposition of antidumping duties please come forward
10 and be seated?

11 Madam Chairman, all witnesses have been
12 sworn.

13 (Witnesses sworn.)

14 CHAIRMAN ARANOFF: Good morning. Please
15 proceed when you're ready.

16 MR. CORR: Thank you, Madam Chairman. Good
17 morning again. Chris Corr from White & Case.

18 I am joined here today by Perry Davis,
19 president of Leggett's Bedding Group; Leigh Salyer, to
20 my right, Group Vice President for Demand Management;
21 and Wendy Watson, Associate General Counsel.

22 I'm also joined today by my colleagues,
23 Yohai Baisburd to my far right, Frank Morgan and
24 Deirdre Maloney.

25 You will also be hearing from Jimmy Bush of

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1 Hickory Springs, the second largest U.S. manufacturer
2 in the merchant market, represented by John Ryan of
3 Weil Gotshal.

4 The panel this morning will address each of
5 the statutory factors and show why the U.S. uncovered
6 innerspring industry is materially injured and
7 threatened with material injury by reason of low
8 priced subject imports that have been found to be
9 dumped by margins of 118 percent to 234 percent.

10 I will now turn it over to Mr. Perry Davis.
11 Thank you.

12 MR. DAVIS: Good morning. My name is Perry
13 Davis. I'm the president of Leggett & Platt's Bedding
14 Group, and that includes Leggett's innerspring
15 operations.

16 I've been involved in the U.S. innerspring
17 industry for over 27 years. As president of the
18 Bedding Group, I oversee all aspects of the business,
19 including production and sales.

20 Leggett is a global company headquartered in
21 Carthage, Missouri. In 2003, Leggett manufactured
22 innersprings at nine plants and operated 21
23 distribution centers throughout the U.S.

24 Although the period of investigation for
25 this final phase begins in 2005, I mention 2003

1 because that was the year the U.S. industry requested
2 China specific safeguards because of the imminent
3 surge of low-priced imports.

4 Even though Chinese imports had not yet
5 become a significant presence in the market, we were
6 very concerned back then about the effect low-priced
7 products would have on our market. Our fears came
8 true.

9 As subject imports increased from negligible
10 levels in 2004 to close to 15 percent of the market,
11 according to our internal calculations, they dragged
12 down our sales volumes, employment, revenue, operating
13 income and severely eroded our margins.

14 Subject imports have had a toxic effect on
15 the U.S. market. To understand why, you need to keep
16 in mind that we often see subject imports sold at
17 delivered prices to our customers that are below our
18 cost of production for similar products.

19 In order to compete with these unfair
20 imports, we've been forced to reduce prices or in some
21 case simply walk away from sales. As a result,
22 Leggett was forced to close three manufacturing
23 branches. We laid off workers, reduced our overall
24 capacity and shut down several distribution centers.
25 We now produce innersprings in Carthage, Missouri;

1 Ennis, Texas; High Point, North Carolina; Monroe,
2 Georgia; Tupelo, Mississippi; and Winchester,
3 Kentucky.

4 To understand the full impact of low-priced,
5 dumped imports on U.S. producers, take a look at what
6 happened on the west coast and in the southwest where
7 imports first made inroads into the U.S. market. As
8 recently as 2006, we had production facilities in
9 Phoenix, Arizona.

10 Atlas Springs produced innersprings in
11 California. Atlas was unable to withstand the
12 increasing volumes of low-priced subject imports, and
13 it was forced to close operations in 2006. We know
14 that Atlas laid off over 200 workers when it ceased
15 operations.

16 Right now, there is no open market U.S.
17 production of innersprings west of Ennis, Texas. I
18 think it's worth mentioning that we competed head to
19 head with Atlas for decades. It was only when the
20 low-priced imports surged into the west coast in large
21 quantities that they could no longer stay in business.

22 As you can see from our questionnaire
23 response, the economic and financial performance of
24 our U.S. innerspring operations has deteriorated
25 significantly since 2005 as low-priced, unfairly

1 traded subject imports entered the U.S. market in
2 increasing volumes.

3 Because they established a significant
4 presence in the market, they drove down market prices
5 and eroded our margins. I'd like to talk for a minute
6 as to why this is the case.

7 At the end of the day, innersprings are
8 essentially a commodity product. A mattress
9 manufacturer can use a pocketed or marshall coil,
10 continuous coil, offset or a bonnell to fill the
11 cavity of an innerspring mattress.

12 A manufacturer can switch between units that
13 have different types of coils and between domestic or
14 imported units with minimal to no retooling costs. In
15 fact, major mattress manufacturers can and have
16 switched from our LFK products, which Respondents
17 claim are proprietary, to lower-priced imported
18 bonnells.

19 The significant presence of very low priced
20 subject imports harms us in several ways. First,
21 there are almost no imports from other countries.
22 Thus, virtually every sale of dumped imports is a lost
23 sale to U.S. producers. When the market is not
24 expanding, the presence of low-priced subject imports
25 has an even greater impact on U.S. producers.

1 Secondly, the presence of low-priced imports
2 in the market or the threat of switching to low-priced
3 imports has been used as leverage during negotiation
4 to obtain lower pricing.

5 During the period of investigation, a large
6 national customer and many others switched to imports
7 because we were unable to lower prices to meet the
8 low-priced imports. Several other customers
9 threatened to do the same.

10 Third, during the period of investigation
11 one of our largest customers with whom we've had a
12 long-term contract forced us to lower prices in order
13 to regain sales that they had given the imports. This
14 was the case even though we already had a contract
15 with them.

16 Fourth, until import volumes decreased after
17 the filing of the petition, we had not been able to
18 raise prices high enough to recover higher raw
19 material cost. For example, our average unit selling
20 price for bonnells, which accounts for a majority of
21 our sales and the vast majority of subject imports,
22 fell from January 2005 until March of 2008.

23 Low-priced subject imports do not just
24 affect our financial operation. They also affect our
25 people. From 2005 to 2007, we were forced to reduce

1 our head count by more than 21 percent. That is 268
2 well paid U.S. manufacturing jobs.

3 Fortunately, as we saw volume return to us
4 after filing the petition, we've been able to add
5 employees during 2008. Those employees, and probably
6 many more, will have to be let go if duties are not
7 put in place and if unfairly traded imports re-enter
8 or return to the market.

9 Low-priced imports clearly caused us harm
10 during the period of investigation. Because we're a
11 global company, Leggett is a strong advocate for
12 international trade, but that trade must be fair. Our
13 experience the last few months shows how U.S. trade
14 laws can level the playing field.

15 I can only speak for Leggett, but we saw an
16 immediate benefit in terms of additional sales after
17 the filing of the petition and your affirmative
18 preliminary determination. Numerous customers that
19 had switched to dumped imports returned to us within
20 weeks of your vote.

21 Through July 2008, these customers were on a
22 pace to purchase an additional 1.2 million pieces as
23 compared to 2007. While it will take time to see the
24 full benefit of regaining these sales given the lag in
25 recovering raw material costs, we have already seen

1 positive effects to our capacity, our production,
2 shipments and financial performance into interim 2008.

3 I'd like to take a moment to talk about
4 where things are heading. We're very concerned about
5 the future. Demand for innersprings is closely tied
6 to the housing market and the overall health of the
7 economy. As you know, the housing market and economic
8 outlook are bleak right now.

9 At the time of the preliminary staff
10 conference in January, we were hoping for improvement
11 by the end of 2008, but it now looks increasingly that
12 housing will not rebound until 2010 at the earliest.

13 While subject imports increased their market
14 share, we had to reduce our capacity and production,
15 lost sales and market share, and had to lower levels
16 of operating income and operating margins from 2005
17 until we gained some preliminary relief by filing the
18 petition.

19 We're now entering a period of substantially
20 weaker economic performance. We are fearful of the
21 effects dumped imports will have on U.S. producers if
22 low-priced imports once again have access to the U.S.
23 market without the discipline of an antidumping order.

24 In conclusion, I want to stress that we're a
25 low-cost, efficient innerspring manufacturer with over

1 120 years of experience in the industry. We're
2 constantly looking for ways to develop new products,
3 control costs and provide value to our customers and
4 to our shareholders.

5 It may have been premature in 2003 to ask
6 for relief when imports were still at very low levels.
7 That is no longer the case. Since 2004, we've seen
8 firsthand the effects of increasing volumes of low-
9 priced imports.

10 Respectfully, we should not have to wait to
11 absorb more damage and close more facilities before we
12 can avail ourselves of the protection of the U.S.
13 trade remedy laws. We welcome competition on a level
14 playing field, but we haven't seen that until your
15 preliminary determination.

16 Thank you for the opportunity to appear
17 before you today. I look forward to answering any of
18 your questions.

19 MR. SALYER: Good morning. My name is Leigh
20 Salyer, and I'm the Group Vice President, Demand
21 Management, for Leggett & Platt's Bedding Group.

22 I have been with Leggett & Platt for over 12
23 years and worked in the bedding industry for more than
24 27 years. My current responsibilities include
25 forecasting sales and managing shifts in supply and

1 demand in the innerspring market.

2 Before discussing the impact that low-priced
3 imports have had on the U.S. market, I wanted to take
4 a moment to discuss the product. All uncovered
5 innerspring are manufactured from individual coils
6 that are joined together into predetermined standard
7 sizes that correspond to the size of the finished
8 innerspring mattress such as twin, full and queen.

9 As you can see from the samples on the
10 table, innersprings are produced from several types of
11 coils, including bonnell, offsets, LFK and continuous
12 coil. Please do not let the different types of coils
13 or differences between pocketed and nonpocketed coils
14 create the impression that the different types of
15 units do not compete with each other. Innerspring
16 units are completely interchangeable.

17 Mattress manufacturers can use any type of
18 innerspring to produce an innerspring mattress.
19 Mattress manufacturers will choose pocketed versus
20 nonpocketed innersprings or particular types of coils
21 based on consumer preferences and marketing decisions.

22 However, at the end of the day they can and,
23 as Perry mentioned, they do switch from one type of
24 innerspring to another based on cost considerations.
25 We saw a lot of that in recent years as mattress

1 manufacturers switched to more commodity type units.

2 This would not have been a problem because
3 we make money on those products. In fact, they
4 account for over 60 percent of our innerspring sales.
5 But, unfortunately for us, customers purchased
6 low-priced subject imports rather than our comparable
7 units.

8 I would now like to talk about the structure
9 of the U.S. innerspring market. There are two types
10 of innerspring producers, those such as Leggett and
11 Hickory that sell to the open market and maker/users
12 such as Sealy and Simmons that internally consume the
13 innersprings they produce.

14 In terms of pieces, the open market accounts
15 for 70 percent of the total U.S. market. This market
16 largely consists of spot market sales to hundreds of
17 small, medium and large customers. Most of the sales
18 in this portion of the market are bonnell type
19 innersprings.

20 Let me clear up one misconception.
21 Respondents claim that a large percentage of the open
22 market is insulated from competition. In fact, the
23 actual percentage, which is on page 9 of our brief, is
24 inconsequential. Captive producers account for the
25 remaining 30 percent of the U.S. market.

1 The importers have asked you to look at the
2 market differently: The four Ss and then everyone
3 else. To that I have two comments. First, the four
4 Ss account for only 45 percent, not 60 percent, of the
5 U.S. market when measured correctly by pieces instead
6 of by value.

7 Second, more importantly, two, Serta and
8 Spring Air, have no captive production and purchase
9 100 percent of their requirements on the open market.
10 Even the two captive producers purchase additional
11 units on the open market. These customers could, and
12 in some cases have, purchased imports. We know this
13 because we regularly talk to the representatives of
14 these companies, and they are keenly aware of subject
15 import prices.

16 So the real number we should focus on in the
17 open market is where imports and domestic producers
18 compete head to head and that, as I just explained, is
19 70 percent of the U.S. market. Nothing stops imports
20 from serving this portion of the market.

21 Let me discuss how imports enter the
22 innerspring market. Typically subject imports made
23 inroads at small accounts by offering product at
24 extremely low prices that bore no relationship to U.S.
25 market prices. As imports established themselves at

1 these accounts, they moved on and attacked larger
2 customers. They then set up several distribution
3 facilities to service these accounts and gain
4 additional sales.

5 Using this strategy, low-priced subject
6 imports have taken away sales of virtually all of our
7 open market customers large and small. We have lost
8 sales at our smaller accounts, and we have seen
9 increased competition and lost additional sales at
10 medium and large accounts.

11 We lose those sales on the basis of price.
12 Subject imports are frequently offered at prices well
13 below prevailing market prices. For example, at the
14 staff conference I pointed out that one of our largest
15 customers was now purchasing imports.

16 In 2005, our sales to that customer were
17 approximately 940,000 pieces. By 2007, our sales had
18 dropped to 400,000 pieces. After the petition was
19 filed, this customer switched back to us. In just the
20 first six months of this year, we had sold them
21 approximately 470,000 pieces, more than in all of
22 2007.

23 Low-priced, unfairly traded imports also
24 directly affect the maker/users. At least one maker/
25 user reduced production during the period of

1 investigation as it started to purchase low-priced
2 imports. I know other maker/users routinely analyze
3 whether to switch to imports.

4 I also understand that maker/users are being
5 forced to lower prices of certain finished mattresses
6 in order to compete with other mattress manufacturers
7 that are using low-priced innerspring imports.

8 I would like to explain how low-priced
9 imports affect prices in the marketplace. Bonnells
10 account for the majority of the U.S. market and of
11 subject imports. For us alone, they account for over
12 60 percent of our innerspring sales. Innersprings are
13 a commodity product, and customers purchase primarily
14 on the basis of price.

15 Low prices for subject imports drag down the
16 prices of bonnell innersprings, and because they
17 account for a majority of the market by doing so they
18 assert downward pressure on the price of the other
19 types of innersprings.

20 In addition to forcing us to lower our
21 prices, dumped imports have also suppressed our
22 ability to pass along increasing raw material costs.
23 In April 2007, in response to large raw material cost
24 increases, we announced a price increase. That price
25 increase met with significant resistance from many

1 customers. As a result, we lost additional business
2 to low-priced imports.

3 In 2008, we saw raw material costs double as
4 the cost of steel scrap and wire rod shot through the
5 roof. Thanks to the preliminary relief received by
6 filing this petition, we were able to recover these
7 escalating costs going forward, but we are not able to
8 recover the prior costs. I am sure that we would not
9 have been able to recover these costs if it had not
10 been for the filing of the case.

11 We saw the direct benefit of competing on a
12 level playing field in 2008. We received an immediate
13 benefit on our sales volumes, prices and capacity
14 after filing the petition when many U.S. customers
15 switched back to U.S. innersprings.

16 Instead of closing facilities, mothballing
17 productive assets and reducing our workforce as we had
18 to do from 2005 through 2007, we were able to add
19 additional capacity, increase our production and
20 shipments and hire additional workers.

21 Thank you for your time. I'm happy to
22 answer any questions you have.

23 MR. BAISBURD: Good morning. My name is
24 Yohai Baisburd, and I'm with the law firm White &
25 Case.

1 You've heard directly from Leggett about how
2 increasing levels of low-priced imports have affected
3 their operations. Before turning to the statutory
4 factors, I wanted to first address two other issues
5 that the Commission will also consider: Like product
6 and cumulation.

7 Regarding like product, we have suggested
8 that the Commission should find one like product that
9 covers all innersprings. No one has argued otherwise.
10 We continue to believe that that's the appropriate
11 definition, and the Commission should find a single
12 like product and that all U.S. producers are part of
13 this domestic industry.

14 Regarding cumulation, all of the statutory
15 factors are present in this case, and Respondents have
16 not argued otherwise in the context of present injury.
17 The subject imports are completely interchangeable
18 with each other and the like product.

19 There's a high degree of fungibility between
20 subject imports and the like product, and there is
21 also a significant overlap of competition between them
22 as they are sold nationally in the same channels of
23 distribution. Finally, subject imports and the like
24 product have been simultaneously present in the
25 market.

1 I will now briefly address the statutory
2 injury factors. They all indicate that the U.S.
3 innersprings industry has been materially injured and
4 is threatened with such injury by subject imports that
5 are being sold at less than fair value.

6 First let's talk about the volume effects.
7 There's no question that the subject import volumes
8 are significant. The actual levels of subject imports
9 are confidential, so I direct you to the table Roman
10 numeral IV-5 and Roman numeral IV-6 in the
11 confidential report to see the market shares of
12 subject imports. By any definition, those are
13 significant market share.

14 Subject imports have gained market share at
15 a time when overall consumption was contracting. They
16 have done so by relying on very low prices to grab
17 market share. Let's look at what the subject imports
18 are.

19 As we just mentioned, they're bonnell units
20 for the most part, and that accounts for the majority
21 of the units that are sold in the United States
22 market, so not only do you have a significant volume
23 of subject imports, but that significant volume is
24 highly concentrated in product that accounts for the
25 majority of sales in the United States.

1 As we mentioned, the open market accounts
2 for 70 percent of the total of the U.S. market. At
3 those levels the increasing absolute volumes of
4 imports is more than sufficient to cause material
5 injury. All you have to do is look at what happened
6 in the west and southwest regions where the greatest
7 market penetration occurred of subject imports during
8 the period of investigation according to official
9 import statistics.

10 As subject imports increased, they drove
11 Atlas, which was based in California, out of business
12 and forced Leggett to cease production in Phoenix,
13 Arizona. The record also establishes that low-priced
14 subject imports have negligibly impacted domestic
15 prices.

16 The record shows both price depression and
17 price suppression. There is no question that U.S.
18 producers have faced a significant cost/price squeeze
19 throughout the period of investigation. The cost of
20 goods sales to net sales ratio jumped from 78 percent
21 in 2005 to 84.5 percent in 2007. It only came down
22 during the interim period when subject import volumes
23 decreased.

24 And if I could address that point, there is
25 hard empirical evidence on the record as to why

1 imports decreased in interim 2008. All you have to do
2 is look at the purchaser and importer questionnaire
3 responses that are on the record to see why that was
4 the case, as well as statements from major U.S.
5 importers who expressly stated that they were no
6 longer shipping imports from China until this case was
7 resolved.

8 There really can be no doubt that subject
9 import volumes fell during interim 2008 due to the
10 pendency of these investigations. During the POI, raw
11 material costs increased significantly. In per unit
12 terms, raw materials jumped from \$13.23 in 2005 to
13 \$15.04 in 2007, an increase of nearly 14 percent.

14 Even with some price increases, U.S.
15 producers have not been able to recoup these higher
16 costs because of the aggressive pricing that subject
17 imports rely on to increase market share. You can see
18 on pages 15 and 16 of the confidential version of our
19 brief the relationship between Leggett's price
20 increases and increases in raw material costs.

21 The cost/price squeeze and need to lower
22 prices to meet import prices has had a material impact
23 on the performance of U.S. producers. In 2005, only
24 one out of five U.S. producers reported operating
25 losses. By 2007, it was three out of the five. The

1 aggressive pricing of subject imports has cost U.S.
2 producers millions of dollars, and these are lost
3 sales due to unfair competition.

4 Low-priced imports have had a direct impact
5 on the economic and financial performance of U.S.
6 producers. According to the public version of the
7 staff report, from 2005 to 2007 U.S. capacity
8 decreased 10 percent. U.S. production decreased nine
9 production. U.S. productivity was down 13 percent.
10 Sales volume dropped nearly eight percent, while sales
11 values dropped nine percent. Perhaps most starkly,
12 operating income fell 57 percent and operating margins
13 were cut in half.

14 What was happening during this time period?
15 Subject imports were increasing. Not surprisingly,
16 when imports declined in the first half of 2008 all of
17 these indicators improved for the industry as a whole
18 and also for the industry that competes in the open
19 market.

20 Although we believe the record clearly
21 supports a finding of material injury, let me take a
22 moment to address threat. The rapid increase in
23 imports from subject countries shows that producers in
24 these countries have the ability to quickly expand
25 production. They also are export oriented, and the

1 U.S. market is very attractive to them. This is a
2 strong incentive to sell increased volumes to the
3 United States.

4 It's worth again noting what happened in the
5 421 case. At that time, the Chinese Respondents stood
6 before this Commission, or at least three of you, and
7 claimed that total Chinese capacity would only be
8 755,000 units in 2005, and it would be an "absurd
9 assumption" to think that these Chinese units would
10 ship 100 percent of their capacity to the United
11 States.

12 What happened? According to official import
13 statistics, Chinese producers shipped 1.5 million
14 units the very next year. That is more than double
15 what they said their total capacity was at the time;
16 not their capacity for sales to the U.S., but their
17 total capacity in China.

18 At a minimum, you can infer that Chinese
19 exporters can quickly ramp up capacity and/or that
20 they have significant unused capacity. Chinese
21 capacity is currently far greater than the 750,000
22 pieces they claimed in the 421 case.

23 The Chinese Furniture Association estimates
24 that the Chinese innerspring mattress market is
25 approximately 15 million units per year. That means

1 that there are many Chinese producers that have
2 sufficient capacity to significantly increase
3 shipments to the U.S. market, and history has shown us
4 that they will do so.

5 The same is true for Vietnam and South
6 African producers. They also have significant
7 capacity and, as can be seen in the jump in the
8 imports according to official statistics from 2005 to
9 2006, they are willing to come into this market.

10 Respondents make a major point that rising
11 input costs and a lower dollar will keep them from
12 increasing their U.S. market presence, but we can see
13 the opposite. Raw material costs are coming down in
14 China, and the dollar is strengthening.

15 Also, home market demand in all three of
16 these countries is decreasing in response to the
17 global economic crisis. These producers will almost
18 certainly turn back to the U.S. market, which
19 continues to be the most attractive innerspring market
20 in the world.

21 The Commission should consider these threats
22 in the context of, one, the U.S. industry is
23 vulnerable given the material injury they have
24 suffered since 2004, and, two, that demand for
25 innersprings will likely fall as we experience

1 continued softening in the economy.

2 At the end of the day, all of the statutory
3 factors are present in this case. Subject import
4 volumes are significant and have had a significant
5 effect on U.S. prices through price depression and
6 suppression.

7 The impact of these imports is clear. All
8 you have to do is compare the condition of the U.S.
9 industry at the beginning of the POI to the end of the
10 period to see the effect increasing volumes of low-
11 priced subject imports have had on their operations.

12 Thank you very much for your attention.
13 We'd be happy to answer any questions after Hickory
14 Springs gives its testimony.

15 MR. RYAN: Good morning. My name is John
16 Ryan. I'm at Weil, Gotshal & Manges, and we represent
17 the Hickory Springs Manufacturing Company.

18 Mr. James Bush will be presenting Hickory
19 Springs' testimony this morning.

20 MR. BUSH: Good morning, Chairman Aranoff
21 and members of the Commission. My name is Jimmy Bush,
22 and I'm Executive Vice President of the Wire Products
23 Group at Hickory Springs.

24 Hickory Springs is a privately held family
25 business formed in 1944 and headquartered in Hickory,

1 North Carolina. My responsibilities, although very
2 comprehensive, are overseeing normal business
3 activities, ongoing strategic planning and maximizing
4 the profitability of our business and the welfare of
5 our employees.

6 In their statements and briefs to the
7 Commission, the Importers Coalition would prefer to
8 ignore the existence of Hickory Springs. From their
9 perspective, the U.S. industry is one company, Leggett
10 & Platt.

11 I'm here to tell you that Hickory Springs
12 cannot be ignored. We are not on the fringe of this
13 industry. We are at the core of it. We are a
14 longstanding major producer of the highest quality
15 innersprings in the United States.

16 We produce innersprings at sizeable
17 manufacturing facilities in Micaville, North Carolina;
18 Sheboygan, Wisconsin; and Holland, Michigan. The
19 manufacturing jobs at our plants in these relatively
20 small communities are all an important part of their
21 economic livelihood. The loss of dozens of
22 manufacturing jobs at our plants in these communities
23 has meant real hardships for the affected families.

24 The innerspring industry in the United
25 States is composed of two major groups. The first

1 consists of innerspring producers that supply mattress
2 manufacturers with their innerspring needs. When I
3 appeared before the Commission in 2004, the merchant
4 market supplier group included Hickory Springs,
5 Leggett & Platt, Atlas Springs and Saval Springs. Of
6 these, only Hickory Springs and Leggett & Platt remain
7 in business.

8 The second group of innerspring producers is
9 comprised of integrated mattress producers which
10 manufacture innersprings for their own finished
11 mattresses. This group consists of Sealy, Simmons and
12 Dixie Bedding. Symbol Sleep Products was an
13 integrated manufacturer until recently when they began
14 importing their innerspring units and sold their
15 mothballed capacity.

16 Most, if not all, of the other integrated
17 mattress producers buy some of their innerspring usage
18 from merchant market suppliers. The majority of the
19 mattress industry is made up of companies that do not
20 produce their own innersprings, but instead rely on
21 merchant market suppliers to supply their needs.

22 Hickory Springs has had a sizeable business
23 supplying mostly moderate to smaller sized mattress
24 producers for some time. Our business tends to be
25 done on a relationship basis rather than order to

1 order or by contract. Contracts account for a
2 relatively small share of our sales.

3 Hickory Springs agrees with the Commission's
4 conclusion that there is a single like product
5 comprised of innerspring units regardless of size or
6 whether these are pocketed or nonpocketed coil units.
7 Imported innerspring units are directly
8 interchangeable for the same sized products produced
9 by Hickory Springs.

10 Hickory Springs takes pride in the quality
11 of the innerspring units that we produce. However,
12 when imported innerspring units of the same
13 specifications are offered at far below our prices and
14 cost of production, as has been increasingly the case
15 since 2004, we confront serious negative effects on
16 our prices and profit margins.

17 Imports compete for the same sales to the
18 same customers that Hickory Springs has supplied for
19 many years. The increase in import volumes has come
20 at the direct expense of lower sales volumes from
21 domestic innerspring unit manufacturers.

22 In 2004, imports had just started to enter
23 the U.S. in a tangible way. The first effects were
24 felt on the west coast, and producers there -- Atlas
25 Spring and the Western Division of Leggett & Platt --

1 were the first to suffer the consequences of low-
2 priced import competition. Today there is no domestic
3 production west of the Rockies.

4 But this is a national market. We compete
5 for sales throughout the United States, and we have
6 seen the effects of imports on our prices throughout
7 the United States. Imports have hit us in every
8 segment of the market in which we sell -- large
9 accounts, moderately sized accounts and small
10 producers of mattresses -- and across a broad range of
11 sizes.

12 The Respondents will argue that purchasers
13 turn to imports not because of low prices, but rather
14 to dual source and to not rely solely on one producer.
15 The fact that they even make this argument implies
16 that the imports compete directly with domestic
17 product in a common market with limited barriers to
18 entry.

19 Further, Hickory Springs' very existence as
20 a domestic innerspring producer belies any argument
21 that imports are necessary for dual sourcing. Hickory
22 Springs has a long track record of meeting our
23 customers' needs for high quality innersprings at
24 competitive prices, and we exist as an alternative
25 source for innersprings in the United States.

1 The importers group here today is claiming
2 that there are logistical barriers to using imports in
3 place of U.S. produced innersprings, but that is not
4 the case. Due to Chinese innerspring prices below
5 Hickory Springs' cost of production, we began to
6 import a small volume of Chinese innersprings. We
7 were able to blend imports with our U.S. innerspring
8 units to try to compete with other imports.

9 Imports were staged on a periodic basis and
10 delivered within a reasonable window of time of the
11 requested date. We had no difficulty in ordering or
12 in getting delivery. The real difficulty with that
13 strategy was that that strategy cut down our U.S.
14 production on a one to one basis. Atlas tried the
15 same strategy before their ultimate demise.

16 When the petition was filed in January of
17 2008, we were hopeful that it would be successful.
18 Since then, we have stopped importing and now produce
19 in the United States every innerspring we sell.
20 Without antidumping duties, there will be no
21 logistical or other barriers to reverting back to
22 importation.

23 Imports have claimed that we are insulated
24 from import competition because of our patents and
25 proprietary product. In particular, Mr. Enoch, who

1 you'll be hearing from this afternoon, continues to
2 claim that Hickory Springs has a patent on their
3 Product, InnerACT, and receives royalties from a
4 license agreement from Leggett & Platt. This is not
5 the case as no such license agreements exist, and
6 there is no patent on InnerACT. In fact, the
7 identical product is produced in China.

8 The technology that innersprings are based
9 on is over 75 years old, and the patents on other
10 innovations since then such as Multilastic and
11 Miracoil have already expired. There is really no
12 basis in truth for the importers' assertion that we
13 are insulated from import competition due to
14 intellectual property.

15 Since this Commission investigated
16 innerspring imports in 2004, imported innersprings
17 have increased rapidly in terms of number of units
18 sold in the United States. As a result of ever
19 increasing import volumes, Hickory Springs has lost
20 considerable sales volume and market share. Evidence
21 of this has been provided to the Commission in our
22 business confidential response to the Commission's
23 questionnaire.

24 A large portion of domestic production of
25 innerspring units is internally used by integrated

1 mattress manufacturers such as Sealy and Simmons,
2 which account for one-third of U.S. innerspring
3 consumption.

4 When the Commission evaluates the volume of
5 imports, the Commission should consider the share of
6 merchant market sales that have been taken by imports.
7 The import market share is far greater than simply
8 looking at total U.S. consumption without regard to
9 whether the innersprings are internally consumed or
10 supplied by other manufacturers.

11 For the integrated manufacturers,
12 innersprings are not a separate profit center. It is
13 not clear to me how they can provide the Commission
14 with reliable segregated P&L data. However, the
15 integrated producers like Simmons and Sealy are also
16 affected by the low-priced imports. Some of them have
17 bought imports because they cost less than they can
18 make them for.

19 That said, the innerspring unit accounts for
20 a significant share, but not the majority, of the cost
21 to produce a mattress. Thus, the overall financial
22 performance of the integrated producers primarily
23 reflects the mattress production and not their
24 innerspring production.

25 Imports have become the low price leaders.

1 Hickory Springs can either meet low-priced imports or
2 walk away from sales. Hickory Springs has lost a
3 considerable volume of sales to import competition.
4 Even if we were able to retain sales, we do so at much
5 lower prices and at low or negative profit margins.

6 Up until 2004, Leggett & Platt, the largest
7 merchant market supplier, was in a position to lead
8 prices in the United States. Leggett & Platt would
9 generally make a price announcement several weeks in
10 advance, and the market would follow suit. These
11 increases were generally preceded by increases in
12 steel prices. Since imports became a major factor in
13 the market, that is no longer the case.

14 While Leggett & Platt's pricing policies
15 made some sense to us, there is no rhyme or reason to
16 the pricing policies followed by imports. There does
17 not appear to be a bottom line. Foreign producers and
18 exporters have been willing and able to make sales at
19 prices far below our cost of production.

20 When we try to make a sale to one of our
21 long-time customers that is at the same time being
22 offered imports of the same product, our choices are
23 to follow import pricing down to the point where
24 profits are eliminated or to abandon the sale. Even
25 when we are able to make the sale, we do so at prices

1 that are substantially lower than they would have been
2 without the threat of a lost sale hanging over us.

3 Before the provisional duties, import prices
4 were substantially below Hickory Springs'
5 manufacturing cost. These prices leave no room to
6 negotiate if we intend to stay solvent. As a result,
7 other domestic producers have simply folded, and
8 Hickory Springs remains under intense pressure.

9 The cost of raw materials, particularly
10 steel, have increased dramatically since 2004. We buy
11 steel rod at world market prices and draw it into wire
12 for innersprings. Our raw material prices are
13 therefore affected by world market steel prices just
14 like the producers in China or any other country.

15 Low-priced imports have prevented
16 innerspring prices from rising as steel costs have
17 risen. In 2007, Hickory Springs lost money on
18 innerspring sales trying to meet import prices that
19 were below our production costs.

20 In December 2007, we announced price
21 increases to go in effect January 7, 2008, but
22 primarily due to lower prices offered by importers we
23 were unable to push through that price increase. In
24 2008, steel costs have skyrocketed, but every time we
25 tried to implement price increases we met stiff

1 resistance due to the availability of low-priced
2 imports.

3 We continued to bleed red ink on innerspring
4 sales through the first part of 2008. Not until
5 provisional duties were imminent were we able to raise
6 prices. In May or June, Hickory Springs was able to
7 push through price increases to reflect higher
8 production costs.

9 Since provisional duties were imposed in
10 August, imports other than some quantity in inventory
11 have basically disappeared. We have seen a return to
12 prices above cost and are starting to turn a profit.
13 If the duties are removed, it will take only about six
14 weeks for imports to return. The only end in sight
15 after that would be the end of Hickory Springs'
16 production in the United States.

17 Imports have been particularly aggressive in
18 going after sales of moderate and smaller sized
19 mattress manufacturers, which are the core of Hickory
20 Springs' business. Atlas Spring, which went out of
21 business in 2006, was predominantly supplying these
22 independent bedding manufacturers as well. Imports
23 have made it difficult to impossible to sell at a
24 reasonable price to these customers.

25 Sales volumes lost to low-priced imports

1 have forced us to cut production, reduce our workforce
2 and curtail planned capital expenditures. Imports
3 have caused us to cut our prices to retain any sales.

4 Depressed prices on our remaining sales
5 volume translate into a reduction in profit. The
6 profits we reported in 2004 and 2005 turned into
7 significant operating losses in 2007, which continued
8 into the first part of 2008. We are finally seeing
9 some relief from the effect of the provisional duties,
10 but the company remains distinctly vulnerable to a
11 resurgence in imports.

12 In January of this year, the petition
13 requesting dumping duties in excess of 115 percent on
14 all subject imports was filed with the Commission and
15 the Commerce Department, and in August the Commerce
16 Department imposed provisional duties ranging from 116
17 to 234 percent on all subject innerspring imports.
18 Last week, the Commerce Department found identical
19 margins for Vietnam and South Africa in their final
20 determination.

21 This afternoon, I expect the importers are
22 going to tell you that the changes in the U.S. market
23 in 2008 and the beginning of some improvement in
24 prices is due to factors other than the pendency of
25 the case and importers' anticipation of the large

1 duties that have now been imposed.

2 This simply isn't true. Without this case
3 and all the duties that have been imposed, prices
4 would have continued to be below cost, and the
5 increased steel and other raw material costs would
6 have been impossible to recoup.

7 Without antidumping duties, ever increasing
8 volumes of low-priced imports will cause even greater
9 harm to Hickory Springs in the immediate future.
10 Absent the continuation of the antidumping duties, the
11 clear trends in imports from 2004 to 2007 which are
12 directly tied to the changes in my company's profits,
13 production and employment are ominous.

14 Hickory Springs actively participated in the
15 2004 proceeding because we foresaw imports from China
16 quickly becoming the driving force in the market.
17 Prices being offered for imports from China were
18 substantially below our cost of production.

19 The past three years have shown that our
20 concerns regarding the threat from China were not
21 unwarranted, and in fact the situation has become
22 worse than we could have anticipated. If the
23 provisional antidumping duties are removed, I can
24 guarantee you that a resurgence of low-priced imports
25 will inflict even more serious damage to Hickory

1 Springs.

2 When I appeared before the Commission in
3 2004, I was accompanied by Jeff Miller of Atlas Spring
4 Manufacturing. Atlas Spring, like Hickory Springs,
5 was a closely held company that had produced
6 innerspring units in the United States for several
7 decades. And, like Hickory Springs, Atlas Spring's
8 customer base was primarily small to medium sized
9 mattress manufacturers.

10 Having survived for years competing with
11 other domestic suppliers, Atlas was forced out of
12 business as imports took over their market in the last
13 three years. Atlas shuttered its operation and laid
14 off all of its employees in 2006.

15 A former executive of Atlas submitted a
16 letter to the Commission telling Atlas' story from its
17 own perspective. I think the letter speaks for itself
18 and appreciate that the Commission was provided with
19 this information. I would like to quote just one
20 passage that forebodes what is likely to happen to
21 Hickory Springs' U.S. production of innersprings if
22 the antidumping duties are lifted.

23 "Due to the economic damage encountered as a
24 result of the extremely low Chinese import pricing, a
25 forced sale was inevitable. The price offered for our

1 company was approximately 98 percent below an offer
2 made prior to the commencement of Chinese imports
3 becoming available in the United States."

4 I have to say that absent the continuation
5 of antidumping duties, the unfortunate end of Atlas
6 will be the same path that Hickory Springs will be
7 forced down by low-priced imports. Hickory Springs
8 has decided to take an active role in this proceeding
9 because we do not want to suffer the same fate.

10 We take pride in the products we produce and
11 employ skilled and dedicated workers in our
12 manufacturing facilities, but with an ever-increasing
13 volume of imports being offered at prices below our
14 cost of production, our livelihood is under attack.

15 Without relief from unfair import
16 competition, it will be increasingly hard for Hickory
17 Springs to stay in the innerspring business. If the
18 pre-antidumping duty increase in imports continues and
19 price undercutting is unabated, Hickory Springs will
20 face some very hard choices.

21 We intend to do all we can to maintain our
22 long-established and highly-regarded business, and we
23 expect the Commission to recognize that absent an
24 affirmative determination that will be extremely
25 difficult.

1 Thank you. I'd be pleased to answer any
2 questions you might have.

3 MR. RYAN: I think that concludes our
4 testimony on behalf of the U.S. industry.

5 CHAIRMAN ARANOFF: Welcome to the morning
6 panel. We appreciate your being here today and taking
7 time away from your businesses to answer our
8 questions. It's always incredibly helpful to us to
9 hear the facts directly from the people who engage in
10 this business every day.

11 This morning we're going to start the
12 questioning with Commissioner Pinkert.

13 COMMISSIONER PINKERT: Thank you, Madam
14 Chairman, and I join you in welcoming this group and
15 thanking you for taking time out of your businesses to
16 be with us here this morning.

17 I want to begin with a question for Mr.
18 Salyer and Mr. Bush. Other than your reliance on the
19 2008 data, is there any reason for us to believe that
20 absent imports you would have been able to cover your
21 cost increases with price increases?

22 MR. BUSH: We had been trying to put in
23 increases to cover the price increases that had been
24 documented to very little, if any, effect.

25 The January increase of 2008 was directly in

1 response to a steel increase. We could not get it
2 through because of the lower priced imports, the
3 imported units.

4 Do I think we could have recovered
5 eventually? Probably not.

6 MR. SALYER: The rampant run-up of raw
7 material costs was the same problem that we had at
8 Leggett & Platt.

9 We just don't believe, and we didn't have
10 the opportunity obviously in 2007, which raw materials
11 costs were less. Their increase was much less than
12 2008. We had a hard time passing through those raw
13 material costs in the form of a price increase at that
14 time.

15 So absent the duties and absent this case,
16 we don't believe we would have had an opportunity to
17 pass through price increases based on the rampant raw
18 material price increases that we saw and have seen in
19 2008.

20 MR. MORGAN: Commissioner Pinkert, maybe
21 Leigh can also speak to what happened when they tried
22 to put through a price increase in the third quarter
23 of 2004.

24 MR. SALYER: We saw a similar situation in
25 2004, but not to the magnitude of 2008.

1 In 2007 (sic) we saw an increase of
2 somewhere in the neighborhood of the mid 30 percent
3 range as far as concern with increases, and also we
4 tried to pass through price increases and did pass
5 through price increases that corresponded to that.

6 We had hoped that those price increases
7 could stick. They did not. Well, they did, but then
8 in 2005 what we saw -- late 2004 and then into 2005 --
9 was a tremendous change, a big increase in the number
10 of customers that started importing innersprings from
11 the subject countries.

12 Later on that year, in 2005, we got very
13 concerned about the loss of market share, so we went
14 out with a more aggressive posture and tried to get
15 down to a comparable price. We could not get to those
16 prices in many cases.

17 We lowered our prices in an effort to try to
18 keep market share. That continued, and I think that's
19 why you'll see the flattening out of imports in 2006
20 as we got more aggressive in what we were doing with
21 our prices. Obviously what the result of that was was
22 lower margins on behalf of Leggett & Platt.

23 COMMISSIONER PINKERT: Thank you.

24 Now looking at the broader market situation,
25 are there significant differences in the changes

1 during the period of investigation to the merchant
2 market as opposed to the market for the makers and
3 users? If so, what are we to make of those
4 differences?

5 MR. DAVIS: I'm not sure I caught the last
6 part of your question there.

7 COMMISSIONER PINKERT: Well, let's just
8 stick with the first part for now.

9 Do you see significant differences in the
10 changes to the merchant market as opposed to the
11 market for the makers and users during the period of
12 investigation?

13 MR. DAVIS: Yes. The market for the two
14 primary maker/users, their market has evolved
15 somewhat, but not nearly I wouldn't think to the
16 degree that the merchant market has.

17 They still manufacture basically the same
18 products today that they manufactured four years ago,
19 the same types of products. Obviously their input
20 costs have risen as have the merchant market, but in
21 areas where we compete directly with low-priced
22 imports there's been a significant switch in that.

23 Leggett over the years has manufactured a
24 good portion of product that is innovative,
25 differentiated. We've enabled our customers in a lot

1 of cases to have a different product than what their
2 competition on the floor next to them is presenting
3 and so they're able to differentiate.

4 We've seen a de-emphasis of that. As the
5 delta between differentiated product and low-priced
6 imports has driven that difference to a greater and
7 greater degree, the temptation is there. If I'm a
8 bedding manufacturer, differentiation is okay to a
9 point, but there reaches a point where if the delta
10 becomes too great the temptation is to commoditize or
11 take your product to something that is of a lesser
12 value.

13 And so we've seen tremendous pressure not
14 only in bonnells, which is where we compete directly
15 product to product, but it's also put a large amount
16 of pressure on product that we manufacture that is not
17 as readily available in our ability to give
18 differentiated proprietary type offerings to
19 customers.

20 MR. RYAN: Commissioner Pinkert, if I could
21 add to that?

22 The Commission of course has the advantage
23 of questionnaire responses that the industry witnesses
24 do not have, but I would encourage the Commission to
25 compare the performance of, for example, Atlas Spring

1 or Hickory Springs over the period.

2 For Atlas you don't have a questionnaire
3 response, but you know what happened. I mean, you
4 know they're no longer in business at a fixed period
5 in time, and if you compare their performance to that
6 of the integrated producers I think you'll see that
7 the effect of the imports in the market in which Atlas
8 and Hickory Springs and Leggett & Platt compete, if
9 you compare that to the integrated producers you'll
10 see the effect of the imports.

11 MR. BAISBURD: If I can add one thing? You
12 can see that they're operating under similar market
13 conditions, and the fact that some maker/users during
14 the period of investigation switched to importing
15 imports, to importing subject imports instead of
16 producing on their own captive machines, so they're
17 facing a similar pressure that the maker/users are --
18 I'm sorry; that the merchant market producers are --
19 just on a different scale because they're not
20 producing for the open market.

21 COMMISSIONER PINKERT: Thank you.

22 Now I have a more technical question for
23 Leggett. I don't know if this is directed more
24 towards your attorneys or toward the folks from the
25 company.

1 When you talk about using FMV prices on
2 sales to affiliates, are you talking about the prices
3 that you actually charge to other unrelated
4 purchasers, or are you talking about some sort of an
5 allocation in determining the FMV?

6 MR. BAISBURD: This issue comes in the
7 context of the input cost, which is for the wire rod
8 and the wire that's used to produce the innersprings
9 that you see before you.

10 Perry and Leigh, please correct me if I'm
11 wrong, but in the normal course of business Leggett's
12 Wire Division sells the input to the Innerspring
13 Division at the market price, and that's how it's
14 carried in their books and records.

15 That's the same way it was reported to the
16 Commission for purposes of the wire rod investigation.
17 That is, the transfer of wire to Leggett's
18 innersprings are at market prices.

19 COMMISSIONER PINKERT: And are those market
20 prices market prices that Leggett itself was a party
21 to, or are you talking about referring to a broader
22 market situation?

23 MR. DAVIS: It's referring to a broader
24 market. We sell our products from a wire perspective
25 to a variety of different industries. We make high

1 carbon wire, and there is an established -- pretty
2 well established -- market pricing in both the bedding
3 and the non-bedding related industries.

4 We do sell wire to some of the maker/users.
5 We'll sell wire to Simmons and to Sealy also. We
6 participate in that business to whatever degree we can
7 so, you know, we have a pretty well established market
8 price definition that we transfer at.

9 COMMISSIONER PINKERT: Thank you.

10 My yellow light is on, so I'll wait for the
11 next round. Thank you. Thank you, Madam Chairman.

12 CHAIRMAN ARANOFF: Having read the briefs
13 before today, I get the impression that there is a
14 considerable difference of opinion between the parties
15 about the significance in the market of patented or
16 proprietary product.

17 So the first thing that I want to do is
18 really get a handle on what that term means to you.
19 If the two producers could just tell me? How would
20 you define a proprietary product? Is that limited to
21 a product that actually has a patent on it, or does it
22 mean something else to you?

23 MR. DAVIS: It is confusing to somebody
24 outside of the industry, but I'll try to put a little
25 light on that.

1 Leggett & Platt over the years has innovated
2 a lot of different types of innerspring constructions,
3 as you can see some of them on the table there.
4 However, today, in terms of volume, only about three
5 percent of the innersprings we sell are covered under
6 current intellectual property.

7 There are configurations of innerspring that
8 we make that are non-bonnell type innersprings where
9 we will approach customers and give them
10 differentiation based upon it could be a particular
11 coil count that's proprietary to one company. It
12 could be the arrangement of coils within that
13 innerspring so that you have a higher density of coils
14 in one section than in the other.

15 There are a variety of ways in which we try
16 to differentiate and give our customers selling
17 features that they can then take to their customers.
18 We generally would refer to those as proprietary.

19 We would give somebody a proprietary
20 offering, but that means more that it's a proprietary
21 offering from Leggett & Platt. In other words, we
22 would not sell that same configuration to another
23 customer. It has very little bearing in most
24 instances on patented product, though.

25 CHAIRMAN ARANOFF: Okay. So when you're

1 giving me the three percent figure for covered by
2 intellectual property, that's including just patents
3 that are still valid and doesn't include these
4 differentiated or proprietary design.

5 Do you have an estimate of how much of your
6 sales would be in this other category of
7 differentiated designs and how that might have changed
8 over the period?

9 MR. SALYER: I don't have that information
10 with me. I could get it for you, though.

11 CHAIRMAN ARANOFF: Okay. It would be
12 helpful to have that for posthearing.

13 Since one of the arguments that I think I'm
14 hearing is that at a certain price differential with
15 imports, differentiating the product doesn't win you
16 sales, so it would be interesting to see what percent
17 of your sales fell into that category in each of the
18 years that we're looking at in the period so we can
19 see if there's been a change.

20 I also want to give Mr. Bush a chance to
21 answer if you wanted the patented and proprietary
22 product.

23 MR. BUSH: Yes. We basically agree with
24 Perry's definition of patented and his explanation of
25 proprietary. We call them exclusives, exclusivity,

1 whatever. The same terminology.

2 But I also will add that most of the
3 exclusive or exclusivity is being demanded by our
4 customer base. They want a way to differentiate
5 themselves in the marketplace. It may be superficial
6 or purely cosmetic, but that's what they're asking for
7 so that they have something to tout in their
8 marketing.

9 I also need to add that even though Leggett
10 may give somebody a proprietary or exclusive
11 arrangement, that has no effect on Hickory Springs.
12 We can and will make those type of products for other
13 people, and they do the same to our exclusives.

14 MR. RYAN: Chairman Aranoff, if I could just
15 add to that?

16 I guess Mr. Bush didn't say this, but the
17 identical thing holds true for imports. Hickory
18 Springs will offer a customer, a large customer or
19 medium sized customer, who says we want to
20 differentiate our mattress. We want to have a coil
21 count of 605, a particular type of coils.

22 So they'll come to Hickory Springs and say
23 can you make us -- you know, this is going to be our
24 special marketing thing. It's got 605. This guy has
25 600. Now the guy has 610, but 605 is our special

1 mattress.

2 The same customer can go to the foreign
3 producer, an importer, and say we have this particular
4 exclusive type of mattress. They'll sell the
5 identical product, so there's no barrier created to
6 imports selling.

7 It's sort of an exclusive agreement that the
8 producer is not going to sell this 605 count -- this
9 is just hypothetical, this 605 count -- coil mattress
10 innerspring to somebody else, but the purchaser can
11 certainly source that from whomever they'd like, so
12 it's not a barrier to import competition.

13 Correct me if I'm wrong, or please answer
14 that.

15 MR. BUSH: That's correct. There is no
16 patent protection on the vast, vast majority of these
17 exclusives or proprietary units, so they are free to
18 open competition not just from Hickory Springs and
19 Leggett, but from anybody around the world.

20 CHAIRMAN ARANOFF: Okay. So let me just
21 ask. Of the samples that we have in front of us -- we
22 have a bonnell, which I know is not a specialized
23 product. We have something called a verti-coil,
24 something called an LFK. I can't see what the one on
25 my far left is. We have the pocketed one.

1 Are any of those what you would call either
2 patented or proprietary or differentiated product?

3 MR. SALYER: LFK is not on patent anymore.
4 Bonnells, as you said, Madam Chair, is also not
5 patented product.

6 Verti-coil is a new product that we
7 introduced last year. It is a patented product.
8 Superlastic, which is referred to in other vernaculars
9 as continuous coil, is a patented product, but that
10 product, actually the patent on that product actually
11 expires in April of 2009.

12 And then on the pocketed coil that's on my
13 far left and your right, actually there is a small
14 fraction of that product that we do have a patented
15 design of that product, but there's a vast majority of
16 the pocketed coils that are also not patented.

17 CHAIRMAN ARANOFF: Okay. Thanks. That's
18 helpful.

19 Maybe you can describe to me with respect to
20 these ones like the Verti-coil, for example. What is
21 the unique selling feature of that product which led
22 you to develop it and get a patent on it?

23 MR. DAVIS: Madam Chairman, the Verti-coil
24 product, as Leigh said, has been developed within the
25 last couple of years by Leggett & Platt.

1 That is a product that is a higher coil
2 count product to be sold in primarily the more
3 promotional end of the line that gives some firmness
4 and feel characteristics that you don't get in
5 bonnell.

6 It is made to compete against bonnell. It
7 is our attempt to differentiate a low-end commodity
8 product and sell that in as a higher coil count
9 alternative to bedding manufacturers.

10 CHAIRMAN ARANOFF: A higher coil count, but
11 it doesn't result in a higher priced mattress?

12 MR. DAVIS: No. Those will go into a mid
13 line to promotional line set of bedding.

14 CHAIRMAN ARANOFF: Okay. Now, one argument
15 that the Respondents have made is that once a mattress
16 manufacturer has chosen a specific innerspring it will
17 keep purchasing that innerspring from the same
18 supplier for the life of the mattress model.

19 I have two questions about that. The first
20 is to me that sounds like sort of the auto parts
21 model; that you pick a supplier for an auto part, and
22 as long as you're making that particular model of car
23 you're going to buy that part from that supplier. Is
24 that actually how this industry works?

25 MR. DAVIS: I would strongly disagree with

1 that.

2 I can give you a particular instance where
3 we were doing business with an LFK type product in a
4 high coil count configuration, a 648 coil count
5 configuration, had it specified into a national line
6 of a national licensing group, and certain members of
7 that licensing group took that product and simply
8 imported in this case from China a 648 count bonnell
9 and substituted that freely.

10 Now, if a group, a national group, has
11 tighter controls or is wholly owned and has a
12 mechanism by which they can enforce specification that
13 would help to keep that in that line, but that is
14 certainly not the case in most parts of the industry.

15 MR. BAISBURD: If I could add just one
16 point? I mean, at the end of the day what you're
17 doing is filling a space in the middle of the
18 mattress. It has a certain length, a certain height,
19 and a certain width.

20 The customer, the ultimate consumer who
21 purchases all mattresses, is never going to see what
22 the unit is in the middle of their innerspring
23 mattress, so you can without retooling, as I testified
24 earlier, switch between one type of innerspring unit
25 to the other because the dimensions are going to be

1 the same. It's just a question of the coil that's
2 going to be used to produce the unit.

3 MR. BUSH: Ma'am, also as far as longevity
4 of these mattress styles or whatever, the models that
5 you're talking about, they are very short lived.

6 There are two major markets in the United
7 States for furniture and bedding, and generally most
8 of our customer base takes these opportunities to
9 remerchandise, either change the unit, change the
10 component or whatever.

11 Actually there are four markets, but two of
12 them are major. They take these opportunities to
13 change them, so every three to six months they're
14 making a change anyway, so it's not long-term by any
15 means.

16 CHAIRMAN ARANOFF: Okay. My light has
17 turned red, but I appreciate all those answers and
18 will turn now to Vice Chairman Pearson.

19 VICE CHAIRMAN PEARSON: Thank you, Madam
20 Chairman. I would also like to welcome this panel.
21 It's nice to have a group here to talk about a product
22 that most of us can relate to.

23 I'm one of those fortunate people who can
24 sleep almost anywhere, at times including hearings of
25 the International Trade Commission. I've avoided that

1 today, okay?

2 What difference does the type of coil make
3 to the consumer who buys and sleeps on the mattress?
4 I'm just trying to understand the conditions of
5 competition better in the market.

6 We've got several different types of coil
7 here. What difference does it make to the end user?

8 MR. BUSH: A lot of it is feel. Their
9 method of construction will give a different feel.

10 A pocketed coil is generally an independent
11 response. I mean, you can push down on one of them
12 and really not affect any of the surrounding coils.
13 When you lay on it, it conforms to your body the most
14 readily of anything out there.

15 The high coil counts, LFKs or bonnells or
16 things like this, will conform more so than a bonnell
17 or a low coil count unit, but not as much as the
18 pocketed coil.

19 Of course, there's a price involved with all
20 these. The bonnells are generally the cheapest. The
21 LFKs, the continuous wire coil units, are in the
22 middle, and the pocketed coils are generally on top.
23 So there is a distinction in quality at different
24 price points.

25 VICE CHAIRMAN PEARSON: Mr. Davis?

1 MR. DAVIS: Mr. Vice Chairman, the question
2 as to how it relates to the consumer, the ultimate
3 consumer, has become -- purveyors of bedding,
4 retailers of bedding over the last few years, have
5 begun to talk less and less about the specifications
6 of the product they're selling. They're selling more
7 on emotion based on lifestyle preferences.

8 Comfort really is the key, and that can be
9 accomplished in manufacturing a set of bedding in a
10 lot of different types of ways, including
11 innersprings, filling components such as foam and
12 fiber, so there's a lot of different ways that you can
13 achieve those levels of comfort.

14 But as far as talking about the actual
15 specification of the innerspring, that's still an
16 important feature when one of our customers is taking
17 their product to differentiate to the buyer of one of
18 those companies.

19 To the ultimate consumer, we've not done a
20 very good job over the last few years of conveying the
21 value of the products that are sold to the consumer
22 and how they're differentiated.

23 VICE CHAIRMAN PEARSON: So would it be
24 correct to understand that one of the most important
25 reasons for having a multiplicity of coil designs is

1 so that the actual manufacturer of the mattress can
2 advertise that he has something different or something
3 unique?

4 MR. DAVIS: I'd say that's a correct
5 statement.

6 VICE CHAIRMAN PEARSON: And a heavy sleeping
7 consumer like me is unlikely to notice much difference
8 among them because I'll be asleep regardless? It's
9 the light sleepers who will notice more?

10 MR. DAVIS: Yes. You know, it's personal
11 preference really and the amount of money you want to
12 spend.

13 I'm frequently asked by people to tell them
14 who makes the best mattress and what set of bedding
15 should they get and what would I recommend. I over
16 the years have gotten smart enough to know that I
17 don't recommend anything because the minute I do they
18 sleep on it three nights and they hate it while the
19 next person might buy the same thing and really enjoy
20 that experience.

21 VICE CHAIRMAN PEARSON: Is there a
22 difference in longevity of the mattress depending on
23 the coils assigned?

24 MR. DAVIS: We subject all of our
25 innerspring components to standardized ASTM testing

1 before we ever bring them to market.

2 We have got to be certain of the fact that
3 they will perform to the ASTM criteria, so we do that
4 through a variety of tests such as rollators, Cornell
5 tests and testing components strictly for durability,
6 from a durability standpoint.

7 From then again it's a matter of cost,
8 personal preference and how they want to merchandise
9 their line. A bonnell innerspring, if constructed
10 properly using the right materials, is as durable,
11 will service the life of a set of bedding, just as
12 well as a pocket or a continuous wire innerspring.

13 VICE CHAIRMAN PEARSON: Mr. Bush?

14 MR. BUSH: Mr. Pearson, generally what
15 happens is the innerspring is only a component of the
16 mattress itself. There's foam and fiber and a lot of
17 other padding materials that go on top of the
18 innerspring. Those generally will wear out before the
19 innerspring will.

20 My company makes all of those, and we sell
21 them to the bedding and furniture industries. We've
22 never gotten an innerspring back because it's failed.
23 We have because the foam and fiber and everything over
24 time has worn out.

25 VICE CHAIRMAN PEARSON: Okay. That makes

1 some sense.

2 So from the standpoint of the production of
3 the various types of coils, is the decision to make
4 one type versus another primarily a function of cost?

5 Mr. Davis?

6 MR. DAVIS: Well, there's two different
7 aspects of that. Bonnells primarily have been the
8 promotionally priced product in the marketplace.
9 That's a cost competitive game, so efficient
10 manufacturing of that product is very important.

11 The other part of that, as has been
12 Leggett's experience, is we spend an awful lot of
13 money on R&D and product development, not only
14 developing products, but the machinery to make those
15 products.

16 That is done to add value to our customers
17 so that they can generate a better perception of value
18 in the customer's mind, a better value for the
19 customer and the ability to sell those products at
20 higher margin.

21 VICE CHAIRMAN PEARSON: Okay. So if you
22 have a customer who is really focused only on or
23 almost exclusively on price, low cost, then he's very
24 likely going to be buying a bonnell spring. Is that
25 correct?

1 MR. DAVIS: That's correct.

2 VICE CHAIRMAN PEARSON: Okay. And then as
3 the customers get more sophisticated or they want to
4 try to differentiate themselves, they're asking you to
5 make something different for them so that they can put
6 something out in the marketplace that they advise is
7 different and market it that way?

8 MR. DAVIS: Yes.

9 MR. CORR: Commissioner Pearson? If I may
10 just to stress one other point?

11 VICE CHAIRMAN PEARSON: Please, Mr. Corr.

12 MR. CORR: They may have a deal with one
13 particular manufacturer for a coil count that some
14 might call proprietary, but that doesn't stop them
15 from purchasing it, as we said before, from other
16 manufacturers and from imports or others from --

17 VICE CHAIRMAN PEARSON: Right.

18 MR. CORR: From a manufacturer because it's
19 not on patent.

20 VICE CHAIRMAN PEARSON: Right. I would be
21 correct then to understand that it really is the
22 preference of the mattress manufacturer for a certain
23 type of coil that's driving your decision of what to
24 produce more so than the cost of producing the
25 different types?

1 MR. DAVIS: Yes. You know, again it depends
2 on if that's a manufacturer that's primarily concerned
3 with the promotional end of the market, that would be
4 bonnell.

5 Keep in mind, for Leggett bonnells still
6 constitute in excess of 60 percent of our pieces
7 volume, and I would suspect for Hickory Springs it's
8 probably much higher, so that still is the predominant
9 construction for the industry.

10 Over the last few years, we have seen
11 bonnells being used in higher and higher price points
12 at retail. There was a time not too many years ago
13 where it was pretty rare to see a bonnell above a \$599
14 or a \$699 price point. Today it's not uncommon at
15 all.

16 MR. BAISBURD: By \$599 and \$699, he means
17 the price for the mattress at that point.

18 VICE CHAIRMAN PEARSON: Right. That's \$599?

19 MR. DAVIS: Right. I'm sorry.

20 VICE CHAIRMAN PEARSON: I thought that. I
21 just wanted to clarify here.

22 MR. SALYER: Vice Chairman?

23 VICE CHAIRMAN PEARSON: Yes?

24 MR. SALYER: Just as an example of what
25 Perry was talking about, we have a major national

1 customer that last year, early last year, with one of
2 their major retail customers decided to take what is
3 in this hearing I think the proprietary nature of a
4 continuous wire product and decided to replace it with
5 a bonnell.

6 It was strictly due to cost reasons. Price
7 was the only thing that was involved in their decision
8 to move that product at that major retailer.

9 VICE CHAIRMAN PEARSON: A question for
10 counsel. Do we have on the record the differences in
11 cost to manufacture the various types of coils?

12 MR. BAISBURD: No, I don't think so. The
13 data wasn't reported in that fashion.

14 VICE CHAIRMAN PEARSON: Okay. For the
15 purposes of the posthearing, could we perhaps see that
16 data?

17 I understand we wouldn't want to discuss it
18 here because it might be different for the two firms,
19 but I would be curious to have a sense of what those
20 differences are.

21 MR. RYAN: We'll make our best efforts. Mr.
22 Bush was just telling me that perhaps on the cost of a
23 completed unit by different type of coil would be
24 something that they could provide.

25 I hope that's responsive to what you're

1 looking at. The cost of the coil itself would be
2 difficult to provide.

3 VICE CHAIRMAN PEARSON: Right.

4 MR. RYAN: But the cost of a finished unit
5 by type of coil --

6 VICE CHAIRMAN PEARSON: Right. The cost of
7 the finished unit would be most appropriate here
8 because that would be the cost that would be going
9 into the marketplace to the manufacturer of the
10 mattress.

11 MR. RYAN: We'll be happy to provide that in
12 our posthearing brief.

13 VICE CHAIRMAN PEARSON: Okay. Thank you.
14 My light is changing.

15 MR. CORR: There are many, many types of
16 coils that we would be presenting a representative
17 cost for each type. I expect that's what you would
18 want.

19 VICE CHAIRMAN PEARSON: I assume that after
20 the information is provided those in the industry will
21 still know more about this than I do. That's fine.

22 MR. CORR: Okay. Great.

23 VICE CHAIRMAN PEARSON: Give me something to
24 help make some sense of it if you could. Thanks.

25 Madam Chairman, back to you.

1 CHAIRMAN ARANOFF: Commissioner Okun?

2 COMMISSIONER OKUN: Thank you, Madam
3 Chairman. I join my colleagues in welcoming all of
4 you here this morning. I appreciate your testimony
5 and the information you've provided. I've learned a
6 great deal already.

7 Let me ask, and I know a lot of the specific
8 information in this record is proprietary, but I'm
9 hoping I can at least get some responses here, which
10 is the Respondents argue that the dominant conditions
11 of competition in this market are declining demand
12 overall related to the housing market, and some of you
13 have commented on that, and an increase in substitute
14 products at the high end of the market for driving you
15 out of that part and that if you look at the increase
16 in the amount of subject imports versus declines in
17 domestic industry sales that the much bigger portion
18 must be attributed to these other factors.

19 I just wanted to get a sense from you, first
20 from the producers and then the lawyers, to comment on
21 that, how you look at that as a company when you're
22 looking at the market right now and what's been going
23 on.

24 You talked about the import competition.
25 Tell me about demand and the other factors going on in

1 the market.

2 MR. SALYER: One of the arguments has been,
3 you know, that there's what we call alternative sleep
4 -- air, foam -- has eaten into that market. We
5 obviously know that that volume has went up. It's a
6 much higher dollar value than it is a piece value.

7 The dollar value, if you use strictly on it,
8 has went up considerably, and it represents a much
9 higher value than the pieces actually do. The pieces
10 by our estimates at present time based on public data
11 and our own intelligence, air and foam, which
12 primarily are a couple of manufacturers that lead the
13 way, are somewhere in the neighborhood of about eight
14 percent of the market valued as pieces. Obviously as
15 to where they sell, they're much higher than that.

16 Perry?

17 MR. DAVIS: Yes. They might represent from
18 20 to 25 percent of the dollars generated in the
19 marketplace, probably three times the average value of
20 an innerspring product on average.

21 MR. BUSH: Ma'am, as a comparison, back in
22 the '80s and the late '70s when waterbeds were the
23 rage, they claimed up to a 15 percent market share in
24 pieces, so this is roughly half of what we saw back
25 then.

1 COMMISSIONER OKUN: Okay. And then how is
2 that impacting your business in terms of either the
3 product you're producing yourself?

4 MR. BUSH: It's had a very, very minor
5 effect on demand.

6 The biggest effect on demand from our
7 standpoint was during most of the examination period
8 demand was strong and increasing, and our sales were
9 decreasing due to the imports. They were not
10 decreasing due to foam and air.

11 COMMISSIONER OKUN: Okay. Mr. Salyer or Mr.
12 Davis, in terms of has it changed the product mix that
13 you produce, the substitute products? Let's start
14 with that first. I mean, has it affected your product
15 mix?

16 MR. DAVIS: The emergence of foam and air?

17 COMMISSIONER OKUN: Right.

18 MR. DAVIS: It probably has. First of all,
19 there's always been a market for foam bedding
20 products.

21 The emergence of two entities, primarily
22 Tempurpedic and Select Comfort, over the last few
23 years, the latest information I have estimates their
24 domestic pieces at somewhere between 900,000 and a
25 million units, okay, so if you take that the overall

1 market is maybe 21 or 22 million units, it's four
2 percent, something like that.

3 We believe there might be another equal
4 amount that are sold of alternative products by
5 conventional bedding manufacturers also, okay? Those
6 products again from at least those two manufacturers
7 are considered higher end products. They sell at a
8 higher average unit selling price, and they probably
9 have had a bit of a dilutive effect of high end
10 innerspring manufacturing over that time.

11 Although, you know, again I would go back to
12 looking at this year. This year in 2008 is from all
13 accounts a relatively disastrous year for our
14 industry, given the loss of volume, the reticence of
15 the public to invest in sleep products.

16 In the face of that, after the preliminary
17 was determined within weeks of that we saw increases
18 over the prior year in the face of almost double digit
19 decreases for the market as a whole.

20 COMMISSIONER OKUN: I have some additional
21 questions about that, but were your customers coming
22 back for the same product? In other words, the same
23 -- I don't know if it would be the same cost point
24 structure, cost point coil that they were before?

25 In other words, they weren't shifting to

1 something else? They were just coming back in for the
2 same?

3 MR. DAVIS: That's correct.

4 COMMISSIONER OKUN: Okay. Mr. Bush, I had
5 wanted to go back. I think in response to Vice
6 Chairman Pearson about the percentage of bonnell, and
7 I'm not sure if it is proprietary, but I saw you
8 shaking your head and someone saying you actually have
9 a higher percentage in the bonnells.

10 I don't know if you could say that publicly,
11 but if you can I'd be interested in it.

12 MR. BUSH: Yes. A much greater percentage
13 than 60 percent, which Perry was talking about for
14 Leggett, of our production is bonnell.

15 COMMISSIONER OKUN: Okay.

16 MR. BUSH: It's probably -- I don't have the
17 numbers. I never even thought about it that way, but
18 it's probably closer to 75.

19 COMMISSIONER OKUN: Okay. If you could
20 provide those numbers for posthearing I'd appreciate
21 seeing those on the record.

22 Has that percentage changed over the period
23 of investigation, or that's been the meat and potatoes
24 of your company and it hasn't changed much?

25 MR. BUSH: It's probably gone down during

1 the period of investigation because most of the
2 imports were bonnells and our LFK type product we call
3 InnerACT.

4 We've lost some sales due to despecing or
5 down specing -- they go to a cheaper innerspring unit
6 -- but we haven't lost that much. My guess is our
7 percent of bonnells went down during the investigation
8 period, but I don't have that information on hand.

9 COMMISSIONER OKUN: Okay. This might be for
10 the lawyers. You responded to this in some of your
11 testimony. I just wanted to make sure that I
12 understand your argument.

13 In looking at the record and looking at the
14 volume increase in subject imports versus the decline
15 in sales by the domestic industry and looking at
16 demand and what's gone on there, give me a response to
17 the argument that it's hard to separate out that the
18 rise in subject imports is the cause of material
19 injury versus everything else that's going on in the
20 market.

21 MR. CORR: Sure. Thank you. Yohai, you can
22 back me up on this.

23 While there are many factors, many moving
24 parts in the market, of course, like all dynamic
25 markets, the presence of dumped subject imports was

1 significant and growing during the period of
2 investigation, over the period of investigation,
3 whether demand rose or fell.

4 So I think that's the answer with respect to
5 the demand. Demand only makes the U.S. industry more
6 vulnerable to dumped imports.

7 On the subject of proprietary or I think
8 what some were calling proprietary, these are by and
9 large products that are not protected by patents.
10 They are an attempt by the domestic industry to
11 distinguish itself from subject imports, but, as we
12 have seen and as we will show in the proprietary
13 briefs, they are still subject to price pressure from
14 imports, even if they're not the same exact type of
15 product.

16 COMMISSIONER OKUN: That has reminded me,
17 Mr. Salyer.

18 Did you want to add something there?

19 MR. BAISBURD: After you. I did want to.
20 I'm sorry.

21 COMMISSIONER OKUN: Yes. Go ahead.

22 MR. BAISBURD: I did want to add a few
23 points.

24 First, in terms of the market, what we're
25 talking about here is the open market, which accounts

1 for 70 percent of production. You've just heard from
2 Mr. Davis and from Mr. Bush that well over 60 percent
3 of that market is bonnells, and that is where the
4 subject imports are concentrated.

5 And so they're at the heart of the open
6 market, and it's the open market that accounts for 70
7 percent of the total U.S. market, so they have a
8 concentrated effect on the largest part of the U.S.
9 market. That's one thing.

10 The second thing I wanted to point out is
11 that, yes, demand has dropped over the POI. What did
12 subject imports do? They increased. They increased
13 in absolute terms and they increased in relative
14 terms, so they took the larger share of a shrinking
15 market.

16 COMMISSIONER OKUN: Okay.

17 MR. RYAN: Could I just add from Hickory
18 Springs' perspective?

19 COMMISSIONER OKUN: Okay.

20 MR. RYAN: The Commission has demand on '04
21 from the preliminary investigation, and if you look at
22 demand from '04 to '06 it was a booming housing
23 market.

24 Demand was very, very strong, but yet
25 Hickory Springs' sales are actually declining in this

1 period of very, very strong demand. It's clear that
2 they were losing market share to the subject imports.

3 The housing market turned south, sort of
4 leveled off and started going down in '07 and
5 continued in '08, and yet in '07 Hickory Springs
6 continued on the same trajectory of losing sales and
7 market share to subject imports and continued to
8 through the first part, as Mr. Bush said in his
9 testimony, of '08.

10 The housing market right now, nobody would
11 disagree, is not a strong housing market, yet we've
12 seen a turnaround in Hickory Springs' performance to
13 profitability in a very down housing market.

14 The only change has been this case, so I
15 think the trend -- it's a very important question you
16 ask and the Commission has to parse it through, but
17 from Hickory Springs' perspective it's clear what's
18 going on.

19 COMMISSIONER OKUN: Okay. I appreciate
20 those responses. My red light has come on.

21 CHAIRMAN ARANOFF: Commissioner Lane?

22 COMMISSIONER LANE: Thank you. I too
23 welcome all of you to today's panel.

24 I have some basic questions to start with,
25 trying to understand how the innersprings that are the

1 subject of this investigation fit into the whole
2 market of the end product which are the mattresses.

3 Now, as I understand it, the bulk of what
4 the manufacturers make are the bonnell, and those are
5 the product that the imports are most competing
6 against.

7 One of the things that I was struck by in
8 looking at this record was the relative low average
9 unit values of this product and my own experience with
10 what a mattress costs. So I have to ask myself and
11 ask you all what do the manufacturers of the
12 mattresses do to justify all of the huge costs of the
13 mattresses?

14 If the mattresses are so expensive, why then
15 do they care if they pay your price or the lower
16 priced imports, because the end price is so high that
17 I would think that that component would not be
18 significant to them.

19 That's pretty rambling, but that was the
20 best I could do.

21 MR. DAVIS: Well, I hope I'm not pretty
22 rambling. It's a complicated question.

23 Price sensitivity is much more so at the
24 lower end of the market. Obviously if you're making a
25 set of bedding and selling it for \$2,000, \$4

1 difference on an innerspring is not a deal breaker.
2 If you're making a set of bedding and it's a \$69
3 mattress, it is. It could be a deal breaker.

4 What we've seen particularly recently with
5 the economic downturn is that the premium market has
6 suffered tremendously. All segments of the market
7 have suffered tremendously, but particularly at the
8 premium end.

9 Retailers that at one time were selling
10 mattresses for \$1,499 now can't sell a mattress over
11 \$1,000. Maybe \$799 is where really their sweet spot
12 is, so it has taken on from that standpoint increased
13 importance.

14 As to what happens from a manufacturer of
15 bedding, and let's say that mattress costs \$100. That
16 mattress may be sold at higher margins if it's a more
17 premium type offering, but let's say that gets sold to
18 a retailer at \$200. That retailer retails that to the
19 customer for \$399 or \$400, so there's a doubling
20 effect along the way.

21 Most bedding manufacturers, to compete in
22 the arena, have got to do a lot of things from sales
23 representation to cooperative advertising, so there's
24 a lot of built in costs to promote the product at
25 retail, and a lot of that cost gets pushed to the

1 bedding manufacturer.

2 COMMISSIONER LANE: Okay. But what does the
3 bedding manufacturer do to those innersprings that
4 increases the cost?

5 MR. DAVIS: They obviously upholster the
6 product with fibers, foam. There's a box spring or a
7 foundation that goes underneath that. They have
8 sophisticated a lot of them.

9 Quilting equipment. At the upper ends of
10 the line the industry has really almost become a
11 fashion industry. If you look at high end bedding on
12 a retail floor, they're almost a work of art anymore.
13 There's a tremendous amount of detail.

14 There's exotic materials that are put in a
15 lot of those products such as cashmere fibers and wool
16 and different components that in some cases have a
17 real tangible effect for the consumer and in some
18 cases are geared more towards an emotional purchase.

19 COMMISSIONER LANE: Okay. Now, did I
20 understand you correctly that in today's environment
21 that it's possible to take the bonnell, which was the
22 lower end, and put all of this fancy stuff on it and
23 sell it as a premium mattress that would be equal to
24 what in the past would have started off with the
25 higher priced innerspring?

1 MR. DAVIS: We certainly have seen it creep
2 up in price points over the last few years. Yes.

3 COMMISSIONER LANE: Okay.

4 MR. BUSH: Ma'am?

5 COMMISSIONER LANE: Yes?

6 MR. BUSH: The bonnells are being put into
7 higher priced point goods. I won't necessarily agree
8 that it offers the same benefits as some of these
9 other units out there.

10 Also, you need to bear in mind that even
11 though the depressed price or the prices you're
12 talking about, the bonnell unit or the innerspring
13 unit in general is just one component. It generally
14 will represent 20 to 40 percent of the manufacturing
15 cost of that mattress.

16 COMMISSIONER LANE: I know. I was trying to
17 figure that out, and somehow or other it didn't quite
18 -- maybe I haven't seen mattresses selling for prices
19 less than \$1,000.

20 MR. BUSH: Yes. \$399 is generally the
21 starting price point of anything you'd want to sleep
22 on, and it goes up from there. Probably \$499 to \$500
23 for a queen size set. When we talk prices, we're
24 talking about a queen size set at retail. Those are
25 probably the most popular price points out there.

1 COMMISSIONER LANE: Okay. And that takes me
2 to another question for Leggett & Platt and the other
3 manufacturers. Do you also make boxsprings, and are
4 the coils the same in a boxspring as in a mattress?

5 MR. SALYER: Yes, we also make boxsprings.
6 Primarily the boxspring of choice, there's two kinds
7 of foundations, as we will call them, there's two
8 primary foundation choices at the present time and
9 that's either a wood foundation or a steel foundation.
10 We sold our lumber division. We don't have that
11 anymore, so our primary focus has been, and continues
12 to be, on the steel foundation.

13 The majority of that is a rigid steel
14 foundation. There is still some use in the industry
15 of a grid and module or a grid and coil foundation
16 that generally gives little bit more of a nonrigid
17 feel. It's got a little flexibility to it. By far,
18 the rigid steel foundation and the wood foundation
19 dominate the market as the foundation of choice.

20 COMMISSIONER LANE: And do you produce those
21 at the same facilities that you do the inner coils?

22 MR. SALYER: At some of our facilities, yes.
23 We have a couple of facilities that are only dedicated
24 to manufacturing the steel foundations, but there are
25 some of our locations that do manufacture the steel

1 foundation.

2 COMMISSIONER LANE: And would you be selling
3 those to some of the same customers that buy your
4 inner coils?

5 MR. SALYER: Yes, we do.

6 COMMISSIONER LANE: And if somebody decides
7 to go elsewhere to buy the inner coils, maybe subject
8 imports, do they still buy the boxsprings from you?

9 MR. SALYER: Yes. Often they will.

10 COMMISSIONER LANE: Okay. Now, from China,
11 is China also exporting to the United States finished
12 mattresses?

13 MR. SALYER: We watch a couple of different
14 things that we monitor. One of them is obviously the
15 U.S. ITC site, and we try to watch, you know,
16 different codes there as far as concerned with what we
17 think are finished mattresses, that they're being
18 classified properly. Also, we subscribe to a couple
19 of commercial databases called PIERS and Zeppel.

20 Those are boat based, because obviously
21 Customs doesn't release the HTS codes so we can't
22 directly tie back into them to find out what the
23 actual product was classified as coming in, but we
24 look for certain key words such as mattresses,
25 mattress supports, innersprings, springs for

1 mattresses, things like that.

2 Then I've got a young lady that works for me
3 that spends a great deal of time analyzing that data
4 to try to hone in on, you know, is it an innerspring,
5 is it a mattress, and just exactly try to tie in what
6 those are because that is something that we're
7 concerned with.

8 COMMISSIONER LANE: So are mattresses coming
9 in from China completely ready to sell on the retail
10 market here?

11 MR. SALYER: Yes, they are.

12 COMMISSIONER LANE: And has that had an
13 effect upon your ability to sell your inner coils to
14 your customers?

15 MR. SALYER: Little effect, if any. The
16 primary problem with Chinese made mattresses is that
17 they're typically pretty firm, much more firm than
18 what we see in the United States market so that it's
19 not a preference of the U.S. consumer.

20 The other problem is that it's difficult to
21 compress a finished mattress, and so the freight cost
22 of bringing in the product is much higher, it makes it
23 less competitive than a finished mattress in the
24 United States market, and it's also, if they do
25 compress that product, it doesn't have a very good

1 look on the retail floor.

2 COMMISSIONER LANE: Okay. Thank you. Thank
3 you madam Chair.

4 CHAIRMAN ARANOFF: Commissioner Williamson?

5 COMMISSIONER WILLIAMSON: Thank you, Madam
6 Chairman. Just want to thank the witnesses for coming
7 and giving their testimony today. I'd like to
8 continue with Leggett & Platt and just try to get a
9 better understanding of your overall operations, you
10 know, with regard to innersprings and other products
11 that go into mattresses, and also products that are
12 upstreamed and downstreamed.

13 I'm also thinking about both in terms of the
14 U.S. operations and overseas operations. So could you
15 kind of just describe the company for us just so we
16 get an understanding of the relevant importance of the
17 different segments that I've made reference to?

18 MR. DAVIS: Leggett is comprised of up until
19 recently five separate segments. One of those was
20 aluminum products groups, and we've since divested
21 that early this year. There are four segments left.
22 The bedding group is part of the residential
23 furnishings segment.

24 Within that segment also is a group called
25 fabric, chrome and fibers. Really, the only remaining

1 part of that company is we're one of the larger
2 producers of carpet underlay which is made from rebond
3 carpet foam material, and then our furniture hardware
4 group which makes products such as recliner
5 mechanisms, and sofa sleeper mechanisms, and those
6 types of products.

7 From the bedding group standpoint, we
8 operate facilities in the U.K., we have a facility in
9 Denmark and Croatia. Those primarily service the
10 European market. We have facilities in China that
11 primarily service the Chinese market and southeast
12 Asia, along with some of that product going to
13 Australia. We have facilities in Brazil, and in
14 Mexico and Canada, and the U.S.

15 COMMISSIONER WILLIAMSON: Okay. What about
16 the governance of the company and the extent to which
17 the operations of the different divisions are
18 coordinated?

19 MR. DAVIS: How that's structured from a
20 management standpoint?

21 COMMISSIONER WILLIAMSON: Yes.

22 MR. DAVIS: Each segment has a segment head.
23 I report to the residential furnishings segment head
24 along with two other fellows within our segment. They
25 then report directly to our chief operating officer.

1 Now, under me I have, from an operational standpoint,
2 four division -- domestically. I'm talking the U.S.

3 COMMISSIONER WILLIAMSON: Is your segment
4 head focused on a U.S. market only?

5 MR. DAVIS: No. He's focused on the
6 worldwide market. I, however, do have responsibility
7 for more than just the U.S. I have responsibility for
8 Canada, Central and South America.

9 COMMISSIONER WILLIAMSON: How does your
10 company's size, its integrated nature, been able to
11 compete better in the U.S. than in globally? You use
12 multinational, but I want to get some idea how does
13 that help you compete in the U.S. market and the
14 global market?

15 MR. DAVIS: Better in some areas than in
16 others. By the way, I want to mention, just to go
17 back, our wire group, which is our source of raw
18 material, our primary input for our bedding
19 innerspring divisions, is in our industrial materials
20 segment, so that's not reported as part of Leggett's
21 residential furnishings segment.

22 One thing we've certainly found over the
23 years as we've entered a lot of different markets is
24 that there is very little commonality from market to
25 market. There are markets, such as Brazil, a country

1 of 190 million people, where the innersprings are by
2 far the minority sleep surface of choice.

3 However, that's a growing market for us, and
4 innerspring is becoming more popular. In the U.S., as
5 we discussed earlier, with alternative sleep and just
6 a contracting market from an economic standpoint,
7 innersprings have assumed a smaller market position
8 over the proceeding years.

9 We operate facilities in China that, again,
10 manufacture for a very diverse market, a market where
11 there's a lot of potential, obviously, with a
12 population for innerspring growth, but that's still a
13 smaller market in terms of pieces to the U.S.

14 COMMISSIONER WILLIAMSON: I guess
15 innersprings have always been sort of the mattress of
16 choice in the U.S., where I guess in the rest of the
17 world that hasn't been the case. I take it that's
18 what's shifting?

19 MR. DAVIS: It's shifting in different
20 areas. You can go to Spain right now and the shift is
21 tremendously away from innerspring to materials such
22 as latex foam and polyurethane type products. In
23 Germany, for instance, the sleep surface of choice is
24 foam. You can go, however, like I said, to Brazil and
25 that surface is somewhat temperature sensitive.

1 Foam is warmer to sleep on, so in a tropical
2 climate, if they have the opportunity to purchase an
3 innerspring bedding, that's considered a more premium
4 product with a higher value. So as those economies
5 evolve and change and people become more fluent and
6 are able to buy those types of products, that's what
7 we're seeing some growth in those areas.

8 MR. CORR: Commissioner Williamson, I just
9 wanted to mention in terms of the structure of Leggett
10 & Platt that their profits are somewhat inflated than
11 what their books show for purposes of this
12 investigation because they have to strip out the
13 profits, and essentially, they have to absorb the
14 profits of all the other business units for production
15 of wire rod and then the drawing of the wire that then
16 goes into the innersprings.

17 They have to report it for purposes of the
18 questionnaire in terms of cost even though their
19 purchase price is the FMV as they would as a free
20 standing unit, as the costs of their operating margins
21 are higher than they are actually reported within the
22 company.

23 COMMISSIONER WILLIAMSON: Okay. I'm just
24 not sure that's addressed in your brief, or will you
25 address it in posthearing so we can just see how much

1 do we --

2 MR. CORR: Sure. Absolutely. Happy to do
3 so. Thank you.

4 COMMISSIONER WILLIAMSON: I guess also for
5 Leggett & Platt, Respondents in their Exhibit 2 of
6 their prehearing brief give a detailed chart about the
7 acquisition history 2007 of, you know, the
8 acquisitions your company has made. I was wondering
9 is that chart accurate? If not, you might want to say
10 now or in posthearing.

11 MR. DAVIS: I'll just talk about the more
12 recent ones, and they were described in our opening
13 comments. Atlas Springs in California and Savall
14 Springs out of Michigan, those two were not actually
15 acquisitions for Leggett & Platt, those were asset
16 purchases.

17 In the case of Atlas Springs, that company
18 was going out of business, we bought the machinery
19 from that and have redeployed some of that machinery
20 in some of the foreign markets where we participate.

21 COMMISSIONER WILLIAMSON: Repeat that last
22 phrase. I'm sorry.

23 MR. DAVIS: We have redeployed some of that
24 equipment that we acquired from Atlas Springs in some
25 of the foreign markets where we manufacture

1 innersprings for their local markets. For instance,
2 in Brazil.

3 COMMISSIONER WILLIAMSON: Okay. I was also
4 going to ask about your operations in China and the
5 nature of those operations, and what markets do they
6 serve.

7 MR. DAVIS: We may be the largest
8 innerspring manufacturer in China, and we probably
9 have three percent of the market. It's an extremely
10 fractured -- there are literally hundreds of spring
11 producers in that market. The barrier, the cost of
12 entry into that, making innersprings in China is very
13 low.

14 COMMISSIONER WILLIAMSON: Thank you for
15 that. I think that just helps us I think put the
16 company in the context. My time is expiring. I did
17 have a question for Hickory Springs. I'll come back
18 to it later. Thank you.

19 CHAIRMAN ARANOFF: Commissioner Pinkert?

20 COMMISSIONER PINKERT: Thank you, Madam
21 Chairman. A couple of things for the posthearing
22 brief. First of all, could you provide the timing and
23 details of the announced price increases, along with
24 information as to whether they were successful. So
25 that goes back to something I was asking about in the

1 first round but I'd like you to follow-up on that in
2 the posthearing.

3 Also, for Leggett & Platt, in the
4 posthearing could you comment on the argument with
5 respect to two of the pricing products that is
6 contained in Respondents' brief at page 34? Okay.
7 Now, this is a question that is probably more for the
8 attorneys but anybody can take a stab at it. The
9 staff report indicates in the C-1 data only a small
10 decline in market share for the domestic industry over
11 the period of investigation.

12 Given the arguments about underselling in
13 this case, why did subject imports not take a greater
14 share of the market in terms of the C-1 data that you
15 see?

16 MR. CORR: I think one of the themes that
17 you will see in the confidential briefs is that rather
18 than lose market share, the industry reduced prices.
19 There was price suppression in particular. I think if
20 you look at the statistics on price suppression, that
21 will be revealing.

22 MR. MORGAN: Commissioner Pinkert, if I may.
23 I think that Mr. Salyer can speak to this from an
24 industry perspective as to what happened in the
25 marketplace once Leggett changed its strategy from

1 trying to maintain volume to lowering prices to stop
2 the bleeding from the loss of volume.

3 COMMISSIONER PINKERT: Thank you. Mr. Ryan?

4 MR. RYAN: Yes. If you look at the C-1
5 data, I'd make a couple of points. First, it starts
6 in 2005, so the Commission has on the record from the
7 preliminary investigation 2004 data. There was a big
8 jump from 2004 to 2005 that the Commission should
9 consider, primarily because the 2004 to 2006 period is
10 when you had one company go out of business.

11 You need to consider the cause of why Atlas
12 Springs went out of business despite a very strong
13 period of demand. So I think that it's incumbent on
14 the Commission to look through the 2004 to 2005 jump.
15 The data in C-1 also doesn't break out the merchant
16 market from the integrated producers, so I think the
17 point of the Commission's analysis on market share
18 shift should be the change in the percentage of
19 merchant market consumption from 2004 to 2007 and then
20 on into 2008.

21 If you look at the change from 2004 to 2007,
22 a percentage of merchant market sales, which is where
23 we compete, you know, there's some of the integrated
24 to buy imports, but the point of competition is really
25 the merchant market. There's been a huge increase in

1 market share from 2004 to 2007, and it didn't stop
2 until 2008. So 2004 to 2007, massive increase in
3 market share where market share matters.

4 MR. SALYER: I think it's kind of two phase
5 here. You refer to the pricing products, obviously,
6 that we can address in the postbrief, but in looking
7 at those, as far as concerned with how we, for lack of
8 a better term, started to attack that market or attack
9 the problem we saw as imports was we had the
10 philosophy we were going to retain our prices, retain
11 our margins, and it became clear to us after the last
12 increase in 2004, which was in the late third quarter,
13 that we were losing tremendous market share going into
14 2005, that several customers switched to imports.

15 My duties also include handling a couple of
16 national accounts, and I won't name those accounts,
17 but one of them in particular in the U.S. actually
18 said that's kind of like the straw that broke the
19 camel's back in 2004.

20 They had not imported a lot of product at
21 that time, they immediately put several containers of
22 product on order, it started to come into 2005, it was
23 over 100,000 pieces annually. To try to go back and
24 capture that market share for us, the only alternative
25 was to lower prices.

1 I could not, we couldn't, Leggett could not
2 get to the import prices, but this company did value
3 some of what we provided for them so we lowered our
4 prices to this account quite a bit, they brought that
5 business back to us through the course of 2005, latter
6 2005, and end of 2006.

7 So I think what the pricing data will show
8 you in general cases like that is that the average
9 prices eroded for the products from 2005 to 2006. We
10 saw an increase about the middle of 2007 when we did
11 institute a price increase of five and a half percent,
12 so there's a little bit of a tick up there.

13 It was not by any means successful from the
14 aspect that it was generally general-wide, you know,
15 industry-wide, but it did have a slight increase in
16 the value of the product. Also, the pricing products
17 are a selection of, like if you look at just the
18 queens, it's just three SKUs of queens in bonnells.
19 There's more queen bonnells within that count, you
20 know, within the queen size.

21 So if you looked at somewhat increased, we
22 introduced the product called 336XT, which is a seven
23 inch unit, during that time that carried a little
24 higher price so it made the average prices go up, but
25 in the meantime, some of the products that aren't

1 shown on the pricing products also went down in value
2 and volume. So if we looked over the whole course of
3 everything we sold in queen size in bonnell, I think
4 you'd get a little bit different picture.

5 MR. MORGAN: And, Commissioner Pinkert, just
6 to summarize how the Commission should look at that,
7 the industry fought back, maybe tempered the increase
8 in subject imports as a result, but its margin took a
9 crushing decline and was continuing to do that, so
10 that was what the industry had to give up to kind of
11 temper the increase in volume.

12 MR. BAISBURD: And also, although you will
13 of course look at the industry as a whole, to put that
14 in context, look at those points where the competition
15 was most direct and most concentrated. So you start
16 with Atlas on the West Coast, which is where the
17 subject import really started making significant
18 market penetration. They are out of business now.
19 Look at Hickory, which is, you know, more concentrated
20 in the small to medium size customer base, which is
21 exactly what the subject imports have started going
22 after.

23 Their performance is worse than others in
24 the industry, and when you look at the industry as a
25 whole, you see some of the effect that Frank and Leigh

1 have been talking about, as well. So really, by
2 looking at it in those terms, you really put those
3 numbers in, I think, the larger context.

4 COMMISSIONER PINKERT: Thank you. Now, for
5 each of the company witnesses, does your company face
6 meaningful competition from subject imports for sales
7 to large, major brand mattress manufacturers? I don't
8 know if that's the S brands, but the large major
9 mattress.

10 MR. DAVIS: We certainly have. Some of the
11 large, national-type companies that have national
12 coverage, yes. In fact, we've had some go that way.
13 Leigh referenced one in his opening. We did almost a
14 million pieces with a customer at one time. In '07 we
15 did 400,000. Once we saw the preliminaries come in
16 this year, that came back to us, and through the
17 middle of the year we were back on pace to do, you
18 know, a million pieces, somewhere thereabouts.

19 There are other groups that have stayed with
20 us, and we provide also in those cases -- the industry
21 is a just-in-time industry, from the bedding
22 manufacturer to the retailer to the consumer. Very
23 little inventory held within that chain. We have been
24 the source of working capital to facilitate that value
25 change, traditionally, and so that means more to some

1 customers than to others.

2 There's a variety of instances over the last
3 few years where the only thing that was considered was
4 the invoice pricing from Leggett & Platt and from
5 China, or from South Africa or from Vietnam, and that
6 was the final determination. We've tried persistently
7 to make the case that the value-added part of the
8 equation that we bring has a worth, but as the delta
9 became wider between our pricing and the cost they
10 could buy imports for, that value started to go away,
11 as evidenced by our having to close a lot of our local
12 distribution centers.

13 It just no longer was a viable way to do
14 business. We couldn't get paid for it.

15 MR. BUSH: Commissioner Pinkert, I don't
16 know of a single bedding company out there, regardless
17 of size, that has not considered importing units, and
18 has not used the threat of importing units as a tool
19 against us.

20 COMMISSIONER PINKERT: Thank you.

21 Thank you, Madam Chairman.

22 CHAIRMAN ARANOFF: So I should disclose here
23 that I am actually in the market or will be in the
24 market very soon for not one but two new mattresses,
25 especially for my teenager, who informs me that he's

1 had the same mattress since he got a bed when he was
2 two, and I think he has a point, perhaps his point
3 being that his mother is a cheapskate.

4 In any event, when I walk into a retail
5 store that sells mattresses, I generally will see a
6 few of the major national brands and maybe a private
7 label product that's for that store, and each of those
8 will have several levels of mattresses being offered,
9 but the record in this case tells us that innerspring
10 producers have a very large number of domestic
11 customers, that there are a lot of people buying these
12 things and making mattresses out of them, so who are
13 all of these innerspring purchasers, aside from the
14 big name brand mattress companies and whoever the
15 retailers need to make their private label product?

16 I am trying to understand how the market
17 supports this many different manufacturers.

18 MR. SALYER: There's a wide variety. We
19 actually, in our sales, we analyzed what we call the
20 major groups, and those groups are obviously the four
21 S's that have been referred to, but there are several
22 others. There's, in fact, Mr. Tramel represents Lady
23 Americana, which is a national group. There's
24 International Bedding, which is national. King Coil
25 has national presence, they have licensees.

1 Several others associated with it, and they
2 all range in different sizes, different regions of the
3 country. They tend to deal with different retail
4 customers. Generally, the larger companies sink a lot
5 of their time and effort into dealing with the major
6 retail chains, such as a Sleepy's or a Mattress Firm
7 or a Matt Giant. It doesn't mean that a lower or
8 smaller group can't compete or doesn't try to get in
9 on those floors, but typically, the major retailers
10 are dominated by the major mattress manufacturers.

11 And then there's a phenomenon that has
12 existed for quite a while called factory direct
13 manufacturers. One of the biggest in the country is
14 Original Mattress Factory, and they have several
15 location. Verlo Mattress is similar in that they
16 manufacture mattresses and sell them at their stores,
17 generally in different parts of the country, and
18 there's just a variety of regional players, or in
19 specific markets, maybe just a city where they will
20 manufacture mattresses and they find a niche where
21 they sell a certain type of product.

22 CHAIRMAN ARANOFF: Are there particular
23 producers who are servicing the private label type of
24 products, and is it the big name national companies
25 just slapping a private label -- or do private label

1 products come from someone else?

2 MR. SALYER: There is some private label
3 from the major manufacturers. I guess the
4 determination is, what is private label. Does it mean
5 that it's just got a name on it, you know, that
6 doesn't really tie back to the actual company that's
7 manufactured it. Is that, Madam Chairperson, where
8 you're trying to get to with the -- just trying to
9 understand --

10 CHAIRMAN ARANOFF: Yes, I guess I'm asking
11 out of my personal experience, right, if I go up the
12 road here in Maryland, there's a Mattress Warehouse
13 and a Mattress Discounters, and if you go in there
14 you'll see the big name ones and then one that they'll
15 say is their own brand, and it might have their name
16 on it or it might have some other made-up, you know,
17 type name on it, but it's clearly their private
18 labeled brand.

19 MR. SALYER: It could be made by a mattress
20 manufacturer that is not national in advertising
21 scope, however has a significant coverage. There are
22 a few of those. Also, the national brands, for
23 significant retailers for them, such as a Mattress
24 Discounter, would, rather than just forego that part
25 of the market in there, might develop a non-branded

1 line for them so that they can sell it along with
2 their branded line in there.

3 MR. BUSH: Ma'am, Mattress Discounter,
4 actually, it made their own line. They produce their
5 own mattresses, and then also carried a couple of the
6 national brands for that particular store chain.

7 CHAIRMAN ARANOFF: Okay, so some retailers
8 are manufacturers? Okay. That's helpful. Now,
9 there's been some discussion about, you know, in what
10 part of the market the subject imports have been able
11 to make inroads, and one of the arguments that the
12 Respondents raise and that you all addressed a little
13 was the idea that if people look to the imports as
14 maybe a secondary source, a second source of supply,
15 and so one question that I had is, are there any
16 domestic mattress producers who are relying
17 exclusively on imports, or at least were prior to the
18 filing of the petition in this case? Because if there
19 were and if that represented any substantial volume,
20 that would tend to belie the argument that it's always
21 a second source of supply.

22 MR. SALYER: Yes, there's mattress
23 manufacturers that have depended almost completely on
24 imported product, low-priced imports. We saw some
25 interest after your affirmative vote, and then also

1 upon the announcement of the DOC duties, the
2 preliminary duties. We saw some of those accounts
3 that have been totally, you know, 100% imports, come
4 back and ask for product, ask for quotes, because we
5 hadn't been able to meet those prices for quite some
6 time.

7 So they did come back and ask for them.
8 Now, some of them have bought a few things from us,
9 some have not, and have continued to buy imports
10 through today, in fact, even though the preliminary
11 duties are now in place.

12 CHAIRMAN ARANOFF: Okay. Well, for the
13 post-hearing, since I imagine that this is
14 confidential, if either of the companies can provide
15 us with names of purchasers who switched over
16 completely to imports at some point during the period
17 that we are looking at, I'd be interested in whether
18 or not they came back later as sort of secondary. I'm
19 really looking for evidence that goes to this issue of
20 whether imports are a second source of supply or
21 whether producers of any substantial volume are using
22 them as their sole source of supply, and that's a
23 question that I'll also be raising with the
24 Respondents this afternoon, so anything that you can
25 provide would be helpful.

1 MR. SALYER: We'll be more than happy to.

2 CHAIRMAN ARANOFF: Thanks.

3 MR. RYAN: We will as well.

4 CHAIRMAN ARANOFF: Can someone describe to
5 me, because it's been discussed a lot, but I just want
6 to make sure we have something precise on the record,
7 what it means to de-content or de-spec a mattress?

8 MR. DAVIS: Yes, I think so. Basically,
9 that's taking a lower value or a lower cost product
10 and substituting it in for a higher value product.
11 We've seen that occur over the last few years as raw
12 material costs have increased, that when customers are
13 looking to re-merchandise their line -- and Jimmy was
14 right, there's a couple of times each year where most
15 manufacturers re-introduce or re-merchandise, have the
16 opportunity to re-merchandise lines, and those are
17 centered around market events -- they will take a
18 higher cost, it might be a spring, or it might be a
19 higher cost piece of foam, and maybe they will
20 substitute a lower cost piece of foam, maybe change
21 the name of the mattress that they are producing so
22 that it's not an apples-to-apples comparison to what
23 was there before, re-merchandise and re-price.

24 Okay, so, in the instance of innersprings,
25 we've seen, for instance with our LFK products, a

1 significant number of those pieces be de-contented
2 into bonnells and re-introduced as a new offering,
3 okay? So that bed might still be retailing at 699,
4 but with the raw material increases that they are
5 taking, maybe not only in steel but in foam or fibers
6 or whatever, it gives them the ability to save on one
7 end to recoup some of those increases and increase
8 their margins.

9 CHAIRMAN ARANOFF: Okay. Is there a limit
10 to the extent to which a mattress can be de-contented,
11 and has the market reached that limit?

12 MR. DAVIS: No, and no.

13 MR. BUSH: The retail market segment is set
14 up to where they have price points, 499, 699, 899,
15 something like that, and they are requiring that the
16 mattress manufacturer provide something to fit that
17 slot. They are price increase adverse. So, what
18 happens is, you know, I'm a mattress manufacturer,
19 I've taken raw material increases, I've got to raise
20 my price.

21 You don't raise your price at 699. You
22 maybe take that number and move it to your 899 price
23 point, and then take a similar like unit and maybe use
24 a less dense foam, a cheaper foam, and a cheaper
25 innerspring, maybe a cheaper tick, and come out with

1 another price model as you slide into that 699 point.
2 So, that's what de-contenting is, it's just
3 substituting --

4 CHAIRMAN ARANOFF: Right. I'm just
5 wondering if, you know, at some point, your consumer
6 comes in and buys at whatever price point the consumer
7 buys at, and takes the mattress home and because it's
8 got, you know, thinner wire and less foam and I don't
9 know what else they, you know, they end up going to
10 the doctor for help for their back and they try to
11 return the mattress and that at some point -- I'm just
12 wondering if there's some point at which the mattress
13 retailers can sort of tell that they've gone too far.

14 MR. BUSH: Well, every now and then the
15 bottom layer will disappear. 399 is basically where
16 it is now, although there is cheaper stuff out there.
17 That's where basically they start promoting the
18 mattresses. I can remember it being 299 and 199. Of
19 course, I've been around for 30 years doing this stuff
20 too, but every now and then, the bottom tier will
21 disappear and they'll keep adding upper tiers, but
22 that's about it.

23 CHAIRMAN ARANOFF: Okay. All right, thank
24 you very much.

25 Vice Chairman Pearson?

1 VICE CHAIRMAN PEARSON: Thank you Madam
2 Chairman.

3 Both of the firms here today sell a variety
4 of bedding products to mattress manufacturers, and
5 it's my understanding that at times that's done as a
6 package of items bundled together. What I'm wondering
7 is that, for the purposes of our pricing data, are you
8 confident that, when you've made a bundled sale, that
9 the pricing of the innerspring mattresses reported to
10 us, has it reflected the actual price paid by the
11 purchaser or has the bundling made it difficult or
12 impossible to determine what price actually was paid
13 for that innerspring?

14 MR. SALYER: Leggett & Platt has obviously,
15 like Hickory Springs, had a variety of products at one
16 time that we were able to provide customers. Since
17 then, just to go to that effect, we've divested
18 ourselves of our foam business, which was a couple of
19 years ago, I think, now. We've recently divested the
20 lumber division. Our textile and fiber division,
21 which means like the fibers and the pads and things
22 that go inside, this fill material of the mattresses,
23 it's no secret that they are up for sale.

24 So we are basically taking those parts of
25 the business that we have felt have underperformed and

1 actually divesting ourselves of those. As far as
2 concern with bundling those products together, we
3 don't do that. Innersprings are priced based on
4 innersprings. There are incentive allowances based on
5 volume, but it's associated with those innersprings.
6 We don't try to package a deal. Obviously, we'd like
7 every bit of their business on foam or wood or textile
8 and fibers, whatever we had at the time to sell, but
9 those parts of Leggett & Platt operate independently
10 of what we do with innersprings.

11 MR. BAISBURD: Just to clarify, with respect
12 to pricing products, the pricing products are reported
13 based on the invoice price to the customer for the
14 innerspring unit, so it's not affected by other
15 products that might have been sold on the same
16 invoice, for example.

17 VICE CHAIRMAN PEARSON: Okay. Thank you for
18 that clarification.

19 Mr. Bush, did you have something to add?

20 MR. BUSH: Yes, likewise, we price each of
21 our product lines individually. They are not tied
22 together. I mean, you are not going to buy a kit
23 where you would get everything you need to make a
24 mattress with.

25 VICE CHAIRMAN PEARSON: You're saying the

1 Chairman couldn't buy all of the parts and assemble
2 her mattress at home?

3 MR. BUSH: I'd be happy to sell them to you
4 but you wouldn't know what to do with them.

5 VICE CHAIRMAN PEARSON: It might be an
6 interesting project for a teenager. Sorry, no, that
7 wasn't a serious recommendation. Okay, so at any
8 rate, we're quite confident that the pricing data that
9 we have for the innersprings reflects the actual
10 pricing?

11 MR. RYAN: Yes, I think you do have very
12 solid pricing data available to the Commission that's
13 collected, was collected on a wide range of products,
14 every product that somebody thought pricing data
15 should be collected on. You got a good number of
16 observations on directly comparable products. I think
17 you've got a very solid basis to assess pricing in the
18 market.

19 VICE CHAIRMAN PEARSON: Okay. Discounts and
20 rebates appropriately accounted for in the process?

21 MR. SALYER: Yes, ours have. We took
22 invoice prices and then took allowances, any incentive
23 allowances, discounts and things like that, freight
24 and everything out of it because the instructions were
25 to provide an FMV our facility price.

1 VICE CHAIRMAN PEARSON: Okay, good. Thank
2 you. That answers what I had in mind for that.

3 MR. MORGAN: Vice Chairman Pearson, if I may
4 too, I know Respondents raised whether there was
5 coverage of the four S's, and we took a look at that
6 in terms of the pricing products and what percentage
7 of sales they represented to the four S's, and I'm not
8 sure if you want to speak to this publicly, but we are
9 confident also that it represents good coverage of
10 sales to those customers.

11 MR. SALYER: Very generally, I'll speak to
12 it without details. On the pricing products, the nine
13 pricing products that are in here, by volume, as far
14 as concerned with pieces, 44% of the pieces reported
15 in the pricing products, on the Leggett side at least,
16 were sold to what the Respondents referred to as the
17 four S's. By dollar value, it was 49% of those
18 pricing products are covered by the four S's, products
19 that we would sell within this group as a whole.

20 VICE CHAIRMAN PEARSON: Okay. Thank you.
21 We don't have a lot of non-subject imports in this
22 particular industry. Is Mexico a potential source of
23 imports? Apparently there have been some innersprings
24 that have come from Mexico in the past.

25 MR. DAVIS: Yes, there are. It's never been

1 a significant portion. Of course, we operate plants
2 in Mexico, and to be honest with you, during the last
3 few months, as we've seen a significant amount of
4 innersprings come back to us after the preliminary
5 determination, we are trying to ramp up production, we
6 are doing everything we can to put the infrastructure
7 back in place that we've had mothballed to take care
8 of the industry.

9 We've brought some units from our Mexican
10 plant to help, on a short-term basis, subsidize that.
11 Generally, the input cost in Mexico is comparable to
12 the U.S., and the biggest input cost is steel, wire.
13 That has not traditionally been the case with China
14 and Vietnam.

15 VICE CHAIRMAN PEARSON: Differentiate
16 between Mexico and China and Vietnam again, please?

17 MR. DAVIS: We have seen a delta over the
18 years of, and it varies, but anywhere from 20 to 40%
19 in wire cost differences, and since that's a major
20 input on a bonnell or most any innerspring, it has a
21 large bearing on your cost and at what cost you can
22 sell that product profitably. We have, again, the
23 Mexican input costs have been similar to the U.S.
24 costs.

25 VICE CHAIRMAN PEARSON: Oh, okay, but you

1 are saying in Asia it's been possible to find lower
2 cost wire?

3 MR. DAVIS: Yes.

4 VICE CHAIRMAN PEARSON: Okay. I understand.

5 MR. BUSH: Commissioner Pearson, in our
6 experience in Mexico, most of the manufacturers down
7 there of innersprings are maker/users. They will have
8 some excess capacity but not a whole bunch. Also, in
9 dealing with several manufacturers in Mexico, there
10 are imported units from China coming into Mexico under
11 their price, so it's happening there also, not to the
12 extent as here, but the market isn't as big as here.

13 VICE CHAIRMAN PEARSON: Okay. Any other
14 probable sources of imports? Let's say hypothetically
15 that the preliminary duties become permanent, and so
16 we would see only fair value imports coming in from
17 the three countries we are talking about. Would we
18 likely then start to see innersprings arising from
19 other origins?

20 MR. SALYER: Yes. We've already seen some
21 of that in the data that we've pulled from the
22 commercial databases I referenced prior, PIERS and
23 Zeppel. We've actually seen product coming from
24 Taiwan by one of the major importers of record that
25 we've seen through the period of investigation. One

1 of those major importers, distributors, actually is
2 bringing product in from Taiwan now.

3 We've been unsuccessful in being able to get
4 exact prices, although we know from our discussions
5 with the customers importing those that they are well
6 under our prices. Also, I referenced large national
7 customer, and Perry did too, where we have got their
8 business back. It dropped from almost a million
9 pieces down to half. It's now annualizing based on a
10 million pieces.

11 That customer has been in contact with a
12 former distributor of China product, basically telling
13 us that they can import product from Turkey, and that
14 customer has told us they've placed 70-some containers
15 on order with Turkey. I don't think those containers
16 have been received yet. We haven't been given an
17 update as far as concerned with how those are going to
18 be priced, although we were told they were under our
19 present price.

20 MR. DAVIS: Over the years, we've seen
21 innersprings come into the U.S. from a variety of
22 different sources, from Scandinavia and from Germany,
23 from Turkey. We have not seen most of those producers
24 willing to sell those products at the prices we've
25 seen from the subject countries.

1 VICE CHAIRMAN PEARSON: Okay, well, we know
2 that Turkey is a formidable producer of rebar, which
3 doesn't go directly into innerspring mattresses, but
4 maybe they are good at wire rod too, I'm not sure.

5 MR. BUSH: Mr. Pearson, I'm also hearing
6 rumors of units, Chinese units being trans-shipped
7 from Canada back into the States through some of these
8 distributors and importers that were bringing them
9 directly in from China, but I have not been able to
10 substantiate that yet.

11 MR. SALYER: We had actually seen, through
12 those databases again, a significant uptick by one of
13 those importers coming into Vancouver. We haven't
14 seen that product into the U.S., but they were a
15 former huge importer of products in the United States
16 from China. Obviously, my understanding is that
17 Customs should, if they come across the border, the
18 point of origin is where they should apply the duty.

19 VICE CHAIRMAN PEARSON: Right. Okay, well,
20 my light's turned red, so thank you very much.

21 CHAIRMAN ARANOFF: Commissioner Okun.

22 COMMISSIONER OKUN: Thank you. Mr. Salyer,
23 in your direct testimony, you had responded to one of
24 the Respondent's allegations about the size of, you
25 know, what they consider a protected part of the

1 market, where you didn't face import competition. It
2 was with respect to the mattress manufacturers, and
3 you had given a different percentage figure, I think.
4 They had used 60, you had said, based on per unit
5 basis, it would be 40%.

6 Did I hear you correctly on what you were
7 discussing there?

8 MR. SALYER: Actually, what we addressed was
9 the captive market.

10 COMMISSIONER OKUN: Okay.

11 MR. SALYER: The captive market being Sealy
12 and Simmons. Our information, based on some public
13 data, Sealy is a publicly traded company, that
14 information, plus our internal information and what we
15 are able to hear, we believe that they are 30% of the
16 market, which means that the open market is 70%.

17 COMMISSIONER OKUN: Okay.

18 MR. BAISBURD: Commissioner Okun?

19 COMMISSIONER OKUN: Yes.

20 MR. BAISBURD: I think, to your specific
21 question, the Respondents have calculated the
22 percentage that Sealy, Simmons, Serta and Spring Air
23 account for, and they used a value basis for that, and
24 you had recalculated that based on pieces, and I think
25 that that's what Commissioner Okun was asking about.

1 COMMISSIONER OKUN: That was it.

2 MR. BAISBURD: And that percentage is
3 different.

4 MR. SALYER: The four S's, per se, is a
5 different percentage. We didn't calculate it as the
6 same value based on our information.

7 COMMISSIONER OKUN: Okay, and then I wanted
8 to have you expand just a little bit because I'm not
9 sure if I heard the rest of your response, which was,
10 for that part of the market, the four S's part of the
11 market, did you respond to whether -- I think you had
12 said, there were no barriers to entry for the imports
13 into selling into that part of the market? I guess I
14 am trying to understand Respondent's allegation being,
15 this isn't a place where we've seen imports yet, and
16 you know, they're buying from the domestics and
17 therefore we couldn't be looking at -- that part's
18 protected.

19 I guess I just wanted to hear some more from
20 you, anything you can say publicly, and it may be that
21 some of this is confidential, to make sure I
22 understand whether there is currently import
23 competition in that part of the market.

24 MR. MORGAN: Commissioner Okun, just so it
25 doesn't get confused, our position is 70% of the

1 market by quantity is open to competition, imports,
2 anyone, and then I'll let Leigh explain the details,
3 but 70% is the number we are saying is open for
4 competition from any source.

5 COMMISSIONER OKUN: Okay. Okay, so -- go
6 ahead.

7 MR. SALYER: There's always been the, since
8 I've been in this business for 27 years, typically,
9 the four S's have been what people talk about as
10 having a commanding share of the marketplace. There
11 are some other big, large manufacturers out there, and
12 a couple of them have actually surpassed some of the S
13 side of the equation, and without going into detail,
14 we could certainly go into more detail as far as
15 concerned with post-hearing briefs, but there have
16 been locations within that group that have imported
17 product, in that four S group.

18 COMMISSIONER OKUN: Okay, well, anything you
19 can do for post-hearing to help me understand that and
20 responses to what's being argued, that would be
21 helpful, and then, Mr. Davis, you had stated, and I
22 know it's been in the briefs, but the closure of your
23 manufacturing facility, as well as some distribution
24 centers, were due to subject imports, and I don't
25 know, I may have missed something in the brief, but

1 are there any contemporaneous business documents that
2 support that those closures were due to subject
3 imports, versus other efficiency decisions by the
4 company?

5 MR. DAVIS: Yes, I think we can address that
6 in a post-hearing brief.

7 COMMISSIONER OKUN: Okay. That would be
8 great.

9 MR. MORGAN: Commissioner Okun, just, I
10 think, one other point to make, though, is that those
11 facilities have been reopened as soon as imports left
12 the market, so unlike some places where we just simply
13 shut them down, we actually opened them back up once
14 imports exited.

15 COMMISSIONER OKUN: Okay, and I think that
16 might be on the record, but just make sure that I
17 understand the exact timing of that.

18 MR. BAISBURD: To be a little more precise
19 just for the record, there's been capacity that's been
20 brought back on-line. So the productive assets that
21 were taken off-line when they closed facilities in
22 response to subject imports have been brought back on-
23 line at some other facilities, in 2008 as their volume
24 increased when subject imports decreased.

25 COMMISSIONER OKUN: Okay, so if you'll just

1 spell that out for purposes of post-hearing, and then
2 I know that you have responded to some questions about
3 bundling, and I just wanted to make sure that I
4 understood, with respect to Respondent's argument that
5 the ability of the domestic manufacturers to bundle is
6 an advantage in the marketplace that subject imports
7 don't have, is there any other information you can
8 provide on that, whether that is an advantage and
9 whether subject imports also can provide the same type
10 of bundling?

11 MR. CORR: I think, and I'll let Leigh
12 elaborate on this, but it didn't occur in the past,
13 and they've spun off those units so it really can't
14 occur in the future.

15 MR. SALYER: Commissioner Okun, that's
16 exactly right. As I referenced, we let those
17 businesses stand on their own. One of those
18 divisions, for instance, is Hanes Converting that's
19 located primarily in North Carolina. They manufacture
20 and provide non-woven product. They go to a variety
21 of uses within the mattress manufacturing facilities.

22 They stand on their own. They price their
23 products on their own. They offer incentives on their
24 own. We don't bundle those products, their products,
25 with our innersprings.

1 COMMISSIONER OKUN: Okay. You did testify.
2 I just wanted to make sure that I --

3 MR. SALYER: Yes, and that really, Hanes is
4 about the only one left from those products that go
5 within the mattress manufacturing facility. That's
6 about the only one left that we've still owned, or at
7 least might have on the block for sale.

8 COMMISSIONER OKUN: Okay. I appreciate
9 that. I understand that now. And then, my next
10 question, I think, will mostly need a response post-
11 hearing, because the Respondent argument is almost
12 entirely bracketed in the brief, but it has to do with
13 the pricing products, and one of the arguments that
14 they make is that if you look at particular pricing
15 products, it's a shift in product mix by the producers
16 that account for the volume changes, and not subject
17 imports. There's no correlation there.

18 So for purposes of post-hearing, if you can
19 address that, it would be helpful. You're shaking
20 your head yes, you'll do that. And I believe that
21 that covers all my questions, so I want to thank all
22 of you for your responses. It's been very helpful
23 this morning.

24 CHAIRMAN ARANOFF: Commissioner Lane.

25 COMMISSIONER LANE: I don't think this is

1 proprietary, but it might be. For the
2 manufacturer/producers, I mean the innerspring
3 producers, could you break down the different sizes,
4 the percentage of innersprings that you produce based
5 on size, like twin, double, king and queen, and not
6 only the percentage of your production, but then the
7 percentage of the value, and you may have to do that
8 post-hearing.

9 And then I have another question. It was
10 sort of my instinct that the double size mattresses
11 are no longer being bought to the extent that they
12 used to be, mainly because you can never find sheets
13 for them in the stores, and so is that true? Have you
14 seen a large, or have you seen a decline in the double
15 sized, and then what size is filling that void?

16 MR. BUSH: Ma'am, the first, the statistics
17 by size, those numbers are available from the
18 International Sleep Products Association. Those are
19 published statistics that they put in what they call
20 their Bedding Barometer. It's a quarterly forecast,
21 so that's public knowledge. We can get you those
22 exact ones.

23 COMMISSIONER LANE: Okay, thank you.

24 MR. BUSH: And as far as the full size, you
25 are exactly right. That has been diminishing over the

1 years, and basically, queen size is replacing it.
2 Queen has grown over the years to be the largest
3 single size made, where twin follows, then full, then
4 king.

5 COMMISSIONER LANE: Okay, and then, is there
6 any specific reason why we didn't have any pricing on
7 the king size product?

8 MR. BUSH: It's a small percent of the
9 marketplace, is probably why. I have no idea why they
10 selected the units they selected.

11 COMMISSIONER LANE: Okay.

12 MR. SALYER: Commissioner Lane?

13 COMMISSIONER LANE: Yes.

14 MR. SALYER: Most of the imports that we see
15 are not king size.

16 COMMISSIONER LANE: Okay, that was my second
17 question. Thank you for jogging my memory. What size
18 of the mattresses are being most targeted by the
19 imports?

20 MR. SALYER: Generally, it ranges anywhere
21 from twin, full and queen, those particular sizes. We
22 haven't seen a lot of kings. Kings is a smaller
23 percentage of the overall market. They also cost more
24 to import. You get fewer on a container.

25 COMMISSIONER LANE: And at the time that you

1 were seeing more of a decline in the U.S. market for
2 double or full size mattresses, are you also seeing a
3 decline in the imports that are coming in in that
4 size?

5 MR. SALYER: No, not particularly. Size is
6 a little harder to capture in the data that we try to
7 get. We asked our field representatives, sales
8 representatives, to gather the customers, how many
9 they are buying from a total quantity. Sometimes they
10 get the information on sizes, but not often.
11 Generally, what we see, though, if you look at our
12 sales, and where sales went down on a particular size,
13 stuff like that, it's not anything in particular size-
14 wise.

15 It's just kind of across the board between
16 those three major sizes, which is twin, full and
17 queen.

18 COMMISSIONER LANE: Okay.

19 MR. BUSH: But full size has degraded in
20 volume over many, many years. You are not going to be
21 able to really track it significantly one year to the
22 next, but if you look at it over time, you see a
23 downward trend.

24 COMMISSIONER LANE: Okay, thank you. This
25 question is probably for the lawyers or whoever has

1 access to the confidential data. In looking at the
2 data, there is one particular company that the numbers
3 appear to be out of sync with all of the other
4 companies, and I would like an explanation as to why
5 those numbers are so different. Yes, that needs to be
6 post-hearing.

7 MR. RYAN: We'll be happy to answer that in
8 the post-hearing brief.

9 COMMISSIONER LANE: Okay, thank you. Now,
10 Mr. Ryan?

11 MR. RYAN: Yes.

12 COMMISSIONER LANE: Since you stepped up to
13 the mic, I have a question for you.

14 MR. RYAN: I'm in trouble now.

15 COMMISSIONER LANE: I would like to ask you
16 a hypothetical question. If the subject imports had
17 not been dumped and had entered the U.S. market as
18 fair value, how would this have impacted the domestic
19 innerspring industry? More specifically, would the
20 domestic industry have been injured if subject imports
21 were sold in the U.S. market at an un-dumped price?

22 MR. RYAN: I think that's a good question,
23 Commissioner Lane. It's sort of the but-for question.
24 But for the dumping --

25 COMMISSIONER LANE: Well, I read your brief,

1 and so that's why I thought I'd ask you that question.

2 MR. RYAN: It's sort of a timely question,
3 in that the Federal Circuit has talked about it, and
4 although we don't have real significant non-subject
5 imports, I still think it's an interesting question
6 for the Commission to consider. But for the dumping -
7 - the dumping in this case is enormous. But for the
8 dumping, there would be no imports, and indeed, the
9 imposition of the duties that get rid of the dumping
10 essentially eliminated the imports.

11 So but for the dumping, there would be no
12 imports. But for the imports, the elimination of the
13 imports, the domestic industry would have been
14 materially different over the period of investigation.
15 So if the Commission were to go through this new
16 Mittal Steel analysis, which I am sure you are
17 thinking about how that'll work in, perhaps, this and
18 other cases, if you went through that analysis in this
19 case, it would show you that but for the dumping or
20 but for the imports, the dumped imports, there would
21 have been a materially different industry over the
22 period of investigation.

23 You would likely still have Atlas Springs
24 testifying, if there were a case. Atlas Springs went
25 out of business in 2006 despite a period of very, very

1 strong demand. There was a housing boom in the United
2 States, and they were on the West Coast and were
3 directly affected by the subject imports. They would
4 not have gone out of business.

5 Hickory Springs' performance in that period
6 would have been materially different. If you had
7 looked at their financial data, there was a period of
8 very, very strong demand, yet the company was losing
9 sales and went from a period of strong profits to
10 sizable losses. Indeed, those losses have threatened
11 their viability, as they have testified. So I think
12 if you were to work through that but-for analysis,
13 which is, in this case, interesting, and the
14 Commission will, I guess for as long as the Federal
15 Circuit continues to ask you to do that, will do that
16 in other cases.

17 In this case, it would show you that the
18 industry would be materially different, indeed,
19 materially better off over the period of
20 investigation.

21 MR. BAISBURD: And if I can add one thing to
22 that, the record in this case lets you test that. I
23 mean, look at what happened in interim 2008, and
24 granted, this isn't -- you know, it takes time for
25 these things to work their way out, but look at the

1 performance of Leggett in 2008 when imports dried up
2 and when Leggett immediately, as they testified
3 earlier, saw an improvement in volume after the
4 imports left the market, and see how their performance
5 compared in 2008.

6 I think that's strong evidence of
7 correlation of what the market would have looked like
8 but for the dumped imports.

9 COMMISSIONER LANE: Okay, thank you.

10 Now this also will have to be done in post-
11 hearing. Table 3-5 of the confidential staff report
12 indicates that the number of production-related
13 workers increased between 2005 and 2007 but declined
14 between interim periods. What changed late in the
15 period of investigation that led to the decline in
16 production-related workers between interim periods?

17 MR. BAISBURD: We would be happy to address
18 that in the brief.

19 I would point out, in our brief, we looked
20 at that issue, in terms of employment, slightly
21 differently and focused just on the two producers that
22 are sitting here today. As you see, the trend for
23 them was very different, and, in fact, as they
24 testified today, they had to lay off workers from 2005
25 to 2007 because of the decreased production in

1 response to imports, and it was only until 2008 that
2 Leggett actually started rehiring people, as they were
3 producing more when they had increased sales volumes.

4 COMMISSIONER LANE: Okay. Please respond to
5 the statement found on page 29 of the innerspring
6 importers' prehearing brief that Petitioner "has
7 stated that it will follow its customers offshore and
8 the decline in its U.S. innerspring capacity
9 production and shipments reflects, at least, in part,
10 this strategic business decision rather than a loss of
11 U.S. market share to subject imports."

12 MR. DAVIS: I think I'll explain that by
13 explaining what Leggett has done with regards to our
14 furniture business.

15 We are a major supplier to the upholstered
16 furniture industry. The upholstered furniture
17 industry has had a significant amount of the U.S.-
18 consumed product shift to being manufactured overseas.
19 As we have to be a supplier in close proximity to
20 those customers to give them the kinds of products and
21 service they need day to day to run their operations,
22 we've had to do what's necessary, and that's included
23 shuttering some U.S. plants and moving them to China,
24 for instance, to be right there for them to
25 manufacture their products, and lots of products find

1 their way back into the States.

2 As pertains to bedding, that has not
3 occurred. We make products primarily in country for
4 in-country consumption, and unless the model shifts
5 significantly, we would have no reason to ramp up
6 innerspring production in China and ship it here
7 because we, quite frankly, can never make the math
8 work.

9 COMMISSIONER LANE: Okay. Thank you. Thank
10 you, Madam Chair.

11 CHAIRMAN ARANOFF: Commissioner Williamson?

12 COMMISSIONER WILLIAMSON: Thank you, Madam
13 Chairman.

14 Following up on Commissioner Lane's question
15 about Table 3-5, I'm wondering if, in the post-
16 hearing, you could just address fully all of the
17 trends you see here, the numbers here, with the
18 statements about the closings and all.

19 MR. BAISBURD: We would be happy to.

20 COMMISSIONER WILLIAMSON: Thank you very
21 much.

22 Respondents claim that this investigation
23 did not cause subject imports to decline. At page 31
24 of their brief, they assert that the subject import
25 volume began to decline in 2007, well before the

1 petition was filed. They also note that Commerce's
2 preliminary determination was not until August of
3 2008, after our period of investigation.

4 I was wondering, what is your response to
5 their contentions?

6 MR. MORGAN: Commissioner Williamson, we
7 think that there is ample evidence in the record, the
8 confidential record, the purchaser questionnaire
9 responses. In fact, when we commented on the draft
10 questionnaires, we thought this might be an issue that
11 would come up, so we asked the Commission to include
12 questions in the foreign producer questionnaires and
13 the purchaser questionnaires asking not whether DOC or
14 the pendency of the investigation, in general terms,
15 affected the exporting or purchasing behavior or
16 whether the Commission's preliminary affirmative
17 determination affected it.

18 So the exact language in the producer and
19 purchaser questionnaires asked for that precise point
20 in time, and then, if you look, I think, at footnote
21 38, we've documented the numerous instances in the
22 purchaser questionnaires where they could not be more
23 clear on the fact that the Commission's affirmative
24 preliminary determination was the reason that their
25 purchases of Chinese imported innersprings ceased.

1 If you look at the foreign producers who
2 bothered to respond to the Commission's final-phase
3 question, which contained that question, which was not
4 in the preliminary questionnaire, so the limited
5 coverage you did get from the Chinese exporters in the
6 final phase, you will also find, I believe, unanimity
7 that the preliminary affirmative determination was the
8 reason that exports to the United States ceased, and
9 then you've heard from the industry witnesses.

10 So I think that there is no question on this
11 record, and any claims to the contrary are belied by
12 the overwhelming weight of the evidence that it was
13 the Commission's preliminary affirmative determination
14 that led to the decline in imports.

15 But taking Respondents at their word, that
16 there were other factors going on, then we have to
17 think that the converse is true: If the wire prices
18 in China started to decline, or the spread between
19 wire prices, more importantly, in China and the U.S.
20 increases, then we're going to see a resumption of
21 that same increasing trend in subject imports.

22 We'll be providing information in our post-
23 hearing brief that shows that that spread is widening
24 in the most recent periods, and, for purposes of a
25 threat analysis, you're looking at the imminent

1 future, and that spread is widening.

2 Then just yesterday's --

3 COMMISSIONER WILLIAMSON: Prices in China
4 are going up, and in the U.S. are going down or what?

5 MR. MORGAN: No. Wire prices in China have
6 ticked down, and U.S. prices have remained stable to
7 ticking up, so the gap itself is widening. So we'll
8 be providing that information to you in the post-
9 hearing.

10 Then, just yesterday's front page of the
11 Wall Street Journal -- we'll provide the article --
12 shows that China's GDP has slowed from 12 to 8.

13 So the factors that led to the decline in
14 Chinese exports, if we take the Respondents that it
15 wasn't the case, this Commission's affirmative
16 preliminary, but it was other factors, well, those
17 factors are now coming back into play, so we would
18 expect to see an increase in exports, even under
19 Respondents' theory of the case.

20 COMMISSIONER WILLIAMSON: Do you agree that
21 there were some declines before the petition was
22 filed, and what would be your response to the
23 Respondents' contention that the decline started then?

24 MR. MORGAN: The data for each individual
25 country is confidential, so I'll refer you to the

1 confidential staff report for that, but if you look,
2 on a country-by-country basis, yes, it's true for some
3 but not all countries, meaning that the pattern of
4 constant increases over the POI until the interim
5 period holds true for some countries but not others.

6 COMMISSIONER WILLIAMSON: In the post-
7 hearing, if you could address if there are any factors
8 that explain why did one see a decline, to the extent
9 that you know it.

10 MR. MORGAN: We will try to do that for you,
11 Commissioner Williamson.

12 COMMISSIONER WILLIAMSON: Okay. I also got
13 the impression that a lot of importers stopped, even
14 though the preliminary decision hadn't kicked in.
15 Were they just anticipating that the prelim. -- were
16 they being sold that, "Hey, you'd better stop now"?

17 MR. BAISBURD: I think the record that Frank
18 referred to is very clear that there were concerns
19 about this case. You know, it's not unheard of for
20 the Department of Commerce to find significant dumping
21 margins, and that's exactly what happened here.

22 Across the board, you have dumping margins
23 of triple digits, and so it is clear, on the record,
24 from the responses of the people who filed
25 questionnaire responses, both to the purchaser

1 questionnaire and the importer questionnaire, that
2 they left the market because of the pendency of these
3 investigations.

4 MR. BUSH: Mr. Williamson, we testified that
5 we imported a small number of units, trying to compete
6 before the preliminary duties were imposed. Once the
7 Commission voted in favor of continuing the hearing,
8 the case, two out of the three vendors we were buying
9 from from China told us they wouldn't ship us any
10 more; it was going to be futile.

11 COMMISSIONER WILLIAMSON: Okay.

12 MR. RYAN: If I could add one legal point on
13 that issue, as we addressed in our prehearing brief,
14 there is actually a statutory provision that was added
15 in the Uruguay Round Agreements Act that precisely
16 addresses this situation, where you have a petition
17 filed, and things change. It will change the market,
18 particularly when you have these duties at this rate
19 that are alleged.

20 So Congress, in that case, said, where you
21 see that happening, the Commission, as it is doing
22 now, and as your questions show you're doing, you
23 really have to consider that it's the pendency of the
24 case that's making the difference.

25 COMMISSIONER WILLIAMSON: Thank you. Of

1 course, I'm familiar with that.

2 The question I'm going to ask Respondents,
3 and maybe you can also address this: On pages 58 and
4 62 of their brief, they describe the attributes of
5 imports from South Africa that differentiate their
6 products from others in the U.S. market, in terms of
7 gauge and some other factors, and I was wondering what
8 response do you have to that. What comments would you
9 have on that? Is the South African product a
10 different product?

11 MR. SALYER: We didn't see any difference in
12 the product between South Africa and China, the
13 Respondent countries. I mean, they are primarily all
14 Bonnells. Bonnells are made with a little bit
15 different coil counts, different gauges of wire, maybe
16 different gauges of borders, but, other than that, the
17 bonnells, that's about the only particular
18 characteristics that distinguish them from each other.
19 Other than that, they are pretty much all the same.
20 The manufacturing process is very similar.

21 We're highly automated in the U.S. China is
22 not highly automated, so that's about the only
23 distinction you can make, I think, between the
24 products. Bonnell is a knotted, round-head coil
25 that's sewn together with helical wire, and a border

1 is attached.

2 MR. BAISBURD: I think the staff report, you
3 know, clearly shows that all of the products are
4 interchangeable with each other and with the domestic
5 like product.

6 COMMISSIONER WILLIAMSON: Okay. Thank you
7 for that clarification.

8 I was wondering if, Mr. Bush, you could
9 address the nature -- is your customer base
10 significantly different from Leggett's? I have the
11 impression they are selling to larger companies. Are
12 you selling more to small-to-medium-sized companies,
13 and where do their mattresses get sold?

14 MR. BUSH: Yes. We sell to some of the very
15 large manufacturers, not necessarily the 4 S's or the
16 groups, although we do sell a little bit in there
17 also. But some of the larger companies, like
18 Kingsdowne, which you may have heard of, is a very
19 large manufacturer -- it's one of our biggest
20 customers. Denver Mattress, which is a very large
21 factory direct out there is a very large customer.
22 They are a very large bedding manufacturer also.

23 So we're not just relegated to the medium
24 and the small, although that is where a lot of our
25 customer base is. It fits where our manufacturing

1 facilities are also, from a logistics standpoint.

2 COMMISSIONER WILLIAMSON: Okay. Thank you.
3 What about Leggett? Would you say you sell across the
4 full range of customers?

5 MR. SALYER: Yes. We track a lot of things,
6 and one of them happens to be customers. We do have a
7 young lady that does a quarterly report for me, and
8 the 2007 report had that we sold to over 750 different
9 customers, all the way from the very small to the very
10 large, and those 750 customers accounted for over
11 1,100 factories. So our national presence allows us
12 to sell to virtually all sizes of mattress
13 manufacturers and in whatever quantities they desire.

14 COMMISSIONER WILLIAMSON: You said 1,100
15 factories?

16 MR. SALYER: Eleven hundred factories.

17 COMMISSIONER WILLIAMSON: Thank you very
18 much. No further questions.

19 CHAIRMAN ARANOFF: Commissioner Pinkert?

20 COMMISSIONER PINKERT: I just have a few
21 more questions.

22 First of all, for Leggett & Platt, does your
23 production of machinery to produce innersprings allow
24 you to limit competition in the market for
25 innersprings?

1 MR. DAVIS: No, and the reason, I would say,
2 there are domestic manufacturers of automated
3 innerspring-manufacturing equipment. We've done
4 business with one of them for a number of years, Frank
5 L. Welles Company in Kenosha, Wisconsin.

6 We do own a good, very high-tech
7 manufacturer of equipment in Switzerland, Spuell
8 Company, which we acquired a number of years ago, that
9 has helped us tremendously in refining our
10 manufacturing processes and developing new products,
11 but there are all sorts of coiling and innerspring-
12 production-type equipment on the open market, whether
13 it be from China or from the U.S., and it's readily
14 available. In fact, I would say that, over the past
15 few years, in particular, the cost of entry into the
16 production of innersprings has dropped significantly.

17 COMMISSIONER PINKERT: Perhaps, for the
18 post-hearing, could you give us an indication of what
19 percentage of that market in the United States your
20 company controls?

21 MR. DAVIS: Yes, I think we can. Most of
22 the production of innerspring equipment within our
23 company is done in Switzerland. We do manufacture
24 some machines in the U.S. if you're looking just
25 specifically at the U.S.

1 COMMISSIONER PINKERT: I'm looking at the
2 market in the U.S. The production could occur
3 anywhere, but, your company, what percentage of the
4 U.S. market for the machinery?

5 MR. DAVIS: Understood, and we will address
6 that in the post-hearing brief.

7 COMMISSIONER PINKERT: Thank you.

8 MR. BUSH: Mr. Pinkert, we own some Spuehl
9 equipment, which is a Leggett & Platt Company. We
10 bought it before they bought it, they bought Spuehl,
11 but we've had no problems getting our spare parts or
12 replacement parts or anything else from Spuehl. So
13 they are not limiting or prohibiting competition
14 because they don't want to sell it.

15 COMMISSIONER PINKERT: Now, my last question
16 concerns this issue of vulnerability that you raised
17 earlier, and, in particular, the impact of the
18 financial crisis. Now, I think that it's not going to
19 be disputed -- you never know, but I don't think it's
20 going to be disputed that there has been a financial
21 crisis. You equate that, though, with a prolonged
22 recession, and you equate the prolonged recession with
23 vulnerability to the industry.

24 Is there any additional information, any
25 additional backup, that you can give me that might

1 help me to understand those linkages? If I misstated
2 your view, please correct me on that.

3 MR. SALYER: I think I understand your
4 question, but correct me if I go off on a tangent here
5 and start rambling or something.

6 Obviously, our market is tied to the housing
7 market. The housing market really started to
8 deteriorate, or, at least, become stagnant, in 2007.
9 It has deteriorated, as we all know, pretty rapidly at
10 the present time. So the market, our market, the
11 industry, obviously saw more beds being purchased
12 prior to 2007. It stagnated, maybe dropped a little
13 bit, in 2007-2008, if you look at the ISPA data, and
14 the industry, as a whole, has dropped tremendously.

15 As Perry alluded to earlier, higher-end
16 products, like the Visco foam and air higher-end
17 mattresses that normally command a higher-end
18 innerspring are more affected by the economic
19 conditions today. If the average consumer is going to
20 go out, at the present time, we believe that they are
21 going to go out and buy something that's below \$1,000.

22 It's just a stigmatism that's associated
23 with that in these kinds of times, which means that it
24 opens up the lower end of the market, or a lower end
25 of the market, which means that the innerspring,

1 again, becomes interchangeable. If you're going to
2 compete at \$699 or \$799, you have to distinguish
3 yourself, to some degree, but it all becomes price.

4 MR. BAISBURD: Commissioner, the industry is
5 vulnerable now because, prior to filing the petition
6 to seek relief, they underwent several years of
7 reduced capacity, reduced production, operating
8 income, and operating margins that the open market
9 producers have had to lay off workers, they have had
10 to shut down facilities, all in the face of increasing
11 subject imports, and increasing subject imports at a
12 time which, according to the staff report, of
13 decreasing demand.

14 So the drop in demand didn't keep imports
15 out. They increased their volume and increased their
16 market share at the same time. So, going forward,
17 given the obvious -- I think everyone will concede --
18 economic problems we're going to face, they are
19 starting from an even more vulnerable point now than
20 they were in 2003 and 2004, and why are they in this
21 position now? Because of the subject imports.

22 MR. CORR: And once again, just to point out
23 that one measure of this is that after imports
24 declined, after the Commission issued its affirmative
25 preliminary determination, you started to see recovery

1 on a lot of these factors, and the confidential briefs
2 will bear that out.

3 COMMISSIONER PINKERT: Thank you. I would
4 like to thank the panel, as a whole, and I appreciate
5 your testimony today. I look forward to the
6 additional information in the post-hearing briefs.

7 Thank you, Mr. Chairman.

8 CHAIRMAN ARANOFF: I have a few questions
9 about the logistics of moving around innersprings.

10 How do you ship completed innersprings to
11 your customers?

12 MR. DAVIS: The product that you see in
13 front of you is compressed, almost flat. We would
14 generally take anywhere from 12 to 20 of those and put
15 them in a crate that would be no wider than maybe 13
16 or 14 inches, and then our customers have specific
17 pieces of equipment within their plant to safely open
18 those.

19 So we can put maybe up to -- if it's a truck
20 load of twins, we could probably get 1,600 to 1,800
21 units on a trailer load.

22 CHAIRMAN ARANOFF: Okay. And there is no
23 damage to the springs from being compressed that way.
24 Is that for an unlimited period of time, or is there a
25 time limit on how long you can compress them like that

1 before they don't spring back?

2 MR. DAVIS: They are stress relieved, or
3 tempered, so that the wire has memory, if you will,
4 and I've seen crates that have been set off in a
5 corner for 10 years and opened, and they are perfectly
6 serviceable product.

7 MR. RYAN: Commissioner Aranoff, I know you
8 don't want to hear from lawyers, but I actually found
9 that to be one of the interesting facts of this case,
10 is that you compress the springs, and they ship pretty
11 well, but, as somebody pointed out before, why aren't
12 there a lot of mattresses shipped? You can't do the
13 same thing with a finished mattress. You could just
14 imagine what would happen.

15 CHAIRMAN ARANOFF: Okay. And so the way
16 that mattresses would be imported, by the container
17 load, would be exactly the same thing, that they would
18 be compressed inside a crate, and then the crate would
19 be put in a container.

20 MR. BUSH: Yes, ma'am. It's identical.

21 CHAIRMAN ARANOFF: Okay.

22 MR. SALYER: On an innerspring basis.

23 MR. BUSH: Right.

24 MR. MORGAN: And, Chairman Aranoff, I think
25 an important point this raises is the idea that you

1 can look at the imports of mattresses and the trends
2 there as a proxy for what was going on with
3 innersprings, and the fact is, it's a different market
4 for the mattresses that are being imported, the
5 finished mattresses, in that it's much smaller and
6 that you do have this damage to the mattresses that
7 occurs because of the importation.

8 So I think I'll leave it to one of the
9 industry witnesses to give the precise number, but the
10 share of imported, finished mattresses is a tiny
11 figure relative to the total mattress market. So
12 trying to say that that's the same kind of trends, and
13 those follow the same trends, as innersprings is just
14 not an accurate statement. Maybe Mr. Salyer or Mr.
15 Davis can give you the number on the mattresses as a
16 percentage of total mattresses.

17 MR. SALYER: I don't have the data with me
18 to give you the exact percentage and stuff. Probably
19 the next question I'll ask is, do you want all
20 imported mattresses or just mattresses from China?

21 CHAIRMAN ARANOFF: Well, I didn't ask a
22 question; Mr. Morgan did.

23 MR. SALYER: Frank has given me those
24 instructions.

25 CHAIRMAN ARANOFF: Whatever you think will

1 be helpful to us.

2 MR. SALYER: Okay. I can get you that
3 information in the post-hearing.

4 CHAIRMAN ARANOFF: Okay. Actually, what I
5 was more interested in, and I think the question has
6 already been answered, is whether there were some sort
7 of new developments in how you transport innersprings
8 that could account for the growth in imports. It
9 sounds as though the technology to compress them and
10 then decompress them has been around for a while, so
11 it isn't anything new.

12 One of the other issues that was raised by
13 the Respondents is the idea that it would be difficult
14 for a mattress producer to rely on imports because
15 they need just-in-time delivery, and none of the
16 importers -- I guess the implication was -- has a
17 distribution network comparable to the distribution
18 network that the domestic producers have so that you
19 can provide, on a short notice, innersprings from a
20 fairly close-by location.

21 Are you aware of any importers that actually
22 do maintain distribution sites around the country or
23 are otherwise able to support a just-in-time inventory
24 system?

25 MR. SALYER: Actually, and what my testimony

1 was, we saw entry into the market in containers only,
2 and then it built to larger customers, and then,
3 eventually, the last step in the progression was
4 distribution warehouses, and there are four that we
5 knew of that are in four areas of the country: in the
6 Northeast, a couple of in Texas, and also in
7 California. So there were the distributors, and a new
8 one that we didn't have as much information on, but
9 there is actually one in North Carolina also.

10 So the logical progression was to capture
11 more of that market share and provide JIT delivery,
12 and they established distribution facilities as the
13 last step.

14 CHAIRMAN ARANOFF: Okay. Would you agree
15 that just-in-time delivery actually is very important
16 to most purchasers in this market, or do you find that
17 they are able to, you know, inventory enough
18 innersprings to last them a while?

19 MR. SALYER: We certainly have sold the idea
20 of JIT as an advantage, but, you know, as evidenced by
21 the competitive data that we get from our sales field
22 representatives, we believe there's well over 300
23 potential customers in the U.S. that were importing
24 innersprings. So while that is a barrier that they
25 describe in their briefs, I don't see it as a barrier.

1 They have been able to overcome it. It's just
2 managing the logistics and the timing and supply and
3 demand.

4 MR. BUSH: The service centers, or
5 distribution centers, have also allowed them, like Lee
6 said, to get to the much smaller customers that
7 couldn't take full container at a time, and that was
8 becoming more and more prevalent as time went on.

9 CHAIRMAN ARANOFF: Okay. Well, if there is
10 any additional information you can provide, post-
11 hearing, about the identity and location of the
12 importers and where they may have distribution
13 centers, if there is anything else that helps us to
14 get a handle on the size of that phenomenon, that
15 would be very helpful.

16 MR. SALYER: Yes, we can.

17 CHAIRMAN ARANOFF: Okay. Now, I just wanted
18 to follow up on a question that Commissioner Lane
19 asked, and then I think Commissioner Williamson may
20 have touched on this as well, but, going back to the
21 data on the financial performance of the industry, and
22 these questions are for post-hearing because they
23 involve confidential information, on average, it
24 appears that domestic innerspring producers who
25 primarily serve the merchant market seem to be holding

1 up somewhat better financially than those who
2 primarily captively consume their innerspring
3 production.

4 So my question is, does this factual
5 circumstance suggest the lack of a causal connection
6 between subject imports and the financial condition of
7 the domestic industry?

8 MR. MORGAN: No, and we'll address it in our
9 post-hearing.

10 CHAIRMAN ARANOFF: Okay. Thank you. In
11 addition, and I think this may have been the data that
12 Commissioner Lane was pointing to, when considering
13 financial data for the entire domestic industry, both
14 captive and merchant together, looking at the firm-by-
15 firm data, you do see quite a bit of variation in the
16 results, so if, for post-hearing, if you could explain
17 what, if anything, you think we should either know
18 about these variations or what we should infer for
19 purposes of our causation assessment --

20 MR. RYAN: We'll be happy to expand on that
21 in the post-hearing brief, but, as Mr. Bush said in
22 his testimony, the integrated producers don't have
23 separate profit centers for their innerspring
24 production so that you need to look at that data very
25 carefully. The data for those companies is not

1 normally kept on the basis of innerspring production
2 versus total mattress production.

3 As they should, they did their best to
4 respond to the Commission's questionnaire, but the
5 companies that actually produce innersprings,
6 innersprings is a profit center, whereas with the
7 integrated producers, you're going to get some
8 different numbers just based on the allocations that
9 they needed to do for the questionnaire responses.

10 CHAIRMAN ARANOFF: Okay. That's helpful
11 with respect to the first question, which was, look
12 separately at the captive producers and the merchant
13 producers, but, as for the second question, where
14 you're looking at the company-by-company data for the
15 whole industry, you'll see that, actually, there are
16 variations, and they don't break down along those
17 lines, that a certain thing characterizes all of the
18 merchant producers, and a certain thing characterizes
19 all of the captive producers. In fact, it's kind of
20 all over the place.

21 So my second question actually went more to
22 that phenomenon.

23 MR. RYAN: We would be pleased to answer
24 that as well, but, actually, the same phenomenon could
25 affect that because, even if you've got integrated

1 producers, they are not all following the same
2 allocations because they just needed to do what they
3 could to present profitability data for this purpose
4 alone, which isn't normally kept in their records.

5 CHAIRMAN ARANOFF: Okay. Fair enough. All
6 right. Sadly, I have not quite exhausted my questions
7 yet, but we'll move on to Vice Chairman Pearson.

8 VICE CHAIRMAN PEARSON: Thank you, Madam
9 Chairman.

10 In regard to the exports from China, are
11 there any Chinese government policies that either
12 encourage or discourage those exports, and, in
13 particular, I'm curious about VAT rebates or export
14 taxes, those sorts of measures?

15 MR. DAVIS: Yes. There are VAT rebates.
16 Those VAT rebates, as you know, on a lot of products,
17 have been reduced over time. We have thought that the
18 willingness to sell the products at what has to be
19 very, very low margins; they have never had any
20 compunction about doing that that we've seen. It's
21 really hard to determine.

22 We're a U.S. company. We operate in China.
23 We have costs associated with our businesses that they
24 don't have. They don't have Sarbanes-Oxley, and they
25 don't have the Clean Air Act, and they don't have a

1 lot of things that we have, although that may be
2 changing a little bit.

3 It's been real hard for us, over the years,
4 to understand the disconnect in some of the raw
5 material inputs. That's been probably one of the
6 bigger issues over the years, and we don't know what
7 the controlling factor is for that input. You would
8 think a commodity product would be comparably priced
9 worldwide, and that's not always been the case.

10 VICE CHAIRMAN PEARSON: Do you have any
11 knowledge of changes in export rebates or export
12 taxation, if it exists for this product, within the
13 period of investigation, anything that we should be
14 aware of that might have an influence on?

15 MR. DAVIS: Yes. There was a change in the
16 VAT rebate amount, and I would have to get that. I
17 don't remember what it went from and to, but it was
18 reduced. I don't know if it was 13 to 8 percent or
19 something like that.

20 VICE CHAIRMAN PEARSON: Okay. But you could
21 find that for the post-hearing. Okay. Because we
22 have seen other products coming out of China where
23 there has been an assertion by respondents that it was
24 a change in the treatment of exports under the
25 government policy that affected the volume, generally

1 reduced the volume, coming to the United States. It
2 wasn't a post-petition effect, but, rather, it was in
3 response to a change in the Chinese government policy.

4 I'm not sure whether we have that exact
5 allegation in this case, but why don't you assume that
6 it's there and address it, if you could?

7 MR. CORR: We'll address it in the post-
8 hearing brief. Thank you.

9 VICE CHAIRMAN PEARSON: Okay. Good. I
10 think my last question: A modest percentage of U.S.
11 production of innersprings is exported. Are you able
12 to say, in a public session, where those exports are
13 going? Are they mostly going to Canada, or do you put
14 them in containers and ship them all around the world?

15 MR. SALYER: Most of the volume goes to
16 Canada, mainly because the Canadian market uses
17 similar sizes to what the U.S. market does. There are
18 similar players, and there are similar mattress
19 manufacturers there. Sealy has a presence there.
20 Springer has presence there. Serta has presence in
21 Canada. So it's a market that's, and it's close --
22 you can put it on a truck and take it to them,
23 basically. Edmonton is quite a ways away, but you can
24 put it on a truck and take it to them, so it's more of
25 an accessible market.

1 Most of the markets in the world, we do ship
2 product from the U.S. to a lot of other markets, but
3 not in huge quantities, but those markets have unique
4 sizes that require special production runs and special
5 machine setups to be able to manufacture the product
6 they require. It's not a large volume, but we will
7 service those countries out of the United States, if
8 we have the opportunity.

9 VICE CHAIRMAN PEARSON: Just out of
10 curiosity, would you generally be providing those
11 exports to a firm, a mattress manufacturer, that
12 operates in the United States and overseas as well,
13 thus you're servicing their need in another country,
14 or are there standalone operations in those countries?

15 MR. SALYER: They might have a licensing
16 agreement with someone in the United States.
17 Tempurpedic, King Coil, Serta; a lot of them have
18 licensing agreements where they license a company
19 overseas, in whatever country it happens to be, to
20 manufacture a like product, a like mattress, that will
21 require components, such as innersprings, of a product
22 that we might make, and then they advise those
23 licensees that this is how you make the product, these
24 are the units that we would like you to use.

25 VICE CHAIRMAN PEARSON: Call these two firms

1 -- call either Hickory or Leggett & Platt, and they
2 will offer you a quote on it, huh?

3 MR. SALYER: Yes.

4 VICE CHAIRMAN PEARSON: Call them both and
5 see what --

6 MR. SALYER: It's a small volume. We also
7 have facilities, as Perry alluded to, in other
8 countries that can manufacture similar products also.

9 VICE CHAIRMAN PEARSON: Okay. Well, thank
10 you very much.

11 I believe that concludes my questioning. I
12 appreciate your time and all of your responses.

13 CHAIRMAN ARANOFF: Commissioner Okun?

14 COMMISSIONER OKUN: My final question was
15 covered by one of my colleagues, but I want to thank
16 all of you for the responses, and I'll look forward to
17 your post-hearing submissions.

18 CHAIRMAN ARANOFF: Commissioner Lane?

19 COMMISSIONER LANE: Thank you. The staff
20 report indicates that people buy mattresses every
21 eight to 10 years, or maybe that's what the market
22 hopes people buy. Is that really a realistic number,
23 and is it perhaps the decrease in demand for
24 mattresses and innerspring coils that the quality is
25 so good that people aren't buying them except maybe

1 every 20 years?

2 MR. DAVIS: Certainly, from the standpoint
3 of the spring, you're right. The cycle is a little
4 over eight years, we think.

5 The other thing that Lee talked about a
6 little bit ago was what's going on in the economic
7 conditions right now. Most of our product is a
8 totally deferrable purchase. There's not very many
9 people that absolutely have to have a new mattress
10 tomorrow. I can make it last six months or eight
11 months and continue to feel miserable.

12 But it is deferrable. It's somewhat like
13 buying a new car, and they are struggling, obviously:
14 "Maybe not right now; maybe I'll do it next March."

15 So that's a terrific concern for us right
16 now, given that there is not a specific life-type
17 cycle for the product.

18 By the way, the life cycle of the product
19 has come down somewhat over the years. It used to be
20 around, we think, around 10, and it's come down
21 somewhere north of eight now.

22 COMMISSIONER LANE: Okay. Thank you. Is
23 there any difference in quality between the Chinese,
24 the Vietnamese, and the South African coils and the
25 American-made coils, other than the fact that I

1 recognize that you all like your product better than
2 what's being imported, but, as a neutral observer, is
3 there any difference in the quality?

4 MR. BUSH: Ma'am, there is. Their quality
5 is not near as repeatable as ours is, but does it make
6 a difference in the performance of the mattress?
7 Obviously, not because they bought so many of them,
8 especially at 35, 40, 50 percent cheaper than what our
9 prices were. So there is a quality difference, but
10 it's insignificant to our customers.

11 COMMISSIONER LANE: The other question I
12 have, and, Mr. Ryan, if you wanted to answer, say
13 something, you can after I ask this question. When
14 one buys a mattress, is there a label on the mattress
15 that identifies the type of spring, where the spring
16 is made, and the other components of the mattress?

17 MR. BUSH: The mattress manufacturer may put
18 a label on there saying what's inside of it, but I've
19 never really seen one that will say who made the
20 innerspring. But they may talk about what type of
21 innerspring it is, especially if they put a name on
22 it, because of their exclusivity or whatever, their
23 little tidbit to advertise.

24 COMMISSIONER LANE: If I buy a mattress,
25 would I be able to determine whether or not it had a

1 Bonnell spring in it or coil? I'm sorry.

2 MR. DAVIS: Well, only if you learn that at
3 the point of sale from the retailer as to whether that
4 spring unit was made here or in China.

5 COMMISSIONER LANE: No, no. Would the
6 mattress identify the type of coil that is in it?

7 MR. DAVIS: Generally, not.

8 COMMISSIONER LANE: Okay. Mr. Ryan?

9 MR. RYAN: I was just going to add, on the
10 quality point, of course, Hickory Springs, as Mr. Bush
11 stated, does produce the highest-quality innersprings
12 in the United States, but at the point where prices of
13 the imports were so low that they could no longer
14 compete with the product, they were able to blend in
15 the imports with the U.S. production and sell it to
16 the same end-use customers.

17 So, yes, quality matters to the company, to
18 its reputation, but, as the representative from
19 Leggett was saying, when the difference in price is
20 not insignificant, when it's huge, that could give you
21 the ability to make a difference with the quality of
22 the product, it disappears.

23 COMMISSIONER LANE: Okay. Thank you. In
24 Hickory Springs' prehearing brief, it argues that the
25 Commission should focus on the merchant market. Does

1 everyone on this panel agree that the Commission
2 should focus on the merchant market in these
3 investigations? If so, please explain, both today and
4 in your post-hearing brief, why the captive
5 consumption provision is satisfied?

6 MR. RYAN: I would just add, we had the
7 position we had in our brief, but we didn't argue that
8 the captive production provision is satisfied. That
9 particular provision is written in such a way that I
10 don't know when the Commission -- the last time they
11 found it applied to anything.

12 But in this case, the condition of
13 competition is such that imports compete in that
14 segment of the market. Imports compete most directly
15 in the merchant market, and that's why we've urged the
16 Commission to look at market share and other trends in
17 the market in which both of these producers compete
18 and where the imports compete.

19 COMMISSIONER LANE: Okay. My last question
20 is for Leggett & Platt. On page 5 of the ad hoc
21 innerspring importers' prehearing brief, they argue
22 that Leggett & Platt have pursued a strategy of
23 acquiring and then absorbing or shutting down
24 virtually all meaningful domestic competition for
25 innersprings. They go on to argue that this

1 aggressive acquisition strategy is a relevant
2 condition of competition in these investigations.

3 Please give me a little background on what
4 led to Leggett & Platt's purchase of several domestic
5 producers of innersprings, and how should the
6 Commission view these acquisitions when making its
7 determination?

8 And, finally, do you have any plans to buy
9 any of the remaining producers?

10 MR. DAVIS: Let me answer the last question
11 through the post-hearing brief.

12 COMMISSIONER LANE: Okay.

13 MR. DAVIS: Well, okay, I won't answer it in
14 a post-hearing brief.

15 COMMISSIONER LANE: No, no, no, no.

16 MR. DAVIS: Let me answer that. If there is
17 a maker or user out there that wants to divest
18 themselves of the ability to make innersprings, we're
19 interested. We would like to have that business and
20 supply them with that product.

21 Okay? So I know there is not an ongoing
22 conversation with any other domestic manufacturer to
23 acquire. I would certainly not walk away from a
24 conversation, if they wanted to have one.

25 We having acquisitive over the years. Going

1 back, in my career, to the early eighties, there were
2 more spring companies in that day. I think, at one
3 time, there were close to 14 spring companies on the
4 West Coast, small regional manufacturers. Some of
5 them stayed up with technology, and some of them
6 didn't make the investments in new products and
7 machinery and equipment and things like that, and,
8 over time, as within any industry, some can compete,
9 and some cannot.

10 Fortunately, I work for a company that's
11 been able to compete very well. So we did acquire
12 companies, in some cases, acquired based on gaining
13 market share, and, in some cases, we've acquired
14 companies where the driving force has been to gain new
15 technologies because we don't invent everything
16 ourselves that is new to the world.

17 So there has been a variety of reasons.
18 However, the ones named in the Respondents' listing
19 the two of Hickory and Savall, those were clearly --
20 I'm sorry -- Atlas -- sorry, Jim -- Atlas and Savall,
21 were clearly a direct result of companies that were
22 going out of business, could no longer compete, and we
23 had an interest in the assets.

24 So it's a mixed bag. We've grown our
25 business by both organically, by doing the blocking

1 and tackling we needed to do, and we've grown our
2 business acquisitively whenever that was called for.

3 COMMISSIONER LANE: Okay. This is a real
4 quick question for Mr. Morgan. You talked about the
5 slowdown in China. Now, the Wall Street Journal has
6 talked about the slowdown in the Chinese economy. I
7 saw, on the news last night, that a lot of Chinese
8 factories are being closed, especially toy
9 manufacturers. People are being laid off.

10 Do you have any knowledge, or is there any
11 reasonable expectation, that what is occurring in
12 China right now may have an effect upon the Chinese
13 ability to continue to manufacture coils and export to
14 the United States?

15 MR. MORGAN: I think, if anything, their raw
16 material costs are going to decline, and we'll try to
17 get you some more information on that in the post-
18 hearing. In fact, we know that the wire costs are
19 declining, but we see no reason why the innerspring
20 manufacturers in China would be unable to export to
21 the United States as a result of the conditions, and,
22 if anything, our position is that that suggests there
23 are going to be further increases in exports if there
24 aren't duties imposed.

25 Just getting back to the original question

1 you raised, I think you have to put into perspective,
2 as a condition of competition, you're talking about
3 the two producers. The chart that the Respondents
4 provided goes back to the 1960's. I'm unaware of a
5 case where the Commission has considered conditions of
6 competition spanning 48 years.

7 So to put it in this decade, we're talking
8 about Savall and Atlas, and Mr. Davis, I think,
9 explained to you that acquisition strategy. But we'll
10 get you some more information in the post-hearing
11 brief about what we think is going on with China.

12 COMMISSIONER LANE: Okay. Thank you, and
13 thank you all for answering our questions today.
14 Madam Chair?

15 CHAIRMAN ARANOFF: Commissioner Williamson?

16 COMMISSIONER WILLIAMSON: Just one final
17 question. In the questionnaire responses, the
18 Respondents' responses noted things as foam, air, and
19 water are substitutes in mattresses, and I was
20 wondering, how has the market share of mattresses with
21 these products other than innersprings changed since
22 2005?

23 MR. SALYER: The data that we've got, with
24 those companies that supply, and I'll lump these all
25 together, not just Select and Tempurpedic, because

1 there's other manufacturers, such as Sealy, and
2 Simmons acquired a company that also manufactures a
3 foam product in the marketplace, obviously, as we've
4 talked before, the value is higher end, so the dollar
5 value has grown at a more rapid rate, and it's maybe
6 20 percent of the marketplace.

7 As far as pieces, '05, our numbers indicate
8 that the total piece percentage of the marketplace was
9 a little under five percent. It's now somewhere in
10 the neighborhood of six, close to seven percent of the
11 marketplace in pieces, based on the information that
12 we gather and we compile. So the pieces haven't
13 really had -- as I said before, it's a small effect on
14 what we sell, as far as concerned with innersprings.

15 COMMISSIONER WILLIAMSON: Do these -- shall
16 we call "alternative content mattresses" compete with
17 innersprings in terms of price basis?

18 MR. SALYER: If you were comparing core to
19 core, no. The cores cost more. Foam and air cost
20 more than what an innerspring that would fill that
21 same cavity, as Mr. Baisburd indicated. In the long
22 run, it's a cavity that you're trying to fill, and the
23 innerspring will be a cheaper alternative than either
24 foam or air.

25 COMMISSIONER WILLIAMSON: What about in

1 terms of the finished mattress?

2 MR. BUSH: There are plenty of innersprings
3 at price points that compete with these upper-end,
4 alternative sleep surfaces. In fact, there are
5 probably some innersprings that go even higher than
6 the Tempurpedics and the Select Comforts, the air and
7 the foam beds.

8 COMMISSIONER WILLIAMSON: Okay. But you're
9 less likely to see those alternatives at the lower
10 end, the lower price points.

11 MR. BUSH: No. The alternative sleep
12 surfaces are all at upper-end price points.

13 COMMISSIONER WILLIAMSON: Okay. What about
14 in terms of quality, neutrally?

15 MR. SALYER: The quality of the foam and air
16 products?

17 COMMISSIONER WILLIAMSON: Yes.

18 MR. SALYER: Where they are placed, you
19 know, they are a good product, as far as concerned
20 with what they advertise and what they propose.
21 Obviously, if you asked me from a non-neutral, I'm
22 going to tell you, no, they aren't, but for what the
23 product is and stuff, yeah, they offer --

24 COMMISSIONER WILLIAMSON: By the way they
25 are perceived in the market.

1 MR. SALYER: Yes, the way they are perceived
2 in the market, and a lot of that is the strategy of
3 how they are perceived in the market. Obviously,
4 Tempurpedic and Select Comfort are a little different
5 than the people we sell, the mattress manufacturers,
6 because Tempurpedic and Select Comfort go directly to
7 the public.

8 They market to you and me and try to pull
9 that through. They want us to come into the store and
10 ask for that product, where it's the opposite way, as
11 far as concerned with most mattress manufacturers.
12 It's the retailer that's doing the advertising, at
13 that point, and not the actual mattress manufacturer.

14 COMMISSIONER WILLIAMSON: Good. Thank you
15 for those clarifications, and I have no further
16 questions. I want to thank the witnesses for their
17 testimony.

18 CHAIRMAN ARANOFF: Commissioner Pinkert?

19 COMMISSIONER PINKERT: I have nothing
20 further.

21 CHAIRMAN ARANOFF: Just one or two more
22 questions that I have to finish up.

23 The data provided to the Commission by
24 Chinese producers, in response to our questionnaires,
25 clearly understates Chinese production capacity, since

1 the producers who responded account for a very small
2 share of Chinese product that's imported into the
3 United States during the period of investigation.

4 Do you have any suggestions as to where the
5 Commission should look for more accurate estimates of
6 the production capacity of the Chinese industry?

7 MR. SALYER: From the Chinese Furniture
8 Manufacturers Association, which is probably the best
9 data that we've been able to find as an internal
10 source in China, there's 15 million innersprings
11 produced in that market. How many of them are
12 actually consumed in that market, and how many are
13 exported, they don't provide. They do have the CIS --
14 I think it's the CISL World Market Report actually
15 reports on mattresses, but they don't report on
16 innersprings.

17 It's very difficult to try to get some idea
18 of the innerspring volume that might be being
19 exported, other than what we see in the U.S. ITC data
20 and in the information that we get from the commercial
21 databases.

22 CHAIRMAN ARANOFF: Okay. Well, that leads
23 to my next question, which is, if you look at the
24 differences between the data on the Chinese industry
25 that we have from the preliminary phase and the final

1 phase of these investigations, you'll see that they
2 show very different shares of domestic versus export
3 sales, and there's other things that are very
4 different.

5 So my question is, what weight, if any,
6 should we be according these questionnaire data?
7 Should we find that they are indicative of industry
8 trends in capacity utilization or degree of export
9 orientation, or does the fact that these two small
10 samples are so completely different suggest that our
11 sample size is just too small to be representative,
12 even with respect to those kinds of trends?

13 MR. MORGAN: Chairman Aranoff, if we could,
14 could we have that as a post-hearing issue, I think,
15 rather than trying to discuss it?

16 MR. RYAN: I would add a point now on that.
17 You know, the Commission has very limited data from
18 the questionnaires, and I think usually you're looking
19 at foreign capacity data because you're thinking about
20 threat. It's one of the statutory factors you're
21 looking at in the threat context, and what's their
22 ability to continue to export?

23 Because you have such limited data, I think
24 that the most concrete data you have on the likelihood
25 of further increases in imports, particularly with

1 regard to China, is the trends before the duties were
2 imposed, so Leggett & Platt is certainly in a much
3 better position than Hickory Springs to figure out
4 what's going on in the Chinese industry, but the
5 Commission has the data it has, so if you're looking
6 at what's the likelihood that imports are going to
7 increase, the trends immediately before the case was
8 filed are most likely your best indicators.

9 CHAIRMAN ARANOFF: Okay. I think that's a
10 fair statement with respect to the issue of that
11 particular aspect. One of the things that I've been
12 looking at the data for was trying to decide if it
13 tells me anything about the degree of export
14 orientation of the Chinese industry. As I said, we
15 have these two data sets from the prelim. and the
16 final, and they don't tell you the same thing at all.
17 So I'm trying to assess whether those are helpful or
18 representative in any way.

19 MR. BAISBURD: Part of what you can do to
20 look at whether or not the industry is export oriented
21 is look at what the industry told you in the past,
22 and, in the past, they told you that they had a
23 capacity of 750,000 units, and the next year they
24 shipped 1.5 million units. So, from our perspective,
25 I think that shows that they are extremely export

1 oriented and are able to quickly ramp up production.

2 To put that 750,000-unit figure in context,
3 the Respondents, at the time, stood before you and
4 said they were very confident that they had excellent
5 coverage of the Chinese industry, that they were the
6 10 to 15 people who were the export-oriented producers
7 in China. So I would look to that as a data source as
8 well, which you have.

9 CHAIRMAN ARANOFF: Okay. I appreciate those
10 answers, and, with that, I have no further questions.

11 Commissioner Lane, do you have an additional
12 question?

13 COMMISSIONER LANE: I do. I forgot to ask
14 this on the last round.

15 I'm not sure I understand exactly what an
16 air mattress is, other than the ones that you blow up,
17 so could you explain to me what this high-quality air
18 mattress is that you were talking about?

19 MR. DAVIS: One of the companies that we've
20 been discussing who has been the most successful in
21 recent years is Select Comfort. You might know them
22 better as the "Sleep Number Bed" because you see them
23 on TV a lot. They tout the ability to adjust the
24 firmness of your mattress on either side for
25 individual sleepers, and they do make a high-quality

1 product for an air product. They use good materials
2 and good craftsmanship in their product.

3 Again, their sales are primarily driven
4 through their own captive stores, but they have really
5 been, when you talk about air products in the market
6 today, they are the first to come to mind.

7 COMMISSIONER LANE: Okay. Thank you. Madam
8 Chair, that's all I had.

9 CHAIRMAN ARANOFF: Are there any further
10 questions from commissioners?

11 (No response.)

12 CHAIRMAN ARANOFF: Do the staff have any
13 questions for this panel?

14 MR. McCLURE: Jim McClure, Office of
15 Investigations. Chairman Aranoff, the staff has no
16 questions.

17 CHAIRMAN ARANOFF: Do Respondents have any
18 questions for the panel?

19 (No response.)

20 CHAIRMAN ARANOFF: Okay. Well, then we will
21 thank this morning's panel for your endurance and for
22 all of the information that you've been able to
23 provide, and will provide, to us in your post-hearing
24 submissions.

25 We will take a lunch break for just slightly

1 less than one hour, returning here at 10 minutes after
2 two. During that time, please be aware that this room
3 is not secure. Don't leave any confidential
4 information in the room or anywhere where you're not
5 able to supervise it, and, until ten-after-two, we
6 will stand in recess.

7 (Whereupon, at 1:13 p.m., the hearing in the
8 above-entitled matter was recessed, to reconvene at
9 2:10 p.m. this same day, Wednesday, October 22, 2008.)

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1 Lady Americana, to 13 North American licensees located
2 throughout the United States and Canada.

3 I've been in the mattress industry for 18
4 years. Between 2006 and 2007, I was the chairman of
5 the International Sleep Products Association, which is
6 the primary trade association for the industry.

7 My company has purchased imported
8 innersprings from all subject countries. I also
9 purchase substantial quantities of innersprings from
10 domestic producers, including Leggett & Platt.
11 Leggett & Platt is an extremely successful company,
12 and, under this particular investigation, they are the
13 800-pound gorilla in the room.

14 Leggett claims it is being injured by
15 imports. I find this very hard to believe since
16 Leggett is, without question, the single dominant
17 player in the innerspring market and, clearly, the
18 price dealer in the industry.

19 According to Leggett's own estimates and its
20 investor conference calls, the percentage of the U.S.
21 innerspring mattress market accounted for by Sealy,
22 Serta, Simmons, and Spring Air appears to be
23 approximately 60 percent. Imports do not sell in this
24 market segment.

25 The innerspring mattress production volume

1 of these four huge producers is such that, for
2 logistical reasons, they must rely on U.S. sources of
3 supply, either their own internal production and/or
4 purchases from Leggett.

5 Between this and the financial advantages
6 that they reap from sourcing from L&P, these three
7 producers do not, and are not, likely to purchase any
8 imported innersprings. Again, to the best of my
9 knowledge, this market segment is completely shielded
10 from import competition.

11 Of the remaining 40 percent, most of the
12 rest is locked up by Leggett. This part of the market
13 consists of smaller companies with lower volumes who
14 cannot accept full container load purchases or who
15 can't deal with the hassles and other costs of
16 importing.

17 Leggett also offers financing, while imports
18 often require payment in advance or at site.

19 A portion of this market is also taken by
20 proprietary designs and private-label products that
21 are only offered by Leggett and Hickory.

22 Imports can only realistically compete for
23 about 10 or 15 percent of the market. First and
24 foremost, many companies won't consider sourcing more
25 than half of their purchases from imports. Even my

1 company can't be totally dependent on imports. Other
2 smaller manufacturers simply don't have the ability to
3 deal with importing containers and all of that
4 entails, in terms of personnel and logistical support.

5 In the past, we've contacted six to eight
6 suppliers before making a purchase. Now there is only
7 Leggett & Platt and, to a much lesser degree, Hickory
8 Springs. Leggett has followed an aggressive strategy
9 of buying and then closing innerspring producers.

10 Since I've been in business, Leggett has
11 bought and subsequently closed Steadly and Webster in
12 the nineties and Savall back in 2003. All of these
13 acquisitions and closures occurred before imports
14 played any real role the U.S. market. I felt that
15 Leggett just wants to control the market.

16 Leggett has not only acquired almost all
17 domestic producers, but it also holds many patents on
18 many of the machines necessary to produce Bonnell
19 innersprings by automated assembly. This makes it
20 difficult for people to start a spring-making facility
21 in the United States. Leggett also bought up the main
22 global producers of Bonnell automatic production
23 machinery. So Leggett not only has acquired virtually
24 all current domestic competition, but it has
25 effectively reduced any possibility of future

1 competition into the market.

2 Leggett and Hickory also control virtually
3 all of the domestic production of another crucial
4 bedding component, which is the box springs, which are
5 typically sold on a nearly one-to-one ratio with the
6 mattress. They have many patents on this technology,
7 and there are few, if any, competitors to Leggett and
8 Hickory in the box spring market.

9 Leggett makes it very easy for customers to
10 buy package deals of box springs and innersprings.
11 Leggett offers discounts, as well as volume rebates,
12 to customers who buy or the majority of their
13 components from Leggett.

14 Let me talk to you about our experience with
15 import sources and what has been happening in the
16 countries subject to this investigation.

17 Even before this case was filed, we saw
18 import sources declining. In late 2007, Chinese
19 imports became much less competitive due to increased
20 raw material costs, as well as the depreciation of the
21 dollar against the RMB.

22 Since 2006, the cost of drawn steel wire,
23 which is the primary input into the production of
24 innersprings, has increased in China by 79 percent.
25 In the first half of 2008, prices from China rose

1 significantly due to these increased costs.

2 Leggett claims the declines in the first
3 half of '08 were due to the filing of this case.
4 However, this is counterintuitive. If people were
5 concerned that import sources would dry up, they would
6 have imported as much as possible during the beginning
7 of the year, before the Commerce Department's
8 preliminary determination.

9 Shipments would have soared as people
10 worried about the uncertainty of supply and the
11 quality of springs available after imports from China
12 left the market. Purchasers would have been willing
13 to absorb the inventory and carrying cost in order to
14 avoid remerchandising costs.

15 However, we did not see a surge in
16 shipments. Clearly, other factors accounted for the
17 decline in imports.

18 The volume of imports from South Africa,
19 which was never very large, to begin with, began to
20 decline in late 2007. Imports from South Africa
21 typically served a limited segment of the market. Our
22 South African supplier had a very limited interest in
23 supplying the U.S. market, as of 2007, due to their
24 interest in their own home market and other markets
25 outside the United States.

1 South African innersprings have always been
2 a very small percentage of the market, and our
3 supplier was reluctant to sell to us, even before this
4 case was filed. Because we have been their customer
5 for a long time, they agreed to continue to sell us in
6 the first part of this year due to tight supply.
7 However, we have been told that they do not plan to
8 send any more material to the United States in the
9 future, regardless of what happens in this proceeding.

10 In fact, they seem to have no interest at
11 all in participating in this case, and they did not
12 participate in the Commerce Department investigation.
13 This lack of interest further indicates that they have
14 no intention of reentering the U.S. market in the
15 future.

16 At the same time, Leggett & Platt has not
17 had sufficient inventory to supply us consistently on
18 a timely basis, leaving us in short supply and forcing
19 us to slow down production.

20 For example, many of our licensees had a
21 very serious problem obtaining a supply of Leggett &
22 Platt's Verti-coil product. Leggett promoted Verti-
23 coils as an alternative to Bonnell innersprings. Once
24 Leggett had sold everyone on this more profitable
25 product, Leggett realized it didn't have the capacity

1 to supply its customers and then proceeded to put them
2 on allocation. This continued from April to August of
3 this year.

4 Leggett has consistently ignored, or been
5 unable to supply, the smaller manufacturers that are
6 not one of the 4 S's, giving its most innovative
7 products to those largest companies. We can't compete
8 without innovative products and a reliability of
9 supply.

10 It's important to keep in mind that mattress
11 producers prefer not to have to switch suppliers of
12 innersprings. Marketing is a very important part of
13 our industry, and when we offer our retail customers a
14 particular mattress, we are committing to them that we
15 will use a particular type of innerspring in
16 constructing the mattress.

17 We explain to our customers that this
18 particular innerspring is going to offer them a
19 product that has particular qualities that will be
20 successful with their customers. Therefore, the type
21 of innerspring we will use in the product is an
22 essential element of the sale. Customers are very
23 resistant to change in the innerspring and the model
24 of the mattress once we've agreed upon the program.

25 Typically, these programs with our retail

1 customers are done four to six months in advance of
2 the first sale, and they last for approximately one
3 year. Our customers will begin to set up their
4 marketing to match the product that we're going to
5 sell them. Therefore, it's very difficult to switch
6 out the innersprings once we're committed with our
7 customers.

8 I do not believe that imports from China,
9 Vietnam, or South Africa are injuring Leggett or U.S.
10 producers of innersprings. I don't see any threat of
11 this happening in the future, given the cost increases
12 that continue to occur overseas.

13 For these reasons, imports are an
14 insignificant portion of the U.S. market for
15 innersprings. This is not going to change in the
16 foreseeable future, given the structure of this
17 market.

18 Thank you very much for your time. I would
19 be pleased to answer any questions that you might
20 have.

21 MS. MENDOZA: Mr. Enoch?

22 MR. ENOCH: Good afternoon. My name is
23 Robert Enoch. I am president of China Logistic
24 Partner Network, Ltd. My company is a sourcing agent
25 for small- and medium-sized, independent U.S. mattress

1 producers. We also act as importer of record for some
2 of our shipments.

3 I travel to visit innerspring factories in
4 China approximately five to six times per year and am
5 generally familiar with the companies in China. I
6 have been involved in the mattress and innerspring
7 industries for most of the last 30 years.

8 I started as a manufacturing manager at a
9 Sealy mattress factory and rose through the ranks to
10 vice president of manufacturing and then the VP of
11 operations. After 13 years at Sealy, I spent time in
12 the home furnishings and sports equipment industries.

13 I returned to the bedding industry 10 years
14 ago, with three years as executive vice president and
15 chief operating officer of International Bedding
16 followed by five years as senior vice president and
17 chief operating officer of Spring Air, and then one
18 and a half years as the chief financial officer and VP
19 of operations of King Coil.

20 In most of these positions, my focus was on
21 manufacturing and sourcing issues. I started my own
22 business, China Logistic Partner Network, in 2005.

23 Leggett claims that imports from China,
24 Vietnam, and South Africa are causing injury to the
25 domestic innerspring industry. I would like to

1 explain to you why I think this is not the case.

2 Let me begin by discussing the development
3 of the Chinese innerspring industry, with which I am
4 most familiar. The Chinese innerspring industry is
5 composed of small producers. I estimate that no more
6 than maybe 10 to 12 producers of innersprings in China
7 can produce a quality product that is acceptable to
8 the international market. These are small-volume
9 producers who make only a fraction of what Leggett
10 produces.

11 This may be, in part, due to the fact that
12 Chinese innersprings are produced mostly on manual
13 production equipment that is not prohibited by
14 Leggett's patents.

15 Really, the innerspring industry in China is
16 an offshoot of the mattress industry. China has a
17 growing domestic market for innerspring mattresses.
18 In fact, this is why Leggett & Platt has shifted so
19 much capacity over there, to be close to their
20 mattress-producing customers.

21 Many of the western mattress brands are now
22 in China, such as Simmons, Sealy, Serta, King Coil,
23 Restonic, Tempurpedic, and Eclipse. European brands,
24 such as Silent Night and Duxiana, are also now being
25 produced in China.

1 Unlike Leggett, most of the Chinese
2 producers are not integrated and must purchase spring
3 wire from unrelated suppliers. I have never seen an
4 innerspring producer in China who produces their own
5 spring wire. The Chinese are affected by increases in
6 wire rod costs, which, in turn, increases spring wire
7 costs.

8 Since Leggett & Platt produces its own rod
9 and draws its own wire, it makes it very difficult for
10 other manufacturers, particularly foreign
11 manufacturers, to compete with them.

12 The fastest increase in imports of uncovered
13 innersprings from China came at the early points in
14 2004 and 2005, when Chinese wire prices were at their
15 lowest and before China's currency began to climb in
16 value in relation to the U.S. dollar.

17 Rod prices and, therefore, the cost of wire
18 in China increased dramatically from August 2006 to
19 mid-2008. Wire costs for Chinese wire and rod were
20 magnified by the appreciation of China's currency in
21 comparison to the U.S. dollar.

22 From 2004 to January 2008, the RMB rose
23 about 13 percent. This 13-percent appreciation had
24 increased to 17 percent by July 2008. The
25 appreciation of the RMB should continue.

1 When the higher cost of wire rod is combined
2 with the effect of the appreciation in the RMB, the
3 result is a 79-percent net increase in raw material
4 costs in China from August 2006 to mid-2008. Some
5 manufacturers, like my suppliers, had locked into
6 lower wire prices during the early half of 2007, but
7 those contracts expired by the third quarter of 2007,
8 and my factories began instituting price increases in
9 the last quarter of 2007. They instituted another
10 round of significant price increases in the first
11 quarter of 2008.

12 Let's compare this experience in China with
13 North America. Between August 1, 2006, and December
14 31, 2007, the day Leggett filed the petition in this
15 case, the price of carbon rod increased by 28 percent
16 in China, whereas, in North America, it declined by
17 three percent. It makes me wonder why this petition
18 was filed.

19 Imports from China and elsewhere had already
20 lost their competitive advantage by late 2007, so the
21 Petitioners' suggestion that Chinese imports would
22 have continued to increase in 2008, but for the filing
23 of the petition, is simply not true. After an
24 increase in 2006 and early 2007, orders from China
25 declined as wire rod prices increased, and the

1 continued appreciation of the RMB forced the Chinese
2 producers to raise prices.

3 I will submit to the Commission a
4 declaration that shows my orders began to decline
5 significantly in October of 2007.

6 Another important factor regarding the
7 competitive effects of Chinese is this: There is a
8 limited market among U.S. mattress producers who would
9 even consider sourcing from abroad. As a former
10 employee of both Sealy and Spring Air, I can tell you
11 that the volumes produced by these big producers, the
12 Big S's, are such that they cannot use imports.
13 Sealy, Serta, Simmons have never imported, to the best
14 of my knowledge. They can't live with the two-month
15 lag time.

16 Many of my customers have always purchased
17 innersprings from Leggett & Platt because they are the
18 only significant domestic supplier. These customers
19 purchase some springs from me because they prefer not
20 to be totally dependent on one supplier, Leggett, for
21 their innerspring supply. The existence of a viable,
22 alternative source of supply from imports forces
23 Leggett to be a little more concerned with the needs
24 and competitive position of the mid-sized, independent
25 manufacturers, as opposed to the Big S brands.

1 Leggett and Hickory have shielded themselves
2 from import competition through the use of proprietary
3 designs which include both patented product and
4 private label products. Leggett and Hickory have at
5 least three patents on innersprings which they
6 vigorously enforce. These are Leggett's Superlastic
7 continuous wire unit; the Veri-coil unit, which is an
8 LFK-style spring with four turns in the coils; and
9 Hickory's Inner-act LFK unit which it licenses to
10 Leggett.

11 I will submit this patent to the Commission.
12 In addition, Leggett offers exclusive, private label
13 units which are specifically designed and manufactured
14 by Leggett for particular customers and then sold
15 exclusively to those customers. These proprietary
16 designs, both patented and private label, have helped
17 to further shield Leggett from import competition.

18 Mattress manufacturers value these
19 proprietary products, both for their performance
20 characteristics and, equally important, for their use
21 as a means of differentiating their mattresses from
22 those of competing producers.

23 This is not to say that market forces, such
24 as declining demand for mattresses, don't impact this
25 sector of the market; it is to say that imports do

1 not.

2 As I mentioned before, based on my extensive
3 experience in the innerspring and mattress industry, I
4 can tell you that these proprietary designs, patented
5 products, and private labels are very successful
6 marketing strategies.

7 Whether they are really superior products is
8 in the eye of the beholder, but they offer a number of
9 competitive advantages to Leggett, for sure, and to
10 their large customers, like Simmons and Serta. These
11 large mattress customers are facing price pressures
12 from other quarters, including declining demand for
13 mattresses and a weak economy, consumer resistance to
14 increased mattress prices, and new government-imposed
15 flammability requirements.

16 This price pressure is coming from Leggett's
17 customers who do not, and will not, import. So
18 imported innersprings are not the problem, and
19 eliminating imported innersprings is not the solution.

20 Leggett is the price leader in this market.
21 No other company has such influence over pricing in
22 the U.S. market. Hickory Springs testified, at the
23 preliminary staff conference, that it often follows
24 Leggett's price, but Hickory Springs is much smaller
25 and does not offer the full range of bedding

1 components like Leggett.

2 Leggett is able to leverage its supply of
3 all of the bedding components in a way that no other
4 manufacturer can. For example, Leggett manufactures
5 semi-flex, wire box springs at its Monroe, Georgia,
6 and Carthage, Missouri, factories, the same locations
7 where innersprings are manufactured. Leggett has
8 patents on this type of box spring.

9 While Hickory Springs offers a similar
10 product, it is widely known in the industry that
11 royalties are paid to Leggett & Platt on sales of this
12 product as a result of a settlement of a lawsuit filed
13 by Leggett. Therefore, Leggett's only real
14 competition is nonwire foundations. Since customers
15 need both a mattress and a foundation, Leggett is able
16 to tie its sales of innersprings to the sales of the
17 box springs.

18 Let's walk through how Leggett has managed
19 to drive out its competitors in the bedding industry.

20 In the 1990s, there were five major
21 manufacturers of innersprings: Steadly, Savall,
22 Atlas, Hickory, and Leggett. Leggett had acquired and
23 shut down every producer other than Hickory Springs by
24 the end of 2006.

25 They followed the exact pattern in the

1 global industry producing the equipment to manufacture
2 innersprings. Leggett acquired all but one of the
3 global producers of innerspring manufacturing
4 equipment. Leggett employed the same strategy to
5 become the dominant U.S. manufacturer of almost every
6 other major component of a mattress, including light-
7 wire technology.

8 Leggett claims its success is due to its
9 ability to follow its customers abroad and acquire its
10 competitors. Leggett operates worldwide manufacturing
11 operations, and Leggett imports many of the products
12 it sells in the U.S. Consequently, Leggett is very
13 familiar with the changing landscape of production in
14 China and has noted that they are beginning to see
15 manufacturing in China as less competitive, with the
16 currency inflation and increasing costs.

17 Imports of innersprings are not a threat to
18 Leggett or any U.S. producer. This year alone,
19 Leggett's prices in the United States increased seven
20 and a half percent in April, an additional 11 percent
21 in May, and then another 26 percent on top of that in
22 August. This is a total increase of approximately 45
23 percent in less than six months.

24 Thank you very much, and I would be happy to
25 answer any questions you may have.

1 MS. MENDOZA: Ken?

2 MR. KARMIN: Good afternoon. My name is
3 Kenneth Karmin. I'm the chairman and chief executive
4 officer of Ortho Mattress, Inc.

5 Ortho Mattress commenced operations as a
6 vertically integrated mattress retailer and
7 manufacturer in Southern California in 1957. I've
8 been actively engaged in operating Ortho Mattress
9 since acquiring it in 1997 and have also operated High
10 Street Fabrication, Ortho's sister company, since
11 forming it in 2002.

12 High Street Fabrication was formed as a
13 mattress manufacturer and supplier for Ortho Mattress,
14 which operates 80 retail locations, mostly in Southern
15 California.

16 To begin, I would like to talk to you about
17 my company and our decision to purchase imported
18 innersprings. Like many of the people on the panel
19 today, we consume the innersprings we purchase to
20 produce innerspring mattresses, and, like the others,
21 we turned to imports when we could not get a reliable
22 source of domestic supply.

23 Over the past several years, specialty
24 mattresses, which include Visco-elastic foams and
25 latex foam cores, have replaced innersprings and

1 gained as much as 30 percent of sales in retail floor
2 space.

3 When I acquired Ortho Mattress in 1997, I
4 had an exclusive supply contract with Serta Mattress
5 to supply my company with both Serta brand and Ortho
6 brand mattresses.

7 In 2003, I terminated the exclusive supply
8 contract with Serta and stopped purchasing Ortho brand
9 mattresses from them. I began my own production of
10 Ortho mattresses at our facility in Los Angeles late
11 in 2002.

12 Then, in 2005 and 2006, I terminated the
13 balance of my relationship with Serta. I discontinued
14 my purchases of Serta brand mattresses and began to
15 purchase from Simmons and Sealy and continue to do so
16 today.

17 When I terminated my exclusive relationship
18 with Serta in '03 for the production of Ortho
19 mattresses, I went to Leggett to buy innersprings. I
20 was told that they were uncomfortable with supplying
21 me due to Leggett's relationship with Serta and the
22 fact that I had terminated my relationship with Serta.

23 In any event, I also knew how Leggett does
24 business, and Leggett had previously indicated to me
25 that they would not be interested in adapting their

1 products to meet my specifications. They were simply
2 not interested in selling us their springs.

3 I also sought out Hickory Spring and began
4 to buy from them, but they refused to sell us
5 unbundled product. They would not sell me a unit
6 unless it was encased in foam. Since I wanted to do
7 this manufacturing process on my own to produce a
8 particular product and reduce costs, this was not an
9 attractive alternative because it was more cost
10 effective for us to produce it ourselves on an
11 unbundled basis.

12 Simultaneously, we turned to Atlas Spring
13 and began purchasing innersprings from them in early
14 2003 in order to produce Ortho Mattress product.
15 Atlas Spring was a small domestic manufacturer located
16 in Gardena, California.

17 Atlas was a very small producer who had a
18 difficult time competing with Leggett. Leggett always
19 managed to attain the most profitable contracts with
20 the largest producers. Companies like Atlas Spring
21 had to do the best they could with the remaining
22 business that Leggett wasn't interested in supplying.

23 At the same time, Leggett had the ability to
24 go in and take business away from Atlas. I'm familiar
25 with what happened to Webster and Steadly in the

1 1990's and Savall in 2003. Each of them was bought
2 out by Leggett. Of course, imports were minimal at
3 that time, so Leggett's goal was to strangle any and
4 all domestic competition.

5 Leggett put those companies under tremendous
6 competitive pressure and then bought them out, closed
7 them down, or absorbed their production. This is the
8 Leggett business model.

9 The same fate befell Atlas, and Atlas was
10 subsequently acquired by Leggett. Atlas fell victim
11 to the downward spiral of the 2005 decline in the
12 housing market in Southern California.

13 Even before Leggett bought Atlas, we saw
14 that our options for supply were narrowing, and we
15 wanted to continue to expand our business.

16 In 2004 and 2005, we began to look at
17 importing innerspring units from China. It was a big
18 decision for us and required a startup of one year to
19 get ourselves in position to be able to import. We
20 had to take multiple trips to Asia, hire an agent, and
21 then increase our own staff internally to manage the
22 new logistical requirements and quality controls.

23 We were only willing to do this because we
24 could not obtain reliable supply from domestic
25 sources. As recently as February 2008, we had a

1 discussion with Leggett, and it was clear to us, from
2 that conversation, that Leggett was unwilling to
3 supply our exact specifications.

4 Frankly, the mattress business is about
5 selling a product that can be differentiated from
6 other products on the market. So if we can't get
7 private label products or products that meet the
8 specifications we want to promote, we are all at a
9 major disadvantage at the retail level.

10 As I said, we also contacted Hickory, but
11 Hickory would not supply us with unbundled innerspring
12 units that we require for our production process. It
13 didn't make sense for us, from a manufacturing point
14 of view and a cost-competitive point of view, to buy a
15 product that was partially upholstered and foam
16 encased.

17 I would also like to explain another
18 important point about competitive supply in this
19 market. Leggett produces and imports a lot of bedding
20 products other than innersprings from China. For
21 example, Leggett has a patent on semi-flexible box
22 technology for box springs. While there are other
23 smaller manufacturers of other box springs in the U.S.
24 we can produce from, no one else can supply this
25 particular box spring to us.

1 Even though this was a patented product,
2 Leggett imports the steel grid from China on the semi-
3 flex box spring. Leggett offers these patented box
4 springs to customers who are willing to buy packaged
5 deals of box springs and innersprings.

6 Leggett also imports many other bedding
7 components from China, including mattress pads,
8 textiles, mattress protectors, wood and metal bed
9 sets, and other bedding components. Leggett has very
10 little interest in supplying a company like mine,
11 located on the West Coast, where it has no production
12 and very few distribution networks. They will always
13 prefer their large-contract customers like Serta.

14 Large-contract customers always get the best
15 service and the preference in supply, and, more
16 importantly, they get the most innovative designs.
17 Seal and Simmons produce their own innersprings and,
18 therefore, are able to develop their own designs and
19 private labels.

20 As a smaller mattress manufacturer than the
21 4 S's, we could only obtain the same kind of level in
22 service and design from our Chinese suppliers. This
23 has been key to our efforts to have better product
24 differentiation. Our Chinese supplier provides
25 products precisely to our specifications. Leggett

1 simply does not offer the size and type of unit that
2 we need; a spring with a thicker-gauge wire and with
3 a double coil.

4 We also need a reliable supplier that
5 considers our business to be important because once we
6 have a design and a particular product on our showroom
7 floors, it's very difficult and very expensive to
8 change it. We maintain volumes and reduce costs by
9 offering a consistent product.

10 I would now like to discuss with you
11 Leggett's position in the U.S. market and why I
12 believe Leggett cannot possibly be injured by imports.

13 There are three factors emphasized in the
14 analysis of what really did cause Leggett's decline in
15 profits over the past few years.

16 First, the market for innersprings has been
17 partly replaced with specialty products, such as foam,
18 air, and latex.

19 Between 2003 and 2007, the markets for those
20 products increased by over 18 percent per year and by
21 over a billion dollars. That market share was lost by
22 domestic innerspring producers.

23 Second, in 2007, Sealy had a major impact on
24 the market. Sealy adopted a competitive strategy of,
25 number one, opening two new, brand-new, latex-core

1 facilities and, two, increasing their market share in
2 the mattress market by substantially lowering price
3 points on their highest-volume products.

4 For example, in March 2007, Sealy lowered
5 the price for one of its flagship Posturepedic units
6 from \$999 to \$599. It made similar price cuts to
7 other high-volume promotional products. Sealy's
8 strategy succeeded in gaining market share but, in the
9 process, forced down prices and profits for Sealy and
10 for other brand-name mattress producers who compete
11 with Sealy. This adversely affected Leggett & Platt,
12 who supplied those other producers.

13 The end result of Sealy's strategy was that
14 Sealy gained market share but lost a lot of money, and
15 it cost the CEO of the company his job. The effect on
16 Leggett & Platt was that it lost volume and faced
17 substantially downward pressure on its prices to the
18 large mattress producers who had to compete with
19 Sealy.

20 Third, Leggett sells many of its products
21 under long-term contracts, which limits its ability to
22 quickly raised prices to pass along raw material price
23 increases.

24 In 2008, some of the competitive conditions
25 began to reverse themselves. Sealy has abandoned its

1 disastrous price-cutting strategy.

2 Also, in 2008, the increases in prices for
3 foam mattresses also have allowed Leggett & Platt to
4 begin to raise their prices on innersprings in tandem.
5 Leggett is, obviously, a tremendously successful and
6 very powerful company, but it operates like a
7 monopoly, and, as a consequence, mattress
8 manufacturers other than the major brands are very
9 reluctant to be totally dependent on them for supply.

10 On the other hand, Leggett has so many
11 competitive advantages relate to imports that these
12 imports can't be more than a minor disruption in their
13 business plan. As I said, Leggett not only has
14 control over the innerspring market, but it also has
15 significant control over the bedding component market
16 at all levels, including internal mattress components
17 and box springs. Leggett can, therefore, leverage its
18 innerspring sales by offering customers a full package
19 of bedding components and by offering volume rebates
20 and other incentives that are linked to bundled
21 purchases.

22 A second, very significant advantage that
23 Leggett has relative to imports is that Leggett
24 offered payment terms, whereas most Chinese suppliers
25 we have worked with require payment at site.

1 Third, importing product requires a
2 significant investment on the part of a mattress
3 manufacturer, including warehouse space, capital
4 outlay, logistics management. We also spend money
5 qualifying our suppliers. Some mattress companies,
6 like ours, can invest in this, but many small, or even
7 mid-sized, manufacturers cannot.

8 Fourth, Leggett produces its own wire, the
9 primary input for innerspring production. From its
10 purchases of scrap steel, scrap prices have been
11 declining rapidly in the last few months, giving
12 Leggett an advantage due to its low raw material
13 costs.

14 We've seen no indication Leggett intends to
15 bring its prices down at all, even after these steep
16 declines in scrap prices over the last few months.
17 This, as well as so much other evidence, demonstrates
18 that Leggett is, unquestionably, the price leader in
19 the market. It couldn't be otherwise, given how much
20 of that merchant market it controls.

21 Imports serve a small part of the market
22 that wants an alternative source of supply and some
23 manner of getting the innovative designs that Leggett
24 supplies to large producers against whom we compete.
25 But the competitiveness of China on innersprings began

1 to wane in late 2007, and we all knew that prices from
2 China were going to increase and that the supply was
3 going to get much tighter going into 2008.

4 Imports from China have not been injuring
5 Leggett, and we certainly do not see any future
6 threat. Thank you, and I will respond to any
7 questions you may have.

8 MR. NGUYEN: Good afternoon. My name is
9 Victor Nguyen, and I am the president of Crystal
10 Bedding, Inc. My company has been producing
11 mattresses since 1995.

12 I have also imported innersprings from China
13 and Vietnam. In fact, I imported innersprings from
14 China, beginning in 2002, but Leggett & Platt
15 purchased my supplier in 2004.

16 Since 2004, I believe that I have been the
17 only importer from Vietnam. Due to the fact that I am
18 familiar with the production in Vietnam and the
19 history of their imports into the U.S. market, I
20 wanted to come here to testify today.

21 First, I would like to say that Vietnamese
22 producers of innersprings are very small companies
23 with no machines to produce innersprings. At the
24 beginning of this case, Jim McClure, from the Office
25 of Investigations, asked me to see if I could obtain

1 any information regarding the Vietnamese producers
2 listed in the petition. The Petitioner listed 14
3 producers.

4 I asked the factory in Vietnam that supplies
5 me, Viet Thanh, to go to see these companies. I asked
6 them to check if the companies existed and, if so,
7 whether they are in a position to export. I asked the
8 factory in Vietnam to confirm the results. I will be
9 submitting a declaration detailing the circumstances
10 surrounding each of these companies.

11 In brief, seven companies produce different
12 types of springs for different industries, such as
13 automotive or construction industries, and not for
14 mattresses. One company produces mattresses and
15 innersprings for their own use but has never exported
16 springs.

17 Finally, two of the companies are out of
18 business entirely. As I previously mentioned, I will
19 submit further details in my declaration.

20 I believe that my supplier, Viet Thanh
21 Company, Ltd., is the only company in Vietnam that has
22 ever exported to the U.S. I first became aware that
23 there was some capacity in Vietnam when I was there on
24 vacation in 2004, and I saw that the factory had some
25 hand spring machines that could produce innersprings.

1 In 2004, the factory in Vietnam rejected
2 most of my orders because they did not have enough
3 capacity to supply me. I was only able to purchase
4 approximately 50,000 units, so all of the units were
5 used in my own mattress factory.

6 In 2005, I was able to obtain a few more
7 springs, and I sold the additional springs to one U.S.
8 customer.

9 In 2006, I had two new customers on the West
10 Coast near my company. I supplied them and myself,
11 but the value of my shipments was only about
12 \$2 million, so I am a very, very small supplier to
13 this market.

14 In 2007, Vietnam experienced very high
15 inflation rates, and there were a number of strikes in
16 Vietnam because wages were not keeping up with
17 inflation. My supplier reduced shipments to the U.S.
18 by half, or to \$1 million, in imports. I faced a lot
19 of problems getting more product from Vietnam, and my
20 imports went way down, beginning in September of 2007,
21 and I stopped importing from Vietnam altogether in
22 early 2008. There were just too many problems with
23 sourcing product there, and my customers were not
24 happy because of delivery delays and complaints about
25 reliability.

1 It is very hard for me to understand how
2 such a small supplier in a small country, with no
3 internal raw materials and machinery, could cause any
4 injury to a big company like Leggett & Platt. All of
5 the production in Vietnam is done by hand, and it is a
6 very slow and laborious process. It takes about eight
7 hours for a worker to assemble four springs. I
8 understand that, in Leggett's factory, one machine can
9 make a spring in four minutes.

10 In Vietnam, the factory that supplies me had
11 mostly shut down production and most of the workers
12 have been fired. It is very difficult in Vietnam to
13 keep workers on or lay them off due to the strict
14 labor laws there.

15 Frankly, I am looking to obtain supply from
16 other countries, but Leggett so dominates the U.S.
17 market that it is very difficult to compete with them.
18 Thank you very much.

19 MR. CAMERON: Subject imports have not had a
20 significant adverse impact on the condition of the
21 domestic industry. The fundamental problem with
22 Leggett's theory that imports have caused the downturn
23 in the condition of the industry is that it ignores
24 the magnitude of the imports compared to the size of
25 the market.

1 Simply put, imports and import growth over
2 the period were small, too small to have had the
3 impact attributed to them, given the highly
4 concentrated structure of this industry.

5 Most of the market is effectively shielded
6 from import competition, as already discussed by our
7 witnesses, and Leggett & Platt, by far, is the sole
8 dominant player in that industry.

9 In our brief, we illustrate how small
10 subject imports are by using confidential-record data.
11 This testimony will use the public figure of total
12 imports as a surrogate for subject imports, and I
13 believe that we've distributed for you a chart which
14 tries to illustrate what we were discussing in the
15 brief; again, this is using public data.

16 Between 2005 and 2007, total imports
17 increased by approximately 210,000 units. That
18 210,000 units represents roughly one percent of total
19 U.S. production in 2007 alone.

20 Between 2005 and 2007, total U.S. producers'
21 shipments declined by 1.6 million units.

22 It's difficult to see how an increase of
23 imports of this limited size, over this three-year
24 period, caused a decline of domestic shipments of this
25 magnitude.

1 This is especially true when well over 60
2 percent of the U.S. market is effectively shielded
3 from import competition because imports cannot, and do
4 not, serve the 4 S's and other segments of the market
5 that are also effectively off limits to imports.

6 Now, I know that, this morning, Chairman
7 Aranoff asked the question about the 4 S's and whether
8 or not it's true that they don't import. But after
9 dancing around the answer, the answer was, no, those
10 guys don't import. That segment of the market is
11 effectively shielded, and these witnesses will be glad
12 to answer your questions about that today.

13 The factors that caused the drop in U.S.
14 industry shipments have been discussed by our panel:
15 a decline in demand for innersprings and increased
16 shipments of specialty foam and air mattresses. It is
17 these factors, not the minimal increase in import
18 volume to a limited portion of the market, that
19 explains the decline in U.S. shipments and also would
20 have affected U.S. producers' prices and
21 profitability.

22 Moreover, that situation turned around in
23 2008, such that U.S. production surpassed 2005 levels.
24 It's these factors, not the effect of this proceeding,
25 that resulted in the industry's improvement, as we

1 demonstrate in our brief.

2 There has been no adverse price effect for
3 imports either. We concede that there has been
4 underselling by imports, but underselling, per se,
5 does not mean that imports are, in fact, having an
6 adverse price effect. In the case of innersprings, as
7 a result of the peculiar nature of this market, the
8 price effect of imports is limited, at best.

9 First, as demonstrated in our brief, the
10 pricing data trends show no relationship between U.S.
11 producer volumes and subject imports. There is only
12 one unquestioned price leader, and that's Leggett &
13 Platt. But this market dominance allows Leggett &
14 Platt to determine what they will sell and at what
15 price.

16 As discussed in our brief, we will
17 demonstrate that when Leggett & Platt moved into the
18 two largest-volume pricing categories, presumably
19 because they were the highest priced, they were able
20 to do so with no problem, despite the existence of
21 nominal underselling.

22 Second, the pricing data trends show no
23 relationship between U.S. producer prices and subject
24 imports. As noted in our brief, there is a remarkably
25 high correlation between the domestic pricing trends

1 for the pricing products, regardless of the degree of
2 overselling or underselling or volume of imports of
3 any individual product.

4 Imports, however, as you might imagine, show
5 no consistency at all in pricing trends or in
6 underselling margins. Thus, even though nominal
7 underselling existed during the POI, there is no
8 evidence that underselling by imports contributed to
9 adverse price effects because there is no correlation
10 between domestic prices and import prices.

11 Finally, as noted, the volume of imports was
12 too small in relationship to the market to have had a
13 significant impact.

14 The factors that contributed to price
15 stagnation are those already discussed by our panel:
16 again, a decline in the demand for innersprings,
17 increased shipments for specialty foam and air
18 mattresses, and, finally, in 2007, as just discussed,
19 Sealy's effort to capture market share by lowering
20 prices of its promotional mattresses, which adversely
21 affected the prices of its innersprings.

22 Now, Sealy specifically discusses this
23 phenomenon in its 2007 10-K. What it said was that
24 their focus had been on driving unit volume, and, as a
25 result, this strategy drove a U.S. net sales increase

1 of \$57.3 million, which was attributable to an 8.8-
2 percent increase in unit volume, which was partially
3 offset by a 3.7-percent decrease in average unit
4 selling price.

5 The decrease in our average unit selling
6 price is primarily due to the higher volume of lower-
7 priced mattresses, such as our Sealy-brand promotional
8 products and lower sales of higher-priced, luxury
9 innersprings, and we will submit this in our post-
10 hearing brief.

11 Subject imports have not had an adverse
12 impact on the domestic industry. First, it's
13 important to keep in mind that the domestic industry
14 is not in bad shape. Domestic producers have held the
15 overwhelming majority of the U.S. market, and the
16 industry has been highly profitable throughout the
17 POI. Rarely does the Commission see an industry
18 performing this strongly that is coming in seeking
19 trade relief.

20 To the extent that industry performance
21 declined, however, it really isn't plausible to argue
22 that subject imports are the cause. Imports are
23 simply too small to account for the effects that the
24 Petitioner claims.

25 Again, increased imports over the period of

1 2005 to 2007 represented roughly one percent of total
2 U.S. production in 2007, and that is the cause of U.S.
3 industry performance decline over the period? Add to
4 that a significant percentage of the U.S. industry
5 sales are effectively shielded from import
6 competition, either because its captive production or
7 its merchant sales to the other three S's were too
8 large to be able to rely on imports.

9 It is merchant market sales to small
10 producers who are too small to undertake the cost of
11 importing, or it's proprietary and private labels.

12 All told, imports compete in a very narrow
13 segment of the market, while U.S. production and sales
14 are effectively shielded from import competition in
15 most of their market. Again, this is not to say that
16 the U.S. industry is shielded from other economic
17 forces that have nothing to do with imports and which
18 can impact the industry, like changes in demand and
19 market penetration by noninnerspring types of
20 mattresses. It is to say, however, that imports did
21 not cause the declines in the shielded portion of the
22 market.

23 MR. PLANERT: Good afternoon. I'm Will
24 Planert of Troutman Sanders appearing on behalf of the
25 Ad Hoc Innerspring Importers Coalition. I will be

1 addressing the issue of post-petition import volume
2 trends.

3 The Petitioner has placed great weight on
4 the assertion that the sharply declining volumes of
5 subject imports and, in particular, imports from China
6 during the first half of 2008 are attributable to the
7 filing of the antidumping petition in late December of
8 last year.

9 Really, it's their entire causation
10 argument. Petitioner argues that the Commission
11 should, therefore, accord little weight to these
12 declining volumes of subject imports. In fact,
13 however, declines in subject import volumes began
14 before the petition was filed and are attributable to
15 other significant factors in the innerspring market,
16 primarily the rising cost of Chinese innerspring
17 producers and the slowdown in demand in the United
18 States.

19 As an initial matter, the antidumping law is
20 clear that the Commission has the discretion to
21 determine for itself what significance to attribute to
22 declining imports during this period.

23 The statute makes clear that it is up to the
24 Commission to determine, as a factual matter, whether
25 changes in volumes after the date of the petition are

1 attributable to the pendency of the case or to other
2 factors.

3 In previous investigations, the Commission
4 has declined to reduce the weight accorded to post-
5 petition trends when it determined that those declines
6 in imports were attributable, at least in significant
7 part, to other factors other than the antidumping
8 petition.

9 For example, in Cold-rolled Steel, the
10 Commission found that while both the antidumping
11 petition and the Section 201 investigation had
12 affected imports, the most significant factor was the
13 Section 201 proceedings. This determination was
14 affirmed by the U.S. Court of International Trade.

15 In this case, there are at least six reasons
16 why the Commission should find that declines in
17 subject imports are not due primarily to the filing of
18 the petition.

19 First, the decline in subject imports began
20 before the filing of the antidumping petition.
21 Cumulated subject imports declined in 2007 compared to
22 2006. The petition was filed on the last day of 2007
23 and, thus, could have had no impact on volumes in
24 2007.

25 Second, as you heard from our witnesses this

1 morning, Chinese innerspring producers face steeply
2 rising costs driven by increases in the cost for steel
3 wire rod and by adverse exchange rate movements.

4 As you heard in Mr. Enoch's testimony, the
5 cost to the Chinese producers increased by as much as
6 79 percent as a result of these factors.

7 Third, the preliminary Commerce Department
8 determination in this case was not issued until
9 September. Because two of the three subject countries
10 are nonmarket economies and because the foreign
11 producers did not participate, to a significant
12 degree, in the antidumping investigations, it was
13 widely anticipated that preliminary dumping margins
14 would be at preclusive rates.

15 If, as the Petitioner contends, the Chinese
16 innersprings are fully interchangeable with all
17 domestic products, compete only on price, and are the
18 product of rapidly increasing production capacity in
19 China, one would have expected to see import volumes
20 remain steady, or even surge, up until shortly before
21 the Commerce Department preliminary determination.

22 Certainly, that is the pattern the
23 Commission has seen in many antidumping cases
24 involving China.

25 Fourth, demand for innerspring mattresses

1 has been declining in the POI, and that decline
2 accelerated in the first half of 2008.

3 Fifth, imports of mattresses from China,
4 which are not subject to any antidumping
5 investigation, also declined steeply in 2008. These
6 figures are presented in Exhibit 12 of our prehearing
7 brief, and they are also presented graphically in the
8 second of the two handouts that we distributed. They
9 show that mattresses had the same downward trend as
10 innerspring imports and strongly suggest that factors
11 other than the antidumping case, such as rising costs
12 and declining demand, account for much of the decrease
13 in imports in the first half of 2008.

14 Sixth, and finally, whatever conclusions one
15 may draw with respect to China, it is clear that the
16 petition cannot account for declines in subject import
17 volumes from South Africa and Vietnam. It is clear
18 that imports from both of those countries declined
19 significantly in 2007 and virtually stopped altogether
20 in 2008.

21 This is highly significant for purposes of
22 the Commission's threat analysis. As will be
23 discussed by Ms. Mendoza, the significantly different
24 import trends, and the distinct market factors driving
25 those trends, are a strong reason not to cumulate

1 imports from South Africa and Vietnam with China for
2 purposes of the Commission's threat analysis. Thank
3 you.

4 MS. MENDOZA: Julie Mendoza. I would just
5 like to say that I think now we've heard the direct
6 testimony of the Petitioners, and they made absolutely
7 no mention, in their direct testimony, of South Africa
8 or Vietnam, and I think the reasons for that are very
9 obvious.

10 If you look at the quantities, as Victor has
11 testified, and if you look at the quantities from
12 South Africa, the fact of the matter is that those
13 imports were declining before this petition was ever
14 filed, and the level of those imports was never
15 significant.

16 And I didn't hear any arguments today from
17 Petitioner with respect to cumulation for threat
18 purposes, so I think that the only issue on the table,
19 at this point, really is China.

20 I guess the question is, you know, there was
21 discussion today about, you know, the relative
22 declines in growth in China and a Wall Street Journal
23 article. I think that, regardless of the fact that
24 the entire world economy has, obviously, taken a
25 downturn, most people are predicting that developing

1 countries, in particular, China, are going to continue
2 to experience higher rates of growth than the
3 developed world.

4 If you look at the fact that Leggett &
5 Platt, as well as Hickory, both rely heavily on scrap
6 purchases, and if you look at what's going on with
7 scrap prices, and you compare that to what's going on
8 with wire prices and steel prices in China, it's easy
9 to see that they are going to continue to have a
10 competitive raw material price advantage.

11 I would also suggest that Leggett & Platt
12 made their investments in the Chinese market after the
13 421 investigation, made investments in four
14 facilities. That strongly suggests that there was
15 something going on in China other than exporting to
16 the United States because they have testified that
17 they do not intend to export to the United States from
18 those facilities, and I didn't hear anything today
19 about them saying that that had changed because of
20 conditions in China.

21 So there is clearly a lot of domestic demand
22 in China, and a lot of it is being consumed in the
23 production of mattresses by those same facilities.

24 In sum, I think that the evidence clearly
25 demonstrates that imports had already started to

1 decline before the petition was filed and that those
2 effects will continue and that if one looks forward,
3 in terms of threat with respect to China because, as I
4 said, with respect to South Africa and Vietnam, there
5 is just no question that the quantities are just too
6 small, and the trends are reversing themselves.

7 But even if you look at China, it's very
8 clear that the trends were flat or declining between
9 2006 and 2007 and that that continued into 2008. So
10 we've heard testimony about 15 million units in China
11 and all of this, but that's not what we saw during the
12 period of investigation, at any point. Thank you, and
13 that concludes our testimony.

14 CHAIRMAN ARANOFF: Thank you, and welcome to
15 the second panel. We always have to give an extra
16 thanks to you for your patience in waiting through
17 lunch and making it to the afternoon. We are all
18 drinking coffee so that we can give you our undivided
19 attention. Even though the vice chairman has
20 suggested that he may sometimes take naps, I've
21 actually never seen him do that during a hearing.

22 I'm going to begin this afternoon by asking
23 you, I thought I heard the panel, this morning,
24 testify that the subject product, and, particularly, I
25 think they were referring to innersprings from China,

1 are of a lower quality than what is made domestically,
2 or, at least, I think they said they are hard.

3 Now, I happen to like a firm mattress, so,
4 to me, that doesn't sound like a bad thing, but let me
5 just ask you, in general, is there a quality
6 difference between innersprings that are made in
7 China, South Africa, or Vietnam and domestic ones, or
8 is it just that they only fit in one range, a small
9 part of the range, of products that are made
10 domestically?

11 MR. TRAMEL: Depending upon exactly what
12 product you're talking about, there is not a
13 noticeable difference between the quality of the
14 products. If you had to give a nod one way or the
15 other, because I think, in the questionnaire, it did
16 ask to rate the quality, I would say that the quality
17 from South Africa is the best that I've seen anywhere.
18 But as far as any demonstrable difference between once
19 you actually put it into a mattress, and on a
20 performance basis, there is not any.

21 Now, you can find shabby product anywhere,
22 but, certainly, I don't think that that's what was
23 being sent over here that I've seen.

24 CHAIRMAN ARANOFF: And could you use an
25 imported product? If you say the South African one is

1 a very high quality, then let's put that aside for a
2 minute, but a product coming in from China or Vietnam;
3 could you use it in a mattress at any price point, the
4 low-end kind of promotional ones, the mid-range, the
5 high end?

6 MR. TRAMEL: It depends upon the product,
7 but, no, I don't think you can. It's the same as the
8 domestic product. If you're talking about a Bonnell
9 innerspring, there's limits on the price points that
10 it can go up to because it is an entry-level product,
11 regardless of where it comes from.

12 CHAIRMAN ARANOFF: And 100 percent of the
13 subject imports you're aware of, they are all Bonnell.

14 MR. TRAMEL: No, certainly not 100 percent,
15 but that's the vast majority. I think that's the
16 testimony you heard today, that it was the majority
17 that was coming in was Bonnell's.

18 CHAIRMAN ARANOFF: Okay. Mr. Cameron?

19 MR. CAMERON: Commissioner, this gets to a
20 point that, I believe, you asked earlier this morning
21 of the domestic witnesses. You asked whether or not
22 we had been correct when we said that once a mattress
23 producer has incorporated a specific innerspring model
24 into its mattress, they don't switch springs in that
25 mattress.

1 Well, Mr. Davis, from Leggett & Platt,
2 didn't really answer that question. He didn't say
3 that the mattress producer had bought his 648 LFK and
4 then switched a Bonnell into that after he had already
5 incorporated that model into his mattress.

6 What he said was that he had offered this
7 LFK, and what they had done is that the manufacturer
8 in question had bought a 648 Bonnell from China. In
9 other words, what he is really saying is that the
10 manufacturer, which was part of a national chain, was
11 kind of cheating on its national distribution
12 agreement, but that is not the point that we were
13 making.

14 The point that we had made in the brief, and
15 that these guys have testified to, is that once they
16 have sold an innerspring for a mattress, and that
17 mattress is then being sold on to the retail market,
18 they can't switch out the innerspring and say, "I know
19 that I had marketed this mattress with this Bonnell
20 unit, and I sold it to the retailer, but now what I'm
21 going to do is I'm just going to slip in a 648 Bonnell
22 here, and we're going to sell it as the same mattress
23 to the retailer."

24 That is not what's happening, and that is
25 exactly not what the witness from Leggett & Platt

1 testified to. In fact, he was actually agreeing with
2 us, and the statement by Mr. Baisburd that, "Well,
3 hey, look, nobody knows what's really inside, so you
4 can put anything in it," well, that's not true either
5 because actually their customers know exactly what's
6 inside that mattress, which is why they can't do it.
7 Do you agree with that?

8 MR. TRAMEL: I totally agree with that 100
9 percent. Directly to your question, I believe what
10 Mr. Salyer was referring to whenever he was talking
11 about the products being firm was in regards to
12 finished mattresses. The actual inner springs that we
13 import, they have the same type of flexibility that
14 the domestics do depending on, you know as long as
15 they're the same specs. It's not that they're any
16 firmer.

17 CHAIRMAN ARANOFF: Okay. Now one of the
18 other things they testified to this morning along this
19 same line was that the mattress, the company that make
20 mattresses because there are these industry shows that
21 they participate in a couple times a year that they're
22 redesigning these mattresses so that even if it were
23 true that you had to buy exactly the same spring from
24 exactly the same supplier for sort of the life of a
25 particular model that the models themselves are

1 replaced every few months.

2 MR. TRAMEL: Basically there's two shows.
3 They're in Las Vegas. There's one in January there's
4 one in July. Any other market is of no consequence.
5 At those markets most manufacturers will roll out new
6 product at one of those shows. Now, you may have one
7 or two new offerings in addition to that, but once you
8 get a product placed with a retailer, it costs a great
9 deal for a retailer to change products.

10 I was with a retailer last week, a very
11 large retailer with several hundred stores. They
12 estimated their changeout cost to be \$1 million per
13 SKU. So you can see it's not very advantageous for us
14 to go changing out our product. It's not very good
15 for the manufacturing side and it's certainly quite
16 expensive and prohibitive from the retailer's side.
17 So it's at least a year.

18 CHAIRMAN ARANOFF: Since I mean I was
19 getting the impression this morning that it's actually
20 the retail side that drives these changes. That
21 there's a constant need for novelty in order to have
22 some new thing to bring, you know, to bring customers
23 in the door and convince them that they've got to
24 replace their mattress.

25 MR. TRAMEL: Not necessarily. I mean it can

1 work that way. You basically run a program, you try
2 to run a program because it is cost prohibitive to
3 have changeout, you try to run a program for as long
4 as the program's working and as long as the program's
5 hot relative in that market. Usually you get a run
6 hopefully in an ideal world of somewhere between 12
7 and 18 months. It's rare that you can extend it past
8 that. Everything needs to be freshened up on the
9 floor. You certainly don't want to come in every six
10 months and have to put up new point of purchase
11 materials, retrain the sales people on the qualities
12 of that mattress. It's a very very expensive,
13 laborious project to do that.

14 MS. MENDOZA: Ken has something to say.

15 CHAIRMAN ARANOFF: Mr. Karmin?

16 MR. KARMIN: Currently, Simmons Beautyrest,
17 which you're probably familiar with if you've been
18 shopping, so their current line has been in the market
19 for 18 months. Sealy introduced their latest line of
20 mattresses and replaced a line that had been there 18
21 months. So it takes a long time. For instance we
22 operate about 85 stores in southern California and we
23 carry 30 different models in every store. So you know
24 we'd be changing millions of dollars of product just
25 for style and really for fashion purposes. So the

1 real strategy is to make a product that can last 18
2 months so that the fashion doesn't change. That's
3 where the retailers want to be and that's what's
4 better for everybody if the fashion change doesn't
5 happen very often.

6 CHAIRMAN ARANOFF: I mean you're making
7 general statements as the panel did this morning, and
8 I guess one question I have is, this is obviously a
9 market where at the retail level there's a lot of
10 different things going on between, you know, furniture
11 stores that carry mattresses and mattress retailers of
12 various sizes and configurations, so I mean are the
13 statements that you're making about, for example who's
14 interest it is to have a model that lasts very long,
15 would that be true across the full range of the
16 market?

17 MR. KARMIN: It's nationally very generally
18 and actually, you know the current product lines are
19 made to last 18 months. It's the same across the
20 country.

21 CHAIRMAN ARANOFF: Okay. Well this is
22 another one of these cases where as so often is the
23 case we have a sort of a he said she said, so I
24 invite, you know, both panels if there's any
25 documentation that you can submit on how long these

1 models last to help us out.

2 MR. CAMERON: Madam Chairman, we would be
3 happy to do that. But I would like to point out one
4 thing and that is that Mr. Karmin actually I believe
5 has retail stores right? These guys actually deal
6 directly with the retailers. The manufacturers that
7 you had here this morning don't deal with the
8 retailers. They deal with the manufacturers of
9 mattresses. They don't deal with the point of retail.
10 They don't have to worry about the after sale
11 advertising. They don't deal with those costs. And
12 they don't deal with the retailer who says, what do
13 you mean you're changing my mattress?

14 CHAIRMAN ARANOFF: Okay, well fair enough,
15 but the question still stands since it does seem to be
16 a point of dispute between the two sides in the case.

17 MR. CAMERON: I was just trying to explain
18 that he said she said is not exactly even.

19 CHAIRMAN ARANOFF: But what you said goes to
20 credibility so it's a fair point.

21 MR. CAMERON: Exactly. Fair enough.

22 CHAIRMAN ARANOFF: Vice Chairman Pearson.

23 VICE CHAIRMAN PEARSON: Thank you, Madam
24 Chairman. Good to have you here this afternoon.
25 Could I go back just briefly to the second chart that

1 was discussed, inner spring mattresses and supports
2 imports from China? The question is what exactly does
3 constitute mattresses and supports?

4 MR. PLANERT: Well, I believe these figures
5 are based on the HTS classification, so I don't know
6 all of what goes in here, but my understanding is
7 that --

8 CHAIRMAN ARANOFF: Can you pull your
9 microphone a little closer?

10 MR. PLANERT: Sorry.

11 CHAIRMAN ARANOFF: We have kind of not very
12 powerful microphones and you have to get really close
13 to them.

14 MR. PLANERT: They work better for some on
15 our panel than others.

16 VICE CHAIRMAN PEARSON: Only Mr. Cameron who
17 occasionally needs to stay a little further away from
18 his.

19 CHAIRMAN ARANOFF: Oh right. They should
20 make that exception.

21 MR. PLANERT: My understanding is that it's
22 based on the HTS classification and this does include
23 mattresses, completed mattresses. We can try and look
24 more specifically at exactly what else is in there.
25 These are the same figures that I think that the

1 International Sleep Products Association looks at when
2 they have their figures on mattress imports.

3 VICE CHAIRMAN PEARSON: Okay. And obviously
4 you've got a volumes index to 100. I don't have any
5 sense whether in actual quantity terms there's
6 something that's sort of --

7 MR. PLANERT: Yes, in order to be able to do
8 this in a public way, we had to resort to this index.
9 I think for the posthearing, we'll give you the actual
10 numbers and it'll be a little easier to see how it's
11 breaking down.

12 MS. MENDOZA: But I would say -- this is
13 Julie Mendoza. I would say that if you look at
14 mattress imports compared to innerspring imports, they
15 are not dissimilar quantities let's put it that way.

16 VICE CHAIRMAN PEARSON: Okay, good. See the
17 thing is I think this chart might tell me something
18 but I'm not quite sure yet and that's why whatever you
19 can provide in the posthearing.

20 MS. MENDOZA: Yeah, and I think particularly
21 if you look at China, and we're going to be giving you
22 a chart in our posthearing brief that compares
23 mattress imports from China and innerspring imports
24 from China. And I can't go into those numbers
25 obviously.

1 MR. CAMERON: But part of what we were
2 trying to explain here is that it's not a coincidence
3 that imports of innersprings from China were declining
4 at the end of 2007 and 2008 and essentially the trends
5 for mattresses were the same. It's illustrative of
6 the fact that obviously this case has nothing to do
7 with the imports of mattresses from China that I'm
8 aware of.

9 So since that has no relationship to that
10 then why is it that the trends are the same if we're
11 saying that, well obviously that must be due to the
12 case but the imports of mattresses well who knows. So
13 that's what it's about. We'll try and we'll give you
14 actual numbers as opposed to an illustration in the
15 brief and I think it should be clearer.

16 VICE CHAIRMAN PEARSON: Okay. Thanks. This
17 morning I asked the Petitioners whether there was any
18 changed in policy by the Chinese government regarding
19 incentives to export or not to export, particularly
20 curious about export taxes or rebates that might be
21 applied. That was not mentioned as an issue by you,
22 okay. So I'm thinking maybe there's nothing there.
23 Because as I understood it you mentioned only the
24 increasing value of the RMB and the increase in
25 transportation costs.

1 MS. MENDOZA: That's correct, but we can
2 give you that information.

3 MR. ENOCH: Yeah, I'd rather have a chance
4 to look at it but roughly the numbers were, they
5 started the VAT rebates on uncovered innersprings
6 first declined in July of 2007. But I haven't looked
7 at it because it's insignificant. It's not a lot of
8 money, it never has been. China has made a public
9 announce policy. A good example is wire. If you want
10 to export wire today, China charges a 10 percent
11 export tax now. So they don't like the lowtech things
12 the way they used to. But we can get you that number.

13 MR. CAMERON: Commissioner, the reason that
14 we didn't mention it is that frankly it occurred that
15 it wasn't as significant as the real things that have
16 occurred within the market. And the object was not to
17 throw the kitchen sink at the Commission and say, look
18 at all this must be true. We actually tried to
19 isolate the factors that actually were the cause.
20 Now, it's true that there is some effect of this and
21 we'll give you the information, but you're correct, we
22 have not relied on this. That's also because this is
23 not a typical Chinese case, and both the import
24 numbers, the way the imports have behaved and the fact
25 that the council's not coming up here saying they got

1 rid of the export rebate what more do you want we're
2 not going to do anything anymore. It's all part of
3 the same pattern.

4 VICE CHAIRMAN PEARSON: Okay fine. As
5 you're aware there have been some cases where the
6 change in the export policies have been more relevant
7 and I was a little surprised that it didn't show up on
8 your screen, but if it's not relevant, we don't need
9 to --

10 MR. CAMERON: It's relevant, it's marginal.

11 MS. MENDOZA: I mean I don't think we're
12 saying it's not relevant. I think what we were trying
13 to say is that there are other factors that are
14 operating here that we believe are long term and
15 indisputable and that are not likely to change in the
16 foreseeable future.

17 VICE CHAIRMAN PEARSON: Okay. And my sense
18 is that in terms of the value of the RMB against the
19 dollar, that relationship may continue to move in the
20 direction that it has with the strengthening of the
21 RMB. I don't know how quickly but I don't see that
22 likely to reverse based on just --

23 MS. MENDOZA: That's correct and that's
24 where the basis for the arguments that we've made. I
25 mean I think that these are things that are

1 macroeconomic policies and effects that aren't under
2 the control of anyone and can't be changed or modified
3 in any way because they're just what's going on in the
4 market and they're a natural reaction to those forces.

5 VICE CHAIRMAN PEARSON: Right, but now
6 transportation costs on the other hand, there are
7 things going on there. And we could look at both the
8 decline in petroleum values in recent months and the
9 availability of containers, which is probably now a
10 whole lot greater than it was a year or so ago. What
11 would your thoughts be on the prospects for freight
12 costs of bringing products in from China or South
13 Africa or Vietnam?

14 MR. ENOCH: Freight costs in the last three
15 years, and again we can give data on this, have gone
16 up and come back down to about where they were three
17 years ago. Petroleum I think is a recognized fact
18 that it's going to fluctuate up and down but the
19 longterm trend is always going to be up unless
20 somebody finds a new discovery of oil that we don't
21 know about on another planet.

22 VICE CHAIRMAN PEARSON: But the supply of
23 container vessels, that doesn't necessarily move in a
24 linear fashion and we could be in a cyclical period
25 now in which there are a whole lot of relatively new

1 container vessels chasing relatively few containers.

2 MR. ENOCH: Yeah, containers last month
3 leaving China en gross were 94 percent full. It's not
4 a significant change.

5 VICE CHAIRMAN PEARSON: Just because I'm not
6 familiar with the number, what would it have been a
7 year earlier?

8 MR. ENOCH: About 99 percent or mostly full.
9 You know, myself, I'm actually paying about 8 percent
10 more than I was a year ago container for container.

11 VICE CHAIRMAN PEARSON: And that's still
12 largely energy value that's worked its way through the
13 system?

14 MR. ENOCH: That might be part of it that
15 oil is not quite down to where it was a year ago. But
16 I think there's also, I wouldn't say collusion, but
17 there's an awful lot of cooperation between ocean
18 containing companies.

19 VICE CHAIRMAN PEARSON: Is certain
20 stickiness on the downside in terms of the rates?

21 MR. ENOCH: The rates are staying maybe a
22 little abnormally high right now. Maybe they should
23 be down another 5 percent or 6 percent.

24 MR. CAMERON: We'll try and get you some
25 additional information for the posthearing brief if

1 that would be helpful.

2 VICE CHAIRMAN PEARSON: Well I think it
3 would be.

4 MR. CAMERON: Yeah. Sure.

5 VICE CHAIRMAN PEARSON: Because it was a
6 significant point in your presentation.

7 MR. CAMERON: Not a problem.

8 VICE CHAIRMAN PEARSON: Okay. Thanks.
9 Madam Chairman, my light's changing.

10 CHAIRMAN ARANOFF: Commissioner Okun.

11 COMMISSIONER OKUN: Thank you, Madam
12 Chairman, and I also want to thank this panel for
13 being here this afternoon and for your willingness to
14 answer questions and provide information in the brief.
15 I wanted to explore a little bit more or try to sort
16 out where the competition is in the market because
17 again this is one where the morning panel, I think the
18 figures they would use would be 70 percent of the
19 market competition is 70 percent of the market. In
20 the brief and today in testimony you all have used
21 some different figures.

22 I mean you used the 40 percent figure, and
23 so I wanted to kind of walk through that and try to
24 break that down a little bit more and have you respond
25 more specifically to some of Petitioner's points on

1 that. With respect to the 40 percent what I heard,
2 well maybe just go. I mean you heard the Petitioners
3 this morning. If you can just kind of help me
4 understand why you think there's less competition and
5 in particular maybe start with the size that's
6 proprietary versus IP protected patent because I think
7 we heard from Petitioners this morning that that was a
8 very very tiny percentage of the market and I just
9 wanted to see if you disagree with that if you have a
10 different percentage.

11 MR. CAMERON: Before he begins, there's one
12 important clarification. Actually what they had said
13 in their brief was that the amount of proprietary
14 brand was very very tiny and that is because they
15 defined proprietary brand as covered by patents. Then
16 when Chairman Aranoff asked whether or not said that
17 there was a big dispute between what constitutes
18 proprietary brands and what doesn't constitute
19 proprietary brands, we heard the witness from Leggett
20 and & Platt, Mr. Davis, explain that, well yes there's
21 those covered by patents but then we have we call our
22 proprietary branded merchandise that we sell to
23 individual stores. He agreed with our description of
24 what constitutes proprietary. It is private labels
25 that go to individual customers that in fact are

1 unique to those customers, right? So why don't you go
2 ahead and explain this.

3 MR. TRAMEL: I think the number that they
4 used this morning was 3 percent. I was shocked at
5 that number. The way in which it works is that they
6 will go and give a particular product to a certain
7 group. It will be that, whether it's patent protected
8 or not. I don't know of anyone, and this may have
9 happened in the past but I personally in my years in
10 the business I don't know of anyone who's taken a
11 proprietary product that Leggett & Platt is selling
12 them and went to Hickory and shopped the exact same
13 product with the exact same specs and Hickory met
14 that.

15 In terms of proprietary product I don't know
16 that that's ever happened. So your ability to shop a
17 proprietary product whether it's patent protected or
18 not, it is insulated to that degree. In addition to
19 that, the 60 percent from the S brands I think the
20 proof's in the pudding in the fact that they have not
21 to the best of knowledge, and I'm pretty certain that
22 they have not imported anything during the period in
23 question.

24 COMMISSIONER OKUN: And on that, now I may
25 have confused myself and looked into the responses

1 this morning so correct me if you heard it
2 differently, which was again just on the 60 percent
3 versus the 40 percent they use, they're saying the
4 correct way to look at the four S's is on I think they
5 were using a per piece calculation as opposed to I
6 think you all were relying on an end of year value --

7 MS. MENDOZA: Unit publications, yeah.

8 COMMISSIONER OKUN: With value. And do you
9 have any further comments on that? I mean if it were
10 calculated by pieces do you agree it's 40 percent?

11 MR. TRAMEL: No, it's going to be close to
12 60 percent. Until I see otherwise I would think that
13 those companies represent 60 percent of the
14 innerspring business.

15 COMMISSIONER OKUN: Okay, so I don't know if
16 we made the request earlier of Petitioners but just
17 for purposes of posthearing if there's additional
18 information submitted with respect to how to calculate
19 that percentage and the best way to look at it, if you
20 could provide that it would be helpful as well.

21 MR. CAMERON: Sure. We'll be glad to do
22 that. I mean it's important to recall what they ended
23 up, where their bottom line was, there's only 30
24 percent of the market that's shielded. Why is that
25 shielded? They're saying that 30 percent is captive

1 production. Everything else is in play. And what
2 we're saying is well that's a very interesting view of
3 the market. It doesn't happen to comport with reality
4 but it's a very interesting view of the market.

5 But that's where their number, their 30
6 percent 70 percent comes from captive merchants.
7 Period, end of story. And the four S's, partly
8 captive but it's also partly, okay those that are not
9 captive are being supplied exclusively by domestic
10 producers. They're not importing. And not only that,
11 the testimony of this panel is they can't rely on
12 imports. And there's a good reason for that.

13 COMMISSIONER OKUN: Okay. And I thought,
14 and not disputing whether or not the four S's are
15 importing anything, I also heard Mr. Davis in that
16 response to those question, I think what he was
17 saying, which I wanted to ask you about is, you know,
18 there are the four S's and there are a lot of other
19 large national accounts and we've lost large national
20 accounts to subject imports. So I don't know if
21 anyone's in a position to be able to respond to that,
22 but it would be, you know, as I heard it described,
23 it's not just the middle sized guys where imports are
24 competitive but also in those larger accounts.

25 MR. TRAMEL: I did not understand, I'm

1 sorry.

2 MR. CAMERON: She wants to know if there are
3 large accounts where you are competitive. We limited
4 the description of large accounts to the four S's
5 because in fact he's a large account.

6 MR. TRAMEL: You can look at it, and it
7 might help to look at it like this. In terms of
8 tiers. Your top tier has got your S brands and then
9 second tier guys. Companies like myself, King Coil,
10 Therapedic, those type companies. And then your third
11 tier are the companies that don't have either
12 individuals, they're not affiliated with any national
13 chain, no national account, they're not treated as
14 such by Leggett or Hickory.

15 And the vast vast majority of those third
16 tier accounts, now you heard this morning I think the
17 number was 1,100 mattress manufacturers in the United
18 States that Leggett deals with, was the number, was
19 that correct? Something like that. How many can you
20 name? Probably not very many. I'd be very impressed
21 if you could name 10 to 15 mattress manufacturers.

22 COMMISSIONER OKUN: I'm going to be shopping
23 soon too so I'll keep myself informed.

24 (Laughter.)

25 MR. TRAMEL: And I'm sure making a well

1 informed decision. But when you're looking at it,
2 that tells you that there is a whole lot of very small
3 companies and those companies are certainly shielded
4 from the import opportunity because they're simply too
5 small to bring in container loads of springs. So they
6 can't bring that in and then the other part of it is,
7 you know, with our just in time nature of our business
8 where we get an order and four days later that order
9 is sitting in our customer's warehouse completed and
10 shipped to. When you look at it like that, basically
11 Leggett & Platt for a lot of companies, and Hickory to
12 a lesser extent, they're the bank for some of these
13 smaller companies.

14 COMMISSIONER OKUN: Okay, and I'm just about
15 to have testimony on that. Well then I think also
16 related to this competition question which is, what I
17 was also trying to sort out is, you know, when I
18 listen to them talk about what type of innersprings
19 the Petitioners sell and its concentration in what is
20 I think described as the bonnells, and you know the
21 percentages were high, 60 percent for L&P and 75
22 percent for Hickory springs, what does that tell me
23 about competition in the market?

24 MR. TRAMEL: It basically speaks to the
25 number of units that are out there and the fact that

1 while most companies aspire to sell better goods, the
2 unit volume is still, you know, pretty heavy on the
3 lower end side of things. That may be what you can
4 derive from that.

5 COMMISSIONER OKUN: Okay, and maybe I am and
6 maybe you can help me out on this which is, some of
7 the way I heard that described is that that's why this
8 idea that the proprietary nature of things isn't a
9 very big part of the market. You know, everyone would
10 like to do that but really what we've all got out
11 there, I mean potatoes is these bonnells and there
12 isn't a differentiation. Is that an incorrect view?

13 MR. KARMIN: The brands that you're probably
14 most familiar with would be Simmons Beautyrest. And
15 they have a proprietary innerspring unit that they
16 use. Then another brand that you'd be familiar with
17 would be Serta and they have a proprietary very
18 special unit that they use. Then Sealy which is the
19 biggest brand has a proprietary unit that they use.
20 So the three biggest guys each have a proprietary unit
21 and, you know, it's clearly very important in their
22 product differentiation and the way they've built
23 their businesses.

24 COMMISSIONER OKUN: I may be just missing a
25 really basic point, but would that be included in the

1 60 percent of L&P's business or is that something
2 else? In other words when they tell me 60 percent of
3 what they sell is bonnell, is that bonnell going to
4 those accounts? That's what I'm trying to make sure I
5 understand whether that's --

6 MR. KARMIN: Yeah. So they sell to some of
7 those people are their customers and they make product
8 for them on an exclusive or proprietary basis.

9 MR. CAMERON: Commissioner, we heard
10 testimony this morning from Leggett & Platt. I
11 believe the figure was, I stand corrected if the
12 figure is wrong, but they said something to the effect
13 of 44 percent of the pricing products that are in your
14 pricing are included and that is their sales. Of
15 those pricing products, approximately 40 percent is
16 sold to the big S's. I believe that was the
17 testimony, if I am in error then I apologize. But in
18 other words, those are bonnell units, right? And
19 that's in that 60.

20 COMMISSIONER OKUN: Okay. Now I understand
21 and my red light's on so I'll have to come back to
22 further sort some stuff out on that. Thank you.

23 CHAIRMAN ARANOFF: Commissioner Lane.

24 COMMISSIONER LANE: Good afternoon. I want
25 to welcome all of you to the afternoon panel. And Mr.

1 Cameron, we haven't seen you for a while but you
2 should know that a couple weeks ago we had a lawyer
3 who got quite exuberant and we compared him to you.

4 MR. CAMERON: I hope you disciplined him
5 too.

6 COMMISSIONER LANE: So I have a few
7 questions. Mr. Tramel, I think you said that 60
8 percent of the market are shielded from imports. And
9 that one of the things that Leggett & Platt is offers
10 financing to its customers. Would you explain that to
11 me a little bit more and how prevalent is that and is
12 Leggett & Platt the only producer that does that?

13 MR. TRAMEL: What I meant by the financing
14 is terms. They'll offer terms of say 30 days is
15 pretty standard. They're not the only company that
16 does that. Hickory Springs will do that also. In
17 some certain cases they will offer extended terms
18 longer than that. That's pretty rare. Most of the
19 time it's 30 days. This differs to the import
20 opportunity in that in imports you have to put the
21 money up at the time of order or at the time that it
22 reaches port or at least at the time it shows up at
23 your door.

24 This is a huge huge factor in precluding a
25 lot of manufacturers from importing because they run

1 just-in-time operations. Cash flow is of the biggest
2 concerns to smaller manufacturers and even midsize
3 manufacturers, and that cash flow is, you can turn
4 your cash pretty fast when you're just in time.
5 Because I've got within a week I'm going to have an
6 order processed, shipped out, and delivered, and then
7 I'm going to give my customers 30 days so I only need
8 another 7 days float to get my money from my customer
9 and pay my supplier. Does that make sense? If I've
10 got the 30 days. So you know, banking like that in
11 offering the terms is a very very significant thing to
12 a lot of people.

13 COMMISSIONER LANE: Okay, I'll come back to
14 you as soon as Mr. Enoch responds also.

15 MR. ENOCH: Yes. A very good friend of
16 mine, Steve Antinori, was Chief Executive Officer of
17 Spring Air. I had a meeting with him one day and he
18 said, Bob I'd like to buy innersprings from you. Can
19 you raise your price and give me credit? Because
20 naturally my terms are when I load the container and I
21 produce a commercial invoice and a packing list, I am
22 paid. And I said, well what do you need? He says I
23 currently have 60 day terms.

24 And I really don't know if he was buying
25 from Leggett or Hickory, I assume Leggett. Well for

1 me to give him 60 day terms would have meant an
2 investment of \$4 million. I said, Steve, it's not
3 that I don't trust you, will you lend me the \$4
4 million to give you terms? So Leggett, you know, is
5 also jokingly known in the industry as LNB, Leggett
6 National Bank. They're very lucrative with terms, but
7 none of us are otherwise.

8 COMMISSIONER LANE: Okay. I want to explore
9 that a little bit further because this is the first
10 that I had heard this. Do most of the customers that
11 buy from Leggett and from Hickory take advantage of
12 the financing to the extent that you know?

13 MR. TRAMEL: Everyone that I know would take
14 full extent of that offer.

15 COMMISSIONER LANE: Okay.

16 MR. CAMERON: This, actually is not an issue
17 that is going to be in dispute. Leggett and Hickory
18 would not dispute this I don't think.

19 COMMISSIONER LANE: Well I guess what I need
20 to ask you or go back to the Petitioners to ask, how
21 or where are the costs to providing this financing
22 indicated in our data?

23 MR. CAMERON: You have a question in your
24 questionnaire, but I'm not sure that it's in the
25 purchaser questionnaire on terms but we can check, but

1 you can ask them for this information with respect to
2 what kind of terms did they offer and you can ask it
3 for all their customers. We'll be glad to tell you
4 for the importers it's really pretty simple because if
5 you're importing you pay at site basically.

6 MS. MENDOZA: Commissioner Lane, if I could
7 just add to that. If your question relates to
8 whether, I mean this is one of the factors that we
9 explained why importing is more expensive than buying
10 domestically. And so this isn't going to be in your
11 data per se. I mean this is an additional cost to
12 anybody who wants to import they've got to look at
13 that and be able to absorb that kind of a cost in
14 importing whereas if they buy domestically they don't.
15 And they get terms.

16 COMMISSIONER LANE: Okay, thank you. Mr.
17 Enoch I want to go back to you because you apparently
18 act as an agent for manufacturers of mattresses and
19 you line them up with supply. And you go to China
20 five or six times a year to get your sources is that
21 correct?

22 MR. ENOCH: Yes.

23 COMMISSIONER LANE: And so your customers
24 all use imported goods?

25 MR. ENOCH: Yes they all use imported goods.

1 COMMISSIONER LANE: And are they all from
2 China or do you do some from Vietnam and South Africa?

3 MR. ENOCH: All from China.

4 COMMISSIONER LANE: Okay. So the question I
5 asked the Petitioner this morning was, in light of the
6 slowdown in China and we're seeing that they are
7 experiencing factory closings, not necessarily
8 mattress or coils factories, what do you see happening
9 in China with regard to their ability to continue to
10 manufacture and export coils?

11 MR. ENOCH: I think the ones that I deal
12 with they've totally stopped exporting uncovered
13 innersprings into the United States.

14 COMMISSIONER LANE: And when did that
15 happen?

16 MR. ENOCH: Total stop was in late 2008
17 after your preliminary, Commerce preliminary margin
18 duty.

19 COMMISSIONER LANE: Are they still
20 manufacturing the coils?

21 MR. ENOCH: Oh yes. Yes.

22 COMMISSIONER LANE: Okay, so where are you
23 getting your supply?

24 MR. ENOCH: I'm not importing uncovered
25 innersprings. My last order though was March

1 sometime. I am presenting information that my
2 business drastically dropped off in October of 2007.

3 COMMISSIONER LANE: Okay, so you are just --

4 MR. ENOCH: I do other things other than
5 uncovered innersprings. Other components for mattress
6 manufacturers.

7 COMMISSIONER LANE: Okay. I understand now.
8 Okay, responses to Commission questionnaires indicate
9 that several purchasers and importers experienced
10 short supplies and unavailability of certain products
11 during the period of examination. How have these
12 market factors impacted the U.S. innerspring market?

13 MR. TRAMEL: The period in question?

14 MS. MENDOZA: Commissioner Lane, can I just
15 clarify that you're quoting from the staff report that
16 talks about shortages particularly in 2008?

17 COMMISSIONER LANE: Yes.

18 MR. TRAMEL: Shortages in 2008. I can speak
19 to that directly. In 2008 we had, Leggett & Platt had
20 shorted us off of our purchase orders that we had
21 given them over 5,000 units that we had given them
22 purchase orders for they were unable to fill.

23 COMMISSIONER LANE: And did they give you a
24 reason?

25 MR. TRAMEL: There was a variety of reasons.

1 One, their business was not projected correctly in
2 terms of the verti-coil. They had made a real effort
3 on this product, verti-coil. They basically
4 positioned it as a bonnell replacement. No question
5 as to why, they had fresh patents on it, it's cheaper
6 for them to produce than the bonnell, and they're
7 trying to shove as much of their production into that
8 product as possible. However they missed their
9 projections in terms of being able to ramp up that
10 product into, you know, retool their current machinery
11 into the verti-coil machinery. And so it's basically
12 it's taken off line. It was a double whammy because
13 not only do they not have the verti-coils ready but
14 they've also got off line a product that we buy which
15 is the superlastics.

16 COMMISSIONER LANE: Okay. Thank you.

17 MR. CAMERON: Commissioner, we would also
18 refer you to Exhibit 7 in our posthearing brief,
19 specifically around paragraph 15 which also describes
20 this same phenomenon in detail with respect to some
21 other suppliers.

22 COMMISSIONER LANE: Okay. Thank you. Thank
23 you, Madam Chair.

24 CHAIRMAN ARANOFF: Commissioner Williamson.

25 COMMISSIONER WILLIAMSON: Thank you, Madam

1 Chairman. I do want to welcome the Witnesses and
2 appreciation of their testimony. I was just wondering
3 from what you've said about the problems of importing,
4 how is it, just-in-time, you know supply is so
5 important, how do importers make any sales at all? I
6 mean if that's just the way the business operates, and
7 you can't do just-in-time from China because I assume
8 you're not air freighting innersprings.

9 MR. KARMIN: From our perspective, Leggett &
10 Platt only offers product by container trucks. So
11 it's the same challenge importing from Asia or China
12 in a container or getting one delivered from Missouri,
13 the West Coast. There's no production in the West
14 Coast anymore. So we face the exact same challenge,
15 purchasing from a domestic supplier because there are
16 very few today, that we do purchasing from a Chinese
17 supplier. So we stock a certain amount of
18 innersprings, you know, certain week's amount of
19 supply knowing that the timelines involved in
20 receiving the shipment.

21 COMMISSIONER WILLIAMSON: Okay, so you're
22 saying then you don't do just-in-time at least for
23 your business.

24 MR. KARMIN: It is just-in-time because it's
25 part of the process, but you know it's not the next

1 day so it's a few weeks out.

2 MR. CAMERON: It's an elongated just-in-
3 time, I mean I think your point is well taken. What
4 you're saying is that mattress producers who have to
5 rely upon imports with a longer supply chain are at a
6 competitive disadvantage. That is absolutely correct
7 which I believe Mr. Tramel will also explain, but
8 that's also the reason that the four S's don't rely on
9 imports because it does put them at a competitive
10 disadvantage if in fact you were going to operate on a
11 just-in-time system and not maintain any inventory and
12 you can rely that you're going to get your shipment
13 tomorrow.

14 MR. TRAMEL: That's certainly true and
15 you're talking about two different things. We're
16 just-in-time with our customers. We've made the
17 decision that we're not as lean of a factory as what a
18 lot of other just-in-time factories will try to be in
19 terms of lean with the products coming in to match up
20 with the just-in-time orders. Does that make sense?

21 COMMISSIONER WILLIAMSON: Yeah, I think the
22 Petitioners also this morning talked about the fact
23 that maybe importers were basically becoming
24 distributors in the U.S. And that the importers
25 might, you know, serve their function as the

1 distributor so that you might be just-in-time to the
2 customers but, are any of you in that position?

3 MR. TRAMEL: I've seen, I have known
4 personally and I know a lot of people in the industry,
5 I've known of one person that tried to set up a
6 distributorship and they're no longer in business. I
7 know of no distributorships currently operating or
8 that has been operating in 2008.

9 MR. KARMIN: Yeah, I don't think it's a
10 profitable business to be in to import. It's not
11 enough profit margin importing units and then
12 reselling them to manufacturers in the United States.

13 MS. MENDOZA: Commissioner, could I just
14 explain something too?

15 COMMISSIONER WILLIAMSON: Sure.

16 MS. MENDOZA: I think what we were trying to
17 say with the just-in-time was that it's one of the
18 factors that limits the ability of a number of
19 mattress manufacturers to import. Obviously there are
20 people who do import who can handle that. But what
21 we're saying is for the four S's and for smaller
22 manufacturers and for a number of medium sized
23 manufacturers, the logistics of that are simply too
24 challenging. So we're not saying nobody does it,
25 we're just saying it limits competition significantly

1 from imports because not many people can do it.

2 MR. KARMIN: One more point. If you're a
3 large producer and you have 20 plants in the United
4 States and the importers aren't able to supply lots of
5 plants in lots of places. You know, you can't import
6 to a lot of plants. It's logistically impossible.
7 You have to buy from either Hickory or Leggett if you
8 want to manufacture on a national basis because only
9 they can get to all the plants in all the places.

10 COMMISSIONER WILLIAMSON: Okay. So who are
11 the folks that are importing? We did hear this
12 morning that there were a bunch of large manufacturers
13 that would probably do things we probably didn't know
14 are -- I think there was like Mattress Warehouse and
15 something.

16 MR. TRAMEL: Yes, yes.

17 COMMISSIONER WILLIAMSON: There seem like
18 there are some people out there who may not be
19 household names but who are sizeable.

20 MR. TRAMEL: Sure, yes, and I'm one of them.
21 Kim's one of them. Kim just said that, you know, you
22 heard earlier testimony today that there is not a
23 domestic producer of innersprings west of Ennis,
24 Texas. Have you been to Ennis, Texas lately? There's
25 a whole lot of land to the west of there, and there's

1 a lot of customers out there needing innersprings
2 that, you know, if you want to have serviced there,
3 you're ordering in truckloads.

4 And so if you're going to order a truckload
5 from Ennis, Texas, or you can order a containerload on
6 an import basis, you know, it levels the playing field
7 due to the lack of commitment from the domestic
8 producers.

9 MR. KARMIN: I think, rather sensibly,
10 Commissioner Williamson, you make the point that, you
11 know, who is importing the units. And you know, you
12 have to be close to a port, right, you know, the
13 transportation process. You can't be very far away
14 from a port. So it's only people, you know,
15 manufacturers along the coast that can really do it.

16 And we're located in Los Angeles. The Port
17 of LA is 20 minutes from our plant, so it's efficient
18 to do that. But you know, for most of the rest of the
19 country it's not a very efficient way to source
20 innersprings. You're better off buying them from
21 Leggett & Platt or Hickory.

22 COMMISSIONER WILLIAMSON: We do have
23 intermodal shipping containers, don't we?

24 MR. KARMIN: Yeah, but it makes it, you
25 know, whatever -- it becomes more expensive, and the

1 markets just aren't, don't justify that.

2 MR. TRAMEL: I'm located in Oklahoma City,
3 and we've taken advantage of the imports for quite a
4 while. And if that answers your question.

5 One of the other things it gives me -- is
6 your next question why?

7 COMMISSIONER WILLIAMSON: No, go ahead, I'm
8 sorry.

9 MR. TRAMEL: I was starting to --

10 COMMISSIONER WILLIAMSON: I know you're
11 located in Oklahoma City, but I get your point here.
12 Go ahead.

13 MR. TRAMEL: Well, there is intermodal
14 transportation. And I don't think that, I do agree
15 with you. It costs me about \$2,000 more a container
16 than it does Ken to bring in a can of imported
17 innersprings. So it does cost more, but we can do it.
18 We don't have to be right next to it for it. It does
19 make it a little bit cost-prohibitive.

20 MR. KARMIN: And you know, it's a great
21 question because, you know, for us, we used to have
22 Atlas Manufacturing, which we talked about this
23 morning, which was around the corner from us. They,
24 you know, competed, you know, hand-to-hand combat with
25 Leggett & Platt for a long time.

1 The California economy where we are went,
2 you know, housing starts there started breaking down
3 in 2005. And when Atlas disappeared, we had no
4 option, really, no viable option to buy innersprings,
5 except to import them through the Port of LA.

6 So you know, it's not that easy to do.

7 MR. CAMERON: Commissioner, just to try to,
8 I think your question really -- you started out the
9 question asking well, who does import? And we weren't
10 saying that nobody does. I mean, that's obvious,
11 right?

12 What we're saying is the four Ss essentially
13 don't import, all right? They either make their own,
14 or they're buying domestically, they're too big.

15 Secondly, we're saying that those, this was
16 the testimony that Kerry gave a few minutes ago about
17 the 700 producers, how many can you name. Well, about
18 600 of them are so small that they can't, they can't
19 logistically import. Because in order to import, the
20 minimum amount that you have to be able to take is a
21 single containerload.

22 Well, what if your needs are that you're too
23 small, that a single containerload is going to be too
24 much? You don't want to keep the inventory because
25 it's too expensive. So those guys are dependent upon

1 the domestic industry as well, because they don't want
2 to bear the inventory burden.

3 So what you're left with is mid-size, some
4 of them are national chains, part of national chains.
5 These are national chains. But they're mid-size
6 mattress producers, but it's a smaller slice. And
7 it's not entire, it's not all of that market. It's a
8 part of the mid-size market. I think that's a fair
9 way to summarize where we are on that.

10 MR. ENOCH: Maybe I could add some light to
11 this, since I do try to sell all of these customers.

12 The Petitioner this morning alluded to some
13 of the Chinese importers have warehouses. There's
14 only two markets that warehouses have ever worked in
15 the importing innersprings from China, and that's Los
16 Angeles and New York City.

17 And the reason being, in Los Angeles there
18 is approximately 200 bedding manufacturers that you
19 never heard of one of them. They buy loose units.
20 Remember, they talked about how they crate 12 or 15
21 springs? Twelve or 15 springs is way too many, and I
22 don't have that special piece of equipment to open
23 them with.

24 So that market was served by Atlas. I have
25 a distributor in L.A. These are wee, little people.

1 But little people, it doesn't -- Oklahoma City, they
2 have to buy from Leggett or someone else that makes
3 springs in Oklahoma City, because there's no
4 distributors there.

5 Now, they said there was distributors in
6 Texas; they didn't do so well. There was a
7 distributor of mine in North Carolina they alluded to;
8 they're out of business today. Because there's just
9 not that group of little customers to serve.

10 So, but who buys from me? About 10 to 15
11 percent of the market that is medium-size bedding
12 manufacturers. They're big enough to take a
13 container; they do maybe 300 sets of bedding a day.
14 But the big ones don't: Sealy, Serta, Simmons. I
15 don't think I've ever imported one innerspring.

16 SpringAir used to, and I spent five years as
17 Chief Operating Officer of SpringAir before I started
18 this position. SpringAir today does not buy a thing
19 from me because they're out of cash. I believe they
20 owe the Petitioner something like \$12 million. So I
21 can't service them.

22 COMMISSIONER WILLIAMSON: My time is up, but
23 thank you for helping me to verify that.

24 CHAIRMAN ARANOFF: Mr. Pinkert.

25 MR. PINKERT: Thank you, Madame Chairman.

1 And I, too, want to welcome you and thank you for
2 being here today with us.

3 I want to actually start with something that
4 Commissioner Lane was talking about: the hearing in
5 which Mr. Cameron's name came up recently. Because
6 she left out the most important part of the story.

7 We had an expert witness testify I know Don
8 Cameron, and you, sir, are no Don Cameron.

9 (Laughter.)

10 MR. PINKERT: So there were no sanctions.

11 MR. CAMERON: Thank you, Commissioner.

12 MR. PINKERT: Anyway, returning to the
13 subject matter of this hearing, I understand from the
14 testimony of the panel that it's your view that the
15 underselling doesn't really explain very much in terms
16 of the shifting patterns in the marketplace.

17 But I'm wondering what explains the
18 underselling. What you referred to, Mr. Cameron, is
19 nominal underselling. And I'm wondering if perhaps
20 you can tell me what you meant by "nominal." And then
21 go on to try to help me understand what's going on
22 with the underselling.

23 MR. KARMIN: I think the best way to look at
24 it is -- I'm not Mr. Cameron, by the way, but -- the
25 best way to look at it is that Leggett & Platt

1 testified earlier this morning, the head of the
2 division. And he said that competition from latex,
3 visco and air were not much. I think he said are
4 minimal. And he thought that they represented up to
5 eight percent of the market.

6 So I think when I look at the data from ISPA
7 or on the imported springs, they were right about the
8 same kind of numbers.

9 So by Leggett & Platt's own way that they
10 look at the marketplace, it's minimal. You know, the
11 amount of innersprings. They represent, according to
12 Leggett & Platt, about the same part of the market.

13 MR. CAMERON: I mean, I think what you're
14 trying to get at is that, yes, the margins of
15 underselling are, vary a lot, depending upon the
16 product and the particular period. There's some
17 overselling, there's a lot of underselling.

18 What we're trying to get at is, number one,
19 the underselling is not consistent. There is no
20 actual pattern with underselling. Whereas, if you
21 look at the pricing pattern with respect to the
22 domestic product, it's actually consistent among all
23 nine products.

24 It's really fairly interesting when you look
25 at the pattern of prices of the U.S. industry,

1 regardless of whether the import prices were
2 overselling, whether there were a lot of the imports
3 in that particular category, whether there weren't.

4 So what we're trying to get as well, well
5 okay, so we understand that there is underselling if
6 you want to, you know. And what I was trying to get
7 at is yes, I understand the Petitioner's argument.
8 There are X number of quarters in the period; they
9 were underselling in Y number of quarters; therefore,
10 they are underselling by this much. And therefore,
11 there's predominant underselling.

12 What we're trying to get at is that well,
13 it's undoubtedly true that there is underselling
14 itself. But that alone, standing alone, doesn't
15 really tell you very much about what's happening.

16 Because when you look at just the pricing
17 products alone, it doesn't appear that the
18 underselling itself was driving any numbers. In fact,
19 I think the analysis that we gave in our brief, and I
20 think you alluded to it this morning, shows that
21 actually what was happening is they changed their
22 market from one product to another. And there was
23 underselling in the other product, too. And yet, it
24 became the largest-selling product of the U.S.
25 industry.

1 So that would seem to go against the idea
2 that well, there was underselling, then somehow that
3 is preventing them from doing anything.

4 You got to the issue of price suppression.
5 This is why this issue of Sealy becomes so
6 extraordinarily important. Sealy is a major U.S.
7 producer. Sealy is the company that decided that it
8 was going to take a very aggressive position with
9 respect to its promotional products.

10 Promotional products, you can start thinking
11 bonnell. Sealy does not have any imported product.
12 And yet Sealy, in a way, took over the price
13 leadership[, in a way, from Leggett & Platt for this
14 one-year period. Because in order to gain market
15 share -- and this was in mattresses, we will concede
16 this was a mattress aggressive price move. But in
17 order to do that, they essentially discounted heavily
18 their market, their prices for the mattress.

19 Well, what exactly does that do? Number
20 one, as they say in their annual report, they gained a
21 lot of market share. So as far as that element of the
22 strategy, it was successful.

23 Unfortunately, usually these companies like
24 to make money. And that part of the strategy didn't
25 work out so well, because they lost a lot of money

1 with respect to making this move.

2 But there was also the law of unintended
3 consequences. What was the unintended consequence?
4 The unintended consequence was all of the mattress
5 producers that had to compete with Sealy had to
6 discount, as well. And when they did that, we believe
7 that it put price pressure on all innersprings,
8 including Leggett & Platt.

9 So despite Leggett & Platt's market
10 domination, they don't actually control the laws of
11 economics. And to the extent that their market, the
12 market that they were selling into, was in a furious
13 price battle with respect to promotional products;
14 and, as we've already heard, that slice of premium
15 product which was taken away from them by air and
16 foam; that does explain, it goes a long way to
17 explaining what happened with respect to pricing.

18 And therefore, when we talk about nominal
19 underselling, that's what we're saying. We don't see
20 any correlation there. But when we look at these
21 other phenomenon, we actually do see a correlation
22 between the results in 2007.

23 Then we look in 2008, what happened? Well,
24 number one, Sealy discontinued their program. Number
25 two, air and foam apparently increased their prices to

1 the same 46-percent tune that we've heard with respect
2 to Leggett & Platt.

3 So, okay, so what's happened? Overall
4 prices now, I mean, I may be wrong, but I don't
5 believe that any of the foam and air and viscous are
6 in this proceeding, nor do they care about the price
7 of imported innersprings.

8 Yet they have increased their prices in
9 2008, apparently to recover profits or whatever. But
10 when they did that, Leggett & Platt, of course,
11 followed along, and they also did not have the Sealy
12 competition on the low end.

13 So that actually does explain what happened
14 in 2008. That's our position.

15 MS. MENDOZA: And I would just add that when
16 you look at the data for 2007, the pricing data, think
17 about what Don was just saying about Sealy and what
18 they were doing to the market, and what they were
19 doing to prices. And think about the fact that
20 Leggett now has told you that 44 percent of what's in
21 those pricing categories are actually going to the
22 four Ss, where that competition is precisely
23 occurring.

24 MR. PINKERT: Thank you. Now, apparent U.S.
25 consumption is also declining throughout the period of

1 investigation. How would you estimate the relative
2 impact of the declining consumption versus the
3 relative impact of the subject imports during the
4 period of investigation? And is there some sort of a
5 metric that we can use to determine what the relative
6 impacts of those two phenomena would be?

7 MS. MENDOZA: Commissioner Pinkert, we have
8 submitted a chart here which we've used, total
9 imports, because the subject import numbers are
10 confidential. But I think this chart sort of says it
11 all here.

12 We've got a decline in terms of U.S.
13 producer shipment volumes -- this is industry overall
14 -- 1.6 million units. And we've only got 210,000
15 units of increase in imports over that same period of
16 2005 to 2007. I think that clearly indicates that
17 there's something much bigger going on in this market,
18 and it's not imports.

19 MR. PINKERT: Well, again, I'm having a hard
20 time with the idea of what the relative impact of the
21 declining apparent consumption might be, versus the
22 subject imports.

23 And maybe in post-hearing, is there
24 something else that you can supply that would help me
25 to understand that difference?

1 MS. MENDOZA: Sure. I mean, what we'll do
2 in post-hearing is, well, the shipment is what you use
3 to calculate consumption. So in essence we're showing
4 you what the decline in consumption was between 2005
5 and 2007. And then we're showing you what portion of
6 that, of U.S. producer shipment declines were actually
7 accounted for by imports. And we're saying it's a
8 very small amount. But we'll use the actual numbers
9 so it will be clearer in our post-hearing.

10 MR. PINKERT: Thank you.

11 MR. CAMERON: We think that this is what
12 you're getting at. I mean, because it does go a long
13 way to explain. 210 actually can't be more than 210,
14 and there's a whole gap of about, eyeballing it, about
15 1.3 million units that aren't explained by the growth
16 in imports. And that really is our point. And that
17 actually does go to the issue of consumption, of drop
18 in demand, or other products.

19 I mean, it's consumption of this product,
20 right? But, and that also gets into the issue of
21 foam, air, and the non-innerspring type of mattresses.

22 MR. PINKERT: Well, I think what I'm getting
23 at is that those are the raw numbers.

24 MR. CAMERON: Right.

25 MR. PINKERT: And we can look at shipments,

1 we can look at apparent consumptions. But I'm trying
2 to translate those raw numbers into an impact in the
3 marketplace. And if there's anything that you can
4 supply that would help me do that.

5 MS. MENDOZA: We'd be happy to do that. We
6 have a --

7 MR. PINKERT: Thank you.

8 MR. CAMERON: Thanks. Sorry.

9 CHAIRMAN ARANOFF: One of the things that I
10 have asked the panel this morning was whether they
11 could help me to estimate the size of the Chinese
12 industry. And Mr. Enoch, you're the one who says
13 you've been there, right, and visited the plants?

14 What the Petitioners were suggesting to me
15 is that the best thing we can look at to estimate the
16 size of the Chinese industry is the ISPA data on
17 mattress production? I think it was mattress
18 production in China. And that that would be a proxy.

19 Would you agree with that, that that is a
20 good way to measure, the best way, the most accurate
21 way available to us to measure Chinese production?

22 MR. ENOCH: Yeah. I think there's no good
23 estimate of Chinese mattress production. No one I've
24 ever met can even agree on how many manufacturers
25 there are. I know in my --

1 MS. MENDOZA: Well, I mean, you know, would
2 the 16 million in terms of, I think you testified
3 about mattress production. I mean, our point on that
4 really is that, you know, it's not -- obviously part
5 of that, or a significant part of that is Leggett &
6 Platt, right? And they have testified that what they
7 are doing with their production is that they're using
8 it either to supply Asia or to internally consume it,
9 or to supply the Chinese market.

10 So regardless of the number in terms of
11 absolute production of mattresses, I'm not sure that
12 that tells you much about how much can actually be
13 exported from China to the U.S. That would be our
14 only point.

15 CHAIRMAN ARANOFF: No, but -- I mean, I
16 understand that argument. But normally it would be
17 our starting point to start with, you know, how big is
18 the Chinese industry, who is in it, you know, before
19 we went to well, why some of it may not be destined
20 for this market.

21 And then that actually leads me to my second
22 point. I had also asked this morning about the fact
23 that we have such small coverage for the Chinese
24 industry, whether I can rely on the data that we have
25 in the staff report at all; whether I can assume that

1 it's a representative sample when I look at trends in
2 capacity production, or the percentage of production
3 that's exported.

4 Do you guys take a position on that?

5 MS. MENDOZA: I think we have to address
6 that in the confidentiality of the data in our post-
7 hearing brief, if that would be okay. I completely
8 understand what your question is, and I think we can,
9 I think we can address that and see if we can get any
10 additional information.

11 CHAIRMAN ARANOFF: All right. Because I
12 know we have Mr. Enoch's testimony that most of the
13 Chinese producers are not ready for prime time in
14 terms of export, and I've got data on the record
15 representing a very small sample.

16 But I would suggest that there's a, you
17 know, fairly high percentage of what's produced in
18 China being exported. So I'm trying to understand if
19 I can marry those two things up, or whether there is
20 something wrong with those data.

21 MR. CAMERON: Madame Chairman, you have a
22 good point. I mean, but the problem is that, that
23 those that are participating in the U.S. market don't
24 have any interest in providing data anyway. So
25 really, you're getting a distorted sample.

1 We'll try and see whether or not there's
2 anything we can give. That's about the best we can do
3 right now.

4 Did you have something about ISPA?

5 MR. TRAMEL: I'm not aware of any ISPA
6 numbers relative to China. I believe that we do have
7 a source on Chinese-made mattresses that we can tap
8 for this and include it in the post-briefs.

9 CHAIRMAN ARANOFF: Okay. Well, that --

10 MR. TRAMEL: So we'll do the best we can.

11 CHAIRMAN ARANOFF: We appreciate that.
12 Obviously, one of the big issues in this case is this
13 issue of, was it the filing of this petition and the
14 subsequent findings by this Agency and by Commerce
15 that led to the decline in imports from the subject
16 countries? Or was it these other economic factors,
17 which you have elaborated for us today and in your
18 briefs.

19 And I initially thought to myself ah, well,
20 all I have to do is look at the monthly import
21 statistics, and I can see whether or not this decline
22 happened in 2007 or it didn't happen until some time
23 in 2008. And we do have monthly import statistics in
24 there on page 4-15 in the staff report.

25 And then I'm informed by staff that, at

1 least with respect to Vietnam and South Africa, we
2 probably don't have a problem with people misreporting
3 under the wrong HTS number. So those data are
4 probably okay to look at to answer this question. The
5 ones from China obviously are a lot more problematic.

6 So I looked at them. And they tend to show,
7 for Vietnam, that imports did drop off in 2007, before
8 this case was filed. They don't show that for South
9 Africa.

10 And so I kind of want to give you a chance
11 to tell me whether these are good data for me to be
12 looking at to answer this question of, you know, which
13 came first, the case or the drop-off in imports, or
14 whether I should be looking elsewhere.

15 MR. CAMERON: Kerry, I think, would like to
16 respond to this. I think there's one thing we should
17 keep in mind. The imports you're talking about,
18 approximately a six-week time lag in terms of getting
19 here.

20 And the other thing is that, especially in
21 the case of both Vietnam and South Africa, they're
22 really small. So it isn't as if they were really big
23 to begin with.

24 And the point that Ms. Mendoza was making in
25 her direct testimony was -- it's very interesting.

1 This is the first case that I can recall recently,
2 although, as the panel is aware from your story with
3 respect to your past hearing, I haven't been here that
4 much.

5 But it's the first case that I can recall
6 recently where there's a, you know, we're talking
7 about accumulating these three suppliers and this big
8 threat case. We did not hear one word about Vietnam
9 or South Africa in the entire testimony this morning
10 until the Commission specifically asked a question
11 about South Africa. But otherwise, they were
12 irrelevant. And guess what? They are.

13 But, go ahead.

14 MR. TRAMEL: What an act to follow. To your
15 point, to your question, we had, by the end of 2007,
16 really by the start of fourth quarter, we had lost a
17 lot of our importing capability from both Vietnam and
18 South Africa. We were no longer a good destination
19 point for their goods.

20 The companies that we were purchasing from
21 for internal decisions, they were tired of the
22 American model, tired if doing business, not with our
23 company in particular, but with importing into
24 America. And they backed away from that. And they
25 told us they were going to be backing away from that.

1 And so that's where we started at prior to this
2 petition being filed.

3 CHAIRMAN ARANOFF: Okay.

4 MR. CAMERON: But you imported, you got
5 something in 2008, right?

6 MR. TRAMEL: We got some things in 2008.
7 And it was mainly, it was not from Vietnam. It was
8 from South Africa. And it was out of a courtesy,
9 basically, more than anything else. Because we
10 certainly weren't part of their long-term strategy
11 going forward.

12 Matter of fact, I've got good friends of
13 mine over there from our business relationships that
14 basically told me that they didn't really even want to
15 participate in the Commerce Department's inquiry,
16 because they're not going to be shipping into America.
17 So why would they even go to the effort.

18 CHAIRMAN ARANOFF: Okay. Well, for the
19 post-hearing --

20 MR. CAMERON: We'll look at it, absolutely.

21 CHAIRMAN ARANOFF: -- if there's anything
22 you want to add, I'm looking for any sorts of
23 objective evidence that can show me whether or not
24 there really was a fall-off.

25 And I understand the lag argument. So even

1 if I looked at the monthly data, I might look back,
2 you know, and figure in for a lag. But I still don't
3 know if that, maybe there is somewhere better that I
4 could be looking.

5 I have to admit, this is a very unusual
6 case, because the testimony has been that the largest
7 purchasers are the ones who are not interested in
8 imports.

9 In most of the cases that we've seen
10 involving China, the largest purchasers bypass the
11 domestic suppliers and become the largest importers.
12 So it's a very unusual pattern, and I'm not quite sure
13 what to make of it.

14 MR. CAMERON: That's actually where we
15 started this morning in Julie's introduction.

16 CHAIRMAN ARANOFF: Yes. I'm still trying to
17 understand how someone could be too big. Since we are
18 being told that there are logistics and there are
19 financing and there are warehousing issues. It seems
20 like the big producers would be the first ones.

21 MR. TRAMEL: Right. So I can, I'm most
22 familiar with the example of the Serta Mattress
23 Company. And they have 22 plants across the United
24 States. And they buy 100 percent of their
25 innersprings from Leggett & Platt. They have a long-

1 term contract with Leggett & Platt; they are Leggett &
2 Platt's probably most important innerspring client.

3 They are not able logistically to import
4 springs from outside the country, and then efficiently
5 have them delivered to their plants in the interior of
6 the country. And because they make a uniform product
7 throughout, they must buy the same unit from the same
8 place at all times.

9 CHAIRMAN ARANOFF: Do you think it's because
10 basically innersprings are big and unwieldy, and it's
11 a pain in the neck to drag them around the country?
12 That it just doesn't pay from a cost standpoint?

13 MR. TRAMEL: That's why the mattress
14 business has been so good for so long, you know. The
15 plants have to be close, the plants need to be close
16 to the consumer, and the spring plants also need to be
17 close to the consumer. It's exactly that.

18 And it also gets to the point that you
19 raised earlier today about a model. They have a
20 national model that I am offering, all right? And
21 that model has got to be standard, whether you're in
22 California, whether you're in Tulsa, whether you're in
23 Cleveland, Ohio, or whether you're here.

24 And if imports cannot actually distribute
25 that same-model innerspring throughout the country,

1 they can't distribute that model nationally. And
2 that's a big deal for the big Ss.

3 CHAIRMAN ARANOFF: Okay. Well, my light has
4 turned red, so I will hand it off to Vice Chairman
5 Pearson.

6 VICE CHAIRMAN PEARSON: Thank you, Madame
7 Chairman.

8 Earlier you discussed the credit terms that
9 were common in the industry. And I think I understood
10 that 30 days is pretty much standard, and it would not
11 be entirely unusual to have some 60-day terms under
12 specific negotiations between firms. Is that correct?

13 MR. TRAMEL: That is correct.

14 VICE CHAIRMAN PEARSON: Okay. Ms. Mendoza
15 or Mr. Cameron, have you had a chance to try to
16 calculate how much of the underselling that we see on
17 this record might be explained by the credit terms, in
18 other words?

19 MR. CAMERON: We haven't yet, but we will.

20 VICE CHAIRMAN PEARSON: Okay. Because, you
21 understand what --

22 MR. CAMERON: Yeah, I understand. We have
23 not done that yet, but we can do that.

24 VICE CHAIRMAN PEARSON: Okay. And then, Mr.
25 Enoch, are there other issues that would make a

1 Chinese innerspring competitive in the United States
2 only at a lower price than the prices that the
3 domestic industry can receive? Is it the time between
4 when the order is placed and the arrival? I assume
5 there are some costs associated with that. Or not
6 really, if you don't have money on the line?

7 MR. ENOCH: I'm not sure I understand the
8 question.

9 MS. MENDOZA: We apologize. Can you repeat
10 that question?

11 VICE CHAIRMAN PEARSON: Well, I kind of
12 wandered through that question. What I'm trying to
13 understand, in the recent exchange it's clear enough
14 that there should be some, a necessity for some
15 discounted price for a Chinese import because of
16 credit terms that are offered by U.S. manufacturers.
17 Okay, we can understand why there would be a
18 difference in price in the marketplace.

19 And my question is, are there other factors
20 involved in bringing in an innerspring from China
21 that, of necessity, would require it to be priced
22 lower than a U.S. product for anyone to be interested
23 in buying it? Certain inherent inconveniences,
24 basically.

25 MR. KARMIN: Yeah. So, Los Angeles is a

1 great example. Because despite the fact that the
2 housing market went basically in '05 in California
3 before it happened here, the housing market came
4 apart. And the commercial real estate market, the
5 warehouse market in California, stayed. There was no
6 vacancies; it was 100-percent occupancy.

7 And the reason for that is because we're so
8 close to the Port of L.A., that all the warehouses
9 that were storing goods were importing. So extra
10 warehouse space, you know, to store weeks and weeks
11 and weeks of mattresses is an added expense, besides
12 terms, in capital.

13 Logistics, you know. You still have to
14 receive the container at the port, then you have to
15 bring it to your warehouse. That's another expense,
16 you know. Leggett & Platt would deliver it to your
17 door.

18 So there are other bits and pieces in the
19 supply chain and capital costs that all add to the
20 discounting and the underselling. So that's a few of
21 them.

22 VICE CHAIRMAN PEARSON: Well, it might be
23 useful, for the purposes of the post-hearing, to
24 perhaps do a side-by-side comparison of what the costs
25 might be for a domestic, a domestic manufacturer

1 buying a domestic product, versus a domestic
2 manufacturer buying a Chinese product.

3 Because I'm sure there are some of the
4 differences that you've mentioned. And yet, I'm not
5 sure how to quantify it.

6 MR. CAMERON: We'll try it. We'll take a
7 stab at it.

8 VICE CHAIRMAN PEARSON: You have placed a
9 lot of emphasis on Sealy's pricing decisions in, is it
10 calendar 2007? Or did it start in 2006?

11 MR. KARMIN: It was, started in the
12 beginning of, spring of 2007.

13 VICE CHAIRMAN PEARSON: Okay. And it lasted
14 through the end of calendar 2007?

15 MR. KARMIN: That's correct, yes.

16 VICE CHAIRMAN PEARSON: Okay. Does that,
17 does the decision by that one relatively substantial
18 manufacturer explain all of the price weakness that we
19 saw in the U.S. market in that timeframe?

20 MR. KARMIN: It's a large, it's three
21 prongs. One, it's Sealy being very aggressive, and
22 they're the number-one brand in the country. So they
23 were lowering the most, they were lowering their
24 product to the most popular price point.

25 The second factor would be that the

1 economies, I mean, even though you're reading today
2 the stock market is going down two to five percent a
3 day, you know, this didn't start last week. We all
4 felt the deterioration in the market, you know, 24, 36
5 months ago.

6 So you know, the housing-related products,
7 like innerspring units, unraveled, you know, from '05
8 all the way through '08. And that was part of the
9 reason there was a deterioration in the market,
10 because the demand deteriorated.

11 The third point would be that during that
12 period of time, substitute products, especially
13 products like latex, air, visco-elastic, foam, took
14 tremendous pieces of the market away from Leggett &
15 Platt. And it was those three factors that are the
16 most important factors with regard to the
17 deterioration in the market.

18 VICE CHAIRMAN PEARSON: Do we have on the
19 record good information regarding how much the
20 alternative product took away from, from innersprings?

21 MS. MENDOZA: We are actually going to
22 quantify that more precisely and put that on the
23 record.

24 I would also refer you to Exhibit 10 of our
25 prehearing brief, where we have a breakdown of U.S.

1 bedding company sizes. I believe it's just the data,
2 so it's been treated confidentially. But you can see,
3 I think, when you look at it, how big Sealy is.

4 MR. KARMIN: And with regard to that point.
5 Sealy made a decision not -- Sealy, because you're
6 familiar with the name. They got aggressive with the
7 price point on innersprings.

8 They also decided to make mattresses without
9 innerspring units. So they started making latex-
10 filled mattresses, visco-elastic-filled mattresses,
11 okay?

12 So you have the largest producer lowering
13 the price of the innerspring units aggressively, and
14 substituting the innersprings on their own decision,
15 just on their own, taking out innersprings and
16 inserting visco-elastic foam and latex into their new
17 products.

18 VICE CHAIRMAN PEARSON: On this record, we
19 do see more confirmed lost sales, lost revenue
20 allocations than is the case in some of our
21 investigations. So we have some U.S. mattress
22 manufacturers saying that they did, indeed, switch
23 from buying a domestic innerspring to an imported
24 innerspring, at least in part because of price. Some
25 of those allegations were in 2007. So even at a time

1 when Sealy was aggressively increasing its market
2 share, there were some foreign manufacturers who were
3 able to sell innersprings into the United States at
4 low prices, and that takes customers away.

5 Could you comment on that? How should we
6 interpret that?

7 MS. MENDOZA: Well, first of all, I mean,
8 because there is no other competition in this market,
9 other than subject imports, I believe that it's fair
10 to say that there is some level of competition. We're
11 not disagreeing with that.

12 I think what we would like to address, but
13 in our confidential brief, are the circumstances of
14 some of those, and the size, and some of those other
15 issues. I mean, it's really difficult in this
16 context, I think, to talk about those. And they
17 obviously haven't seen them, so.

18 VICE CHAIRMAN PEARSON: No, I understand the
19 confidentiality.

20 MS. MENDOZA: Yeah, right, right, right.

21 MR. CAMERON: I think the other point to
22 make is that -- and this gets back to the issue of the
23 magnitude of the imports, and especially what
24 happened, your commenting with respect to imports
25 between 2006 and 2007.

1 Well, imports between 2006 and 2007 were
2 not, didn't surge into the market. Why don't I just
3 put it that way?

4 VICE CHAIRMAN PEARSON: I understand.

5 MR. CAMERON: And this is a very important
6 point. It gets to the issue of the fact that there
7 is, that slug of imports can only have a limited
8 amount of impact.

9 So it may be that they took away some sales.
10 I mean, I don't honestly, if you have import
11 competition, you can always say that there are sales
12 that are taken away. I mean, because the argument but
13 for the imports, that would have been mind. I get it.

14 But when you look at the quantity itself,
15 it's not really that significant. And so we believe
16 that the anecdotal evidence of lost sales and lost
17 revenue overstates the impact.

18 But we will look further at it. But I think
19 that that's what the data will show.

20 MS. MENDOZA: And also at the years in which
21 it occurred, when it occurred.

22 VICE CHAIRMAN PEARSON: The what?

23 MS. MENDOZA: Years in which it occurred.

24 VICE CHAIRMAN PEARSON: Okay, good. I
25 certainly accept the reality that even domestic

1 manufacturers can take sales away from each other.

2 MR. CAMERON: Who knew? Who knew?

3 (Laughter.)

4 VICE CHAIRMAN PEARSON: Even in this
5 industry, yes. My light's changing, Madame Chairman.

6 CHAIRMAN ARANOFF: Commissioner Okun.

7 COMMISSIONER OKUN: Thank you. In your
8 arguments today and in your briefs, you talked about
9 non-import-related factors having that respect on the
10 U.S. innerspring industry's profitability. And I know
11 Commissioner Pinkert asked you for some further
12 analysis post-hearing on how you would have us look at
13 that, in terms of our causation analysis, with respect
14 to declining demand in particular, is what I think he
15 had focused on.

16 I also wanted to ask for kind of further
17 response from you on another part of what you argued
18 there, was that in looking at causation, we should
19 look at the performance of the merchant market
20 producers.

21 And so I've been looking at the confidential
22 data regarding the merchant market producers, and you
23 know, getting my information confidential. But if I
24 look at trends and correlation between imports and how
25 the industry performs, to me, I mean, I guess I'm

1 trying to say it looks like it doesn't help you
2 necessarily.

3 So if I could get whatever you can respond
4 in public, and then obviously look at that post-
5 hearing, as well.

6 MS. MENDOZA: I think what we were
7 suggesting is that if you compare what was going on in
8 terms of merchant market producers and captive
9 producers, that what -- I mean, one of the issues is
10 that a lot of the producers perform differently, as
11 Chairman Aranoff pointed out this morning.

12 But if you look at it on an overall basis, I
13 think our point was basically that you saw similar
14 declines in terms of, similar patterns, let's put it
15 that way, in terms of profitability between the two.
16 And that that indicated that in fact there was
17 something else going on in those markets other than
18 imports.

19 But again, I think it's probably better if
20 we do it in our brief.

21 MR. CAMERON: Well, it's also useful to, if
22 you want we can also talk about the captive production
23 provision that I don't think is relevant here. I
24 think that the question that Commissioner Lane had
25 raised earlier with Petitioners gets to the point.

1 We were looking at this as illustrative, not
2 that, we were not suggesting that you should focus on
3 the merchant market, which I believe is the position
4 that Hickory has made. We haven't seen any statutory
5 basis for their assertion that you should "focus on"
6 the merchant market, since they've also conceded that
7 the captive production provision doesn't apply, and
8 that the captive production provision is limited.

9 And the fact of the matter is, the captive
10 production provision was designed to be limited.
11 Because in normal circumstances, even where there is
12 captive production in an industry, unless the narrow
13 provisions of this law are met, then indeed you are
14 supposed to take into account the condition of the
15 entire industry, and not write out of the analysis the
16 captive producers. Which I believe was exactly the
17 point that Commissioner Lane was raising. And it
18 wasn't really, I still don't understand the legal
19 analysis that was provided to you in the answer.

20 COMMISSIONER OKUN: Mr. Cameron, I just
21 wanted, I did have a question about that. Because one
22 thing, and it may be again for post-hearing.

23 Again assuming that captive production does
24 not apply, the Commission has often in many cases
25 looked at it as a condition of competition, if that's

1 where the import competition occurs.

2 So you're not, are you arguing that we
3 can't, we shouldn't, can't focus on it as just a
4 condition of competition?

5 MR. CAMERON: We are suggesting that it is
6 proper for you to look at the condition of
7 competition. Frankly, we have always agreed that the
8 Commission should be able to look at whatever it
9 thinks is relevant. So we are not suggesting that you
10 are limited in that regard.

11 That was not the legal position that they
12 are taking. They are taking a position that after you
13 analyze it, you should base your decision on the
14 conditions of the competition in the merchant market,
15 and focus exclusively.

16 That I think gets, starts to get into a very
17 difficult legal position, because they concede that
18 the captive production provision doesn't apply.

19 COMMISSIONER OKUN: So it's the focusing
20 exclusively on --

21 MR. CAMERON: Well, exactly. Well, exactly.
22 And our argument, and the argument that was made in
23 Hot Rolled Coil, which, as we all know, was the,
24 essentially the reason that that captive production
25 provision was put into the law, is that actually

1 captive production is an important condition of
2 competition because it is the part of the industry
3 that is insulated totally from competition.

4 And therefore, since you're also looking at
5 those producers and their condition as part of the
6 industry, and they are not, they are not even affected
7 by imports, that at least is part of the industry that
8 we can look at and say okay, well, obviously we're not
9 affecting that part.

10 And then we add onto that the other big Ss,
11 which also are not part of it. And that's actually
12 where we start getting to 60 percent, which we don't
13 even have to dispute is not affected by imports.
14 Those are absolutely shielded. Either because they're
15 the big Ss, or because they are captive production.

16 Then we go on to the issues that you were
17 discussing later, or earlier today, about proprietary,
18 what has proprietary meant?

19 COMMISSIONER OKUN: I'm not sure -- I know
20 we started that discussion. I just wanted to make
21 sure, do you have, or have you provided, what you
22 believe the percentage of the market is that is
23 proprietary?

24 I mean, again, if we take the same
25 definition of, there is the patented and then the

1 proprietary something different, did you already
2 provide that breakout in your brief?

3 MS. MENDOZA: I mean, that's a very hard
4 number, that's a very hard number for us to break out
5 obviously in this data. I mean, we can talk about it
6 and see what we can do. But we do not --

7 COMMISSIONER OKUN: I think any further
8 information, so much of the argument has been about
9 whether it's protected, and of course there are other
10 arguments about whether it really is or isn't.

11 MS. MENDOZA: Right.

12 COMMISSIONER OKUN: So I have a better
13 understanding of how we're looking at the market, the
14 best you could do would be helpful.

15 MS. MENDOZA: I mean, the other thing I
16 would say about that is that we are saying that the
17 four Ss really are insulated from import competition.
18 So you know, you really do have a case here where
19 you're not looking at the merchant market to try to
20 predict what's going to happen in the entire market.
21 Because I don't think that anybody has convincingly
22 suggested that the four Ss are ever going to start
23 importing soon, okay. And they haven't over the
24 period of investigation.

25 I mean, this is kind of like our sheet web

1 issue, where, in the CFS case, where you really have a
2 situation where imports have not penetrated, and will
3 not penetrate, on available evidence, into that other
4 sector. So you really, you can look at the merchant
5 market.

6 But the real question is, do the affects
7 there translate into some kind of a significant and
8 material effect on the industry as a whole? And I
9 think that's where our point is. I mean, I think you
10 have --

11 COMMISSIONER OKUN: I'm -- okay, go ahead,
12 finish your thought.

13 MS. MENDOZA: No, no. I was just going to
14 say, you know, some cases you have a circumstance
15 where single producers are selling into both markets,
16 so that you have some spillover between the two.

17 Here, you really don't, with our argument
18 about the four Ss. I mean, you've got Leggett & Platt
19 selling to the four Ss and Hickory, to some extent,
20 and you have no import competition. So you really
21 have two very different segments, and you don't have
22 U.S. producers who are doing both.

23 COMMISSIONER OKUN: And then just, this
24 would be a post-hearing question because obviously it
25 deals with confidential information.

1 Do you believe that the record evidence is
2 clear about saying that there are no, there have been,
3 during the period of investigation, no imports by the
4 four Ss?

5 MS. MENDOZA: I mean, I'm happy to, I'm
6 happy to look at the record and discuss it in the
7 confidential.

8 COMMISSIONER OKUN: Okay, that's fine with
9 me. Then I understand the arguments you've made with
10 respect to why you would discount the interim period
11 data or the post-petition data. And I know you've
12 been asked by my colleagues about, you know, how we
13 look at that and how we value it, what imports were or
14 were not doing.

15 One of the other points Petitioners raised
16 in terms of just a causation argument is that if you
17 look at the amount of customers that, I think it's
18 Leggett & Platt in particular, got back -- and as I
19 understand it, it was customers who bought from them
20 left and came back.

21 How should we evaluate that in terms of,
22 again, a causation-type or a competition analysis,
23 that they got customers back who they otherwise had
24 lost?

25 MS. MENDOZA: Well, I mean, this is the

1 fundamental dispute in this case, obviously. I mean,
2 we're saying that the reasons that imports declined is
3 because of factors such as steel costs, transportation
4 costs, other factors that caused imports to begin to
5 decline before the petition.

6 So what we're saying is that the market that
7 you're seeing in the first half of 2008 is the market
8 that you would have seen even if this petition had not
9 been filed.

10 So we're suggesting that, you know, the
11 current market conditions are between, you know, for
12 the period of January to June 2008, are in fact the
13 conditions that would have existed in the absence of
14 the petition. So, you know --

15 COMMISSIONER OKUN: And so I'm clear, if,
16 for in '07 and '06, they lost, those customers were
17 lost due to, if I were to find that they were lost due
18 to prices from Chinese, that the lost, sales loss
19 revenue was indicative of that, is your argument that
20 because the Chinese left and they came back, there is
21 not injury?

22 MS. MENDOZA: Our argument is that any
23 downturn that the industry experienced at all from
24 imports had already reversed itself by 2007 and into
25 2008, regardless of the petition. And therefore, that

1 there was not injury from imports.

2 Because to the extent that there had even
3 been any competitive effects -- and I guess we talked
4 about the fact that, you know, any competition is some
5 competition, right?

6 But what we're saying is that after, at the
7 end of 2007, whatever competitive advantage the
8 Chinese producers had, it had already begun to reverse
9 itself. And what you saw in 2008 was, was a reversal
10 back to that condition.

11 COMMISSIONER OKUN: Okay. I appreciate all
12 those comments. Thank you.

13 CHAIRMAN ARANOFF: Commissioner Lane.

14 COMMISSIONER LANE: Ms. Mendoza, if I
15 understand it, the argument is that the dropoff in
16 imports is not due to the filing of the petition, but
17 it is due to an increase in the input in China to make
18 the product. For instance, raw material and steel, et
19 cetera.

20 Would it be a fair analysis for us to test
21 that theory by looking at other imports coming in from
22 China that have had a similar increase in raw
23 materials and steel, and see if there's been a dropoff
24 in those products?

25 MS. MENDOZA: Yes, we would agree with that,

1 Commissioner Lane. In fact, we believe that our table
2 that shows you -- obviously, it's indexed -- but it
3 shows you mattresses, mattresses from China. And it
4 shows you that in fact, mattresses from China, which
5 had obviously been experiencing similar raw material
6 costs, steel costs, also declined between --

7 COMMISSIONER LANE: I was asking a more
8 broader question than that. Would it be a fair test
9 for us to look at a broad range of products unrelated
10 to this case, that are coming in from China, that have
11 faced an increase in raw material costs and steel
12 costs, et cetera, to see if there has been a similar
13 decline during the same periods of time?

14 MR. CAMERON: I think part of the problem
15 is, and the reason we chose mattresses, is because
16 it's in a similar industry, so that you can -- on the
17 one hand it's not affected by this case. On the other
18 hand, it's affected by similar issues, and the market
19 itself. It's tied in with the ultimate market that
20 we're dealing with. So that it has some
21 commonalities.

22 I think you start getting beyond that to,
23 let's hypothetically say widgets, okay? I think that
24 you start getting into problems there, because there
25 are so many other factors that may or may not be

1 playing into the, the widget issue. And I think the
2 database that you're going to have is going to be
3 limited.

4 So that was kind of why we chose this,
5 because we thought as a practical matter, it actually
6 would help. We understand it's not definitive; it
7 doesn't answer the question, it is illustrative. And
8 yet that it could be helpful in explaining it.

9 So I think going beyond that to widgets in
10 general gets somewhat problematic, where you can
11 actually get, how are you going to assure yourself
12 that it's the same issue on the supply side. How are
13 we sure that there are not different market sources
14 that are being affected on the demand side.

15 That's my only concern with that. Which is
16 the reason that we looked at mattresses. Does that
17 answer your question?

18 COMMISSIONER LANE: Yes. Although I have to
19 say that in all of our cases that we have heard
20 recently, we have heard that all products are facing
21 raw material cost increases and other cost increases.
22 So I will just throw that out there.

23 One of you testified that Leggett & Platt,
24 in the last three months, have increased prices 45
25 percent. Now, were those announced prices that

1 actually were put into effect? Or were they
2 announced, and then not put into effect?

3 MR. ENOCH: Those prices were put into
4 effect.

5 COMMISSIONER LANE: Okay. And Mr. Enoch, it
6 may have been you or someone else that talked about
7 the increased flammability requirements that
8 mattresses now face.

9 Now, are the products that are coming in
10 from China, do they face this same requirement?

11 MR. ENOCH: Yes.

12 COMMISSIONER LANE: Okay. Now, I'm a little
13 confused as to the current status of your business.
14 So could you explain to me again what it is that you
15 do?

16 MR. ENOCH: I appreciate your concern; I'm
17 also concerned about it, too.

18 (Laughter.)

19 MR. ENOCH: Well, my wife says I travel
20 around and visit with my friends, but I actually do
21 work. I have spent 33 years in the bedding industry.
22 And I try to work with a very small group of mattress
23 manufacturers, medium-size, that need products to meet
24 a certain requirement, at a good value. And then I go
25 around the world and try to source those.

1 So over the years, you know, I've done
2 products in Mexico, China, Indonesia. I've done all
3 of my springs in China. And then I sell those, by
4 containerload. And those cover, you know, mattress
5 innersprings, mattress upholstery materials, mattress
6 fabric, non-woven fabrics, but all going into the
7 mattress manufacturer's plant.

8 COMMISSIONER LANE: Okay. And so as I
9 understand it, you are no longer getting any springs
10 from China for your customers.

11 MR. ENOCH: That is correct.

12 COMMISSIONER LANE: So are you getting the
13 springs from elsewhere for your customers? Or are
14 they having to do that themselves?

15 MR. ENOCH: They are currently doing that
16 themselves. I have no good sources for uncovered
17 innersprings from other countries at the moment.

18 COMMISSIONER LANE: And have you attempted
19 to get the springs from a U.S. manufacturer?

20 MR. ENOCH: No. The U.S. manufacturers go
21 direct to my customer. You know, they have their own
22 sales force, if you will.

23 COMMISSIONER LANE: Okay, thank you. Madame
24 Chair, that's all I have.

25 CHAIRMAN ARANOFF: Commissioner Williamson.

1 COMMISSIONER WILLIAMSON: Thank you, Madame
2 Chairman.

3 Just to stay with you, Mr. Enoch, for a
4 minute. Did you say whether, are your customers
5 located in a particular area of the U.S.? Are they
6 more likely to be on the coast?

7 MR. ENOCH: No, they're nationwide, from the
8 Midwest to the West Coast to the East Coast.

9 COMMISSIONER WILLIAMSON: So the products,
10 when you were bringing in these innersprings, you were
11 distributing them throughout the country.

12 MR. ENOCH: Yes.

13 COMMISSIONER WILLIAMSON: Okay. Thank you.

14 I would like to now turn to the South
15 Africa. And on page 58 and 62 of Respondent's brief,
16 it describes an influence in South Africa in a way
17 that differentiates them from other products in the
18 U.S. market.

19 And I was wondering if you could address
20 this question about, does this mean there is a limited
21 fungibility between the innersprings from South Africa
22 versus other subject imports and the U.S. product? Or
23 what significance do we attach to that?

24 MR. TRAMEL: One minute.

25 COMMISSIONER WILLIAMSON: Sure.

1 MR. TRAMEL: Would you mind rephrasing that?
2 I apologize. I want to make sure I answer the
3 question.

4 COMMISSIONER WILLIAMSON: Okay. The
5 question really is, what is the -- does South Africa
6 make a different, are their innersprings different
7 than the innersprings that are generally sold here or
8 that are imported from other countries?

9 MR. TRAMEL: For the most part, no, they are
10 very, very similar to what's made here.

11 COMMISSIONER WILLIAMSON: Because there were
12 some, on page 58 and 62 of the Respondent's brief,
13 there was some talk about being heavier-gauge and some
14 other.

15 MR. TRAMEL: They do have some, some selling
16 points. Functionally, they work the same. It is
17 virgin-steel product out of South Africa. It's the
18 only place that I know of in the world that you ever
19 could get virgin steel to go into a spring unit.

20 And other than that, you know, they will
21 make it to your specifications.

22 COMMISSIONER WILLIAMSON: So the product is
23 still basically interchangeable with anything else.

24 MR. TRAMEL: Right.

25 COMMISSIONER LANE: Commissioner?

1 COMMISSIONER WILLIAMSON: Yes.

2 COMMISSIONER LANE: The units are not a
3 commodity. You work very hard to make sure that the
4 specifications in the product that you're getting fit
5 into what you're delivering at retail. And you're
6 trying to create a product that is better, more
7 comfortable, and more in fashion with what consumers
8 want today..

9 So in order to do that, you have to get
10 unique product. So innersprings are not
11 interchangeable, you know. That's a myth. You can't
12 just take one out and stick one in, you know. That is
13 not the deal with the consumer. The consumer wants to
14 be able to get the one that is most comfortable. And
15 the feel, you know, the feel for mattresses is
16 dominated by the unit and what is put in by the
17 innerspring unit.

18 MR. TRAMEL: Also if I may, Julie, on the
19 South African units in particular. That was the one,
20 they came in rolled basically, rather than flat-
21 packed, where the units are made and then compressed.
22 And then you put them in your decompressing machine,
23 they open up, you take out the individual units.
24 These come in rolled.

25 And so they're a rolled pack without border

1 rods. And so you unroll the units. And then we can
2 take advantage of what we think is an efficient
3 operation that we run to actually put the border rods,
4 the heavier-gauge steel on the top of the units, so
5 that we can take advantage and put those on. And that
6 was a unique buying opportunity for us with South
7 Africa.

8 MS. MENDOZA: Commissioner, could I just
9 make a point? Which is that one of the things that's
10 really important to understand about this industry,
11 and it took me a long time to understand it, is that a
12 lot of distinctions in the product are not because of
13 the cost of producing them, or because you can measure
14 a certain quality of them that makes it better.

15 A lot of it is about marketing. And a lot
16 of it is about market differentiation, and being able
17 to say my product has the following three or four
18 qualities that make it special, and that the consumer
19 should buy it. And I know these guys can talk more
20 about that.

21 So you know, we heard a lot today from
22 Leggett & Platt about how oh, yeah, it's all a
23 commodity, it's all the same thing. Well, if it's a
24 commodity, why are they producing so many different
25 kinds of this product? I mean, it doesn't make sense.

1 And I think if you look at it, in fact, a
2 lot of it's about marketing, but it's very legitimate.
3 I mean, it really does distinguish.

4 COMMISSIONER LANE: And you know, it's
5 amazing, you know. We manufacture and then we retail
6 to our 85 outlets in Southern California. And I'm
7 amazed at how these guys try to tell us how to run our
8 business, you know. They just make the innerspring,
9 and then they're telling me how it really works, you
10 know?

11 And you see people get involved, and they've
12 ruined many a company out there. You know, the
13 landscape is trashed with, you know, failed retailers
14 all over the place. And those that are successful are
15 the ones that can differentiate themselves from
16 everybody else.

17 COMMISSIONER WILLIAMSON: So I guess, but in
18 any case, Mr. Tramel, you did mention also about South
19 Africa, that they were tired of the American model. I
20 wasn't quite sure what you meant by that.

21 MR. TRAMEL: Currency has a lot to do with
22 it. The lack of customers has a lot to do with it. I
23 think they had some payment issues, in which they
24 would have shipments ready to go, and then American
25 customers simply couldn't pony up, or chose not to at

1 the last minute. It's not the way we ran our
2 business, but I think they encountered some of that,
3 and they did not, you know. Those are the reasons
4 that they didn't want to continue.

5 COMMISSIONER WILLIAMSON: Okay, thank you.
6 It wasn't clear, so that's why I wanted to get -- but
7 you're not, neither one of you are saying that while
8 some people may have preferred the South African
9 innerspring, it wasn't necessarily that they were that
10 different. It was just how people market.

11 MS. MENDOZA: Well, I think again, different
12 in physical characteristics, or different in product
13 characteristics that one could market as being
14 special, and therefore preferable, right?

15 COMMISSIONER WILLIAMSON: Okay, I think I've
16 got it.

17 Mr. Nguyen, you might answer this in post-
18 hearing. But I was wondering if you could explain why
19 imports from Vietnam fell off when they did.

20 MR. NGUYEN: Can you repeat the question,
21 please?

22 COMMISSIONER WILLIAMSON: This may be for
23 post-hearing, I don't know. But I wanted to find out,
24 get a better understanding of why imports from Vietnam
25 fell off when they did.

1 MR. NGUYEN: Oh, yeah. In 2002, when I
2 first import from China, matter of fact I have one of
3 customers coming to me and ask me if I can make the
4 spring unit. By that time, if I'm not wrong, none of
5 Leggett & Platt or Hickory had the machines capable to
6 make them six inches high.

7 And I couldn't get anywhere with the six
8 inches high. And another part, the wire from China is
9 harder, low-end mattress manufacturing. And my
10 customer don't have too much money, and they want a
11 decent mattress. The mattress not going to be step on
12 and go all the way down.

13 That way I'm thinking okay, I can go
14 overseas and looking for some kind of spring that I
15 can offer to a low-end mattress.

16 COMMISSIONER WILLIAMSON: So we're getting
17 to the question about the imports from Vietnam.

18 MR. NGUYEN: Oh, why during 2007?

19 COMMISSIONER WILLIAMSON: Yes.

20 MR. NGUYEN: Oh, in 2007 in Vietnam they had
21 a very high rate inflation. A lot of factories
22 building with the workers on strike throughout the
23 country. We have very --

24 MR. CAMERON: We'll elaborate on that in the
25 post-hearing brief. Thank you.

1 COMMISSIONER WILLIAMSON: Thank you for
2 that.

3 Mr. Tramel, I just wanted you to clarify
4 something. At one point all of you were talking about
5 proprietary products, and you had commented that no
6 one would go to Hickory Springs and ask them to, you
7 know, copy a Leggett product.

8 And I think I said duplicate it, and I think
9 you said specifically Hickory Springs. So I was
10 wondering, does that mean no one would go to China and
11 ask them to maybe copy it?

12 MR. TRAMEL: I didn't say -- let me clarify
13 that. I said I didn't know of anyone who has actually
14 done that between the two. Nor do I know of anyone
15 who's tried to do that with the Chinese product in
16 terms of proprietary products.

17 The commodity type of products that are
18 generally on the low, low end, those are pretty
19 commonplace. So those could be the same. But as far
20 as going and knocking off a proprietary product, no.

21 MR. CAMERON: And when he's talking
22 proprietary, he's not talking patented. He's talking
23 about private label. Private label, proprietary to
24 them.

25 COMMISSIONER WILLIAMSON: Features that

1 maybe somebody has found attractive as throughout the
2 market.

3 MR. CAMERON: Right.

4 MS. MENDOZA: Yeah. Remember, Hickory
5 called it exclusives.

6 COMMISSIONER WILLIAMSON: I was just
7 curious, but you know. If somebody has success with a
8 certain line, why wouldn't somebody else say hey,
9 maybe we can do this, too?

10 MR. TRAMEL: Well, yeah. And then I guess
11 you go into a lot of what the proprietary product is.
12 And a lot of the proprietary product has to do with
13 either superlastics or foam encasements or LFK
14 products. And you don't see a lot of LFK products
15 coming out of Asia, or out of China in particular.
16 You see very, very, very few of them.

17 And with the rest of them, most of those are
18 patent-protected in some way, shape, or form, in terms
19 of the superlastics or the pocketed products.

20 COMMISSIONER WILLIAMSON: Okay, thank you
21 for that clarification. Thank you.

22 CHAIRMAN ARANOFF: Commissioner Pinkert.

23 COMMISSIONER PINKERT: Thank you, Madame
24 Chairman.

25 I listened carefully to the testimony of

1 this panel and the previous panel, both in general and
2 particularly with regard to this question of what
3 accounted for the departure of Atlas and Savall from
4 the domestic industry. And I noted that on this
5 panel, there was testimony that it was for reasons
6 other than import competition.

7 I'm wondering whether you can help me with
8 any direct or documentary evidence that might point to
9 factors other than import competition as the reason or
10 the motivation for those companies leaving the
11 domestic industry.

12 MR. KARMIN: I think that with regard to
13 Atlas, which I'm familiar with, they were originally a
14 supplier, one of Serta's suppliers. And Serta made a
15 deal with Leggett & Platt, a global deal, so they were
16 cut out of that part of the local business.

17 And then the other customers that they had
18 were local. And the, like I said, the economy in
19 Southern California was worst first, you know, and
20 their clients were local. You know, they weren't
21 shipping across the country, Atlas Springs.

22 So they had the worst economic situation.
23 They were competing with Leggett, who is a virtual
24 monopoly, you know. And they had a local economy that
25 was going into the tank. So local producers were

1 getting weaker and weaker.

2 And I think it's really a combination of
3 those two things that caused Atlas to throw in the
4 towel.

5 MS. MENDOZA: But we understand your point,
6 and we'll certainly look for any other evidence we can
7 find on the circumstances surround Atlas and Savall.

8 COMMISSIONER PINKERT: Thank you. You
9 understand that there is a conflict of testimony here,
10 and we have to have some way to iron it out.

11 MR. CAMERON: Absolutely.

12 COMMISSIONER PINKERT: Okay. Now, I want to
13 ask a couple of questions about threat. And I want to
14 start with your argument that Leggett is somewhat
15 immune to import-related competition.

16 In light of that argument, or if we accept
17 that claim, to what extent should we take the separate
18 potential impact of subject imports to Hickory Springs
19 into account for purposes of a threat determination?
20 In other words, looking specifically at Hickory
21 Springs and the potential impact of subject imports on
22 that company.

23 MS. MENDOZA: Well, obviously you have to
24 look at the effect of imports on the entire industry.
25 And I think that, you know, Hickory also competes with

1 Leggett, and they also have to face the market forces.

2 So when Hickory argued in their brief that,
3 you know, every sale they lost was a sale to imports,
4 I'm not really sure how that works. Because obviously
5 there was competition between Hickory and Leggett as
6 well.

7 So I mean, that's the reason, I think, that
8 the Commission has to look at the industry overall and
9 see what effect imports had on the industry overall.

10 And Hickory also has, I believe, proprietary
11 breaks, so they also are protected in terms of that.
12 I mean, they have patents and they have private
13 labels, right? And they compete with Leggett.

14 COMMISSIONER PINKERT: Thank you. Anything
15 from anybody else on the panel on that issue? Okay.

16 Now, turning to the question of
17 vulnerability for purposes of a threat analysis. As
18 you know, Petitioner argues that the Commission should
19 find the domestic industry to be vulnerable to injury
20 for purposes of a threat determination. What is your
21 view?

22 And also, how do you take into account the
23 credit crisis and possible economic downturn in the
24 context of analyzing this vulnerability issue?

25 MR. CAMERON: Well, I think traditionally

1 the Commission has looked, when they look at
2 vulnerability, you look at the condition of the
3 industry at the end of the period based upon the
4 database that you have accumulated.

5 When I look at that database, I think they
6 look pretty good. I don't think they look vulnerable
7 at all.

8 Now, do you want to interpose the issue of
9 the credit crisis? Frankly, the Commission may be in
10 a better position than I am. I don't claim to have
11 any real wisdom on this. But at this point in the
12 proceedings with respect to the credit crisis, it does
13 appear to be rather speculative.

14 It is true we are in a credit crisis.
15 Exactly what's going to happen? The last month has
16 told me I have not one clue.

17 I think what you've heard from the
18 witnesses, however, is that the credit crisis that
19 occurred actually hit them about 18 months ago. So,
20 and it's been working its way through the system.

21 Query: Is housing bottoming out or not? I
22 don't know the answer to that. I don't think this
23 Commission knows the answer to that. I think we have
24 a short-term issue, at least. And then the question
25 is exactly how is this, how is this going to pan out.

1 In the absence of any real reliable
2 estimate, and again, the Commission may differ with us
3 on that, but honestly, it is speculative at this
4 point. And therefore, what you have is the data that
5 we have on the record through the first half of the
6 year. And frankly, this industry is in a pretty good
7 position.

8 The other is, you then have to look, when
9 you're looking at the vulnerability of the industry,
10 at the structure of the industry. And this again gets
11 to be pretty significant.

12 Unlike industries that we have seen before.
13 Hypothetically, the steel industry in the early
14 nineties, as opposed to the steel industry in 2005.
15 Those are very different industries. They're very
16 different industries because of the degree of
17 concentration, for one thing.

18 This industry is highly concentrated, with a
19 segment of the industry that is absolutely protected.
20 Not absolutely, but is shielded from import
21 competition.

22 So again, I think that the case for
23 vulnerability is pretty weak based upon this record.
24 So really, the only thing they have to do is to throw
25 up a Hail Mary and say well, we all know that we are

1 in a credit crunch and in a dire economic strait.

2 Well, you can't, you can't speculate on that
3 basis. I don't think that that's legitimate. We'll
4 expand on it in the post-hearing brief, but actually,
5 I don't think that is legitimate.

6 MS. MENDOZA: I take your question quite
7 seriously, and I think it's something that we have to
8 look at. Because I think one of the things that's
9 different about what's going on right now is it looks
10 like it's going to be worldwide.

11 I mean, when the Asian financial crisis, the
12 Latin-American crisis, I mean, those were very
13 localized crises; they produced distortions in trade.

14 I think that what's happening now is because
15 you have this crisis really going across markets and
16 hitting so many people, it's also going to obviously
17 affect China and, you know, factories and all of that
18 there.

19 So I think you have to look at it in a more
20 complex way than just saying oh, you know, there's a
21 recession in the U.S., so things are going to turn
22 down. I mean, I think the whole world is going to
23 have to adjust to this.

24 And so we would like to address it, because
25 I think it's a serious point.

1 MR. CAMERON: It does get back to the old
2 joke. You know, if you really want a picture of the
3 trade deficit, have a depression. I mean, you know,
4 great.

5 COMMISSIONER PINKERT: But part of that
6 complex equation that you're talking about, Ms.
7 Mendoza, is also possible impact on raw material
8 prices.

9 MS. MENDOZA: Absolutely. Which is why I'm
10 saying I think, you know, and relative raw material
11 prices. I mean, what's going to happen to scrap that
12 Leggett & Platt uses right now, those prices have
13 declined much more rapidly than wire prices and wire-
14 rod prices. So right now, they have a big competitive
15 advantage in terms of that.

16 So I mean, that's what I'm saying. There's
17 so many different factors that I think you have to
18 look at that it's not possible to just say oh, they're
19 going to be disadvantaged. I mean, you have to see
20 what's going to happen in terms of, you know,
21 developing country markets and what's happening in
22 their economies, or in the U.S. economy; what's
23 happening to commodity prices, scrap, all these other
24 things.

25 And I think, you know, we intend to deal

1 with that in our brief in a serious way. I mean, I
2 think that point is right, though. It's very early to
3 tell what's going to happen, and how long this current
4 crisis is going to be sustained, obviously.

5 COMMISSIONER PINKERT: Thank you. And just
6 to get a comment from some of the businesspeople on
7 the panel, specifically with regard to the housing
8 downturn.

9 Do you feel that that, do you believe that
10 that makes this industry vulnerable? And I'm not
11 asking you to comment on vulnerable in the technical
12 Commission sense, but in a more general sense. Do you
13 believe the housing downturn makes the industry
14 vulnerable?

15 MR. TRAMEL: Absolutely no question about
16 it. It's probably the number-one area of
17 vulnerability that we could face. When do people buy
18 a mattress? They buy a mattress whenever they move.
19 They buy a mattress when they get divorced, which is
20 part of a move, or get married. So that's when
21 mattress purchases are made.

22 MR. KARMIN: We need a diversity of
23 suppliers, you know, especially in difficult
24 environments. If we're left with basically dealing
25 with Leggett, you're making the industry, the part

1 that sees the consumer, you're making it, putting it
2 in a very difficult position.

3 And the more, the greater variety of
4 suppliers that we can have, the less vulnerable the
5 industry will be.

6 COMMISSIONER PINKERT: Thank you. My red
7 light is on. Thank you, Madame Chairman.

8 CHAIRMAN ARANOFF: Mr. Enoch, you mentioned
9 earlier today that you had some customers that were so
10 small that they couldn't buy a crate of 15 units, or
11 at least didn't have the equipment to open it safely.
12 I'm developing this unfortunate vision in my mind now
13 of small children in a basement sewing mattresses
14 together.

15 So could you please explain to me how an
16 industry like this, which has large national producers
17 at each level in the chain, can support producers that
18 small? And what exactly it is they're making, and who
19 they're selling it to?

20 MR. ENOCH: I would say yes, I can do that.
21 This industry, the mattress-producing industry -- I'm
22 not talking the innerspring industry now -- has very
23 few barriers to entry.

24 So if I want to start a mattress company
25 down in Northern Virginia, let's say, I can find

1 someone who will do my quilting for me, make the top
2 panel; someone to buy the foam from. And, I'm just
3 trying to think in this area, I don't know the
4 distributor, but I'd probably buy my springs out of a
5 distributor in New York loose. And I would sew that
6 all together, and I would probably sell it right out
7 of my garage, where I made it.

8 CHAIRMAN ARANOFF: So you're selling it
9 basically direct to consumers if you're that small.

10 MR. ENOCH: Yes, yes.

11 CHAIRMAN ARANOFF: Okay. So you're not
12 selling it to a retailer that anybody's ever heard of.

13 MR. ENOCH: Right, no retailer. Yeah, you
14 are the manufacturer, the retailer, and the seller.

15 MS. MENDOZA: Chairman Aranoff, I would also
16 say, though, that I mean, if you look at the profits
17 in this industry over the period; I mean, we are
18 making the point that there is no material injury.

19 So without going into details, I don't think
20 it would be correct to say that this is what we would
21 consider to be a low-profit industry from what we've
22 seen in terms of data on the record.

23 CHAIRMAN ARANOFF: Okay. No, I'm just
24 fascinated by an industry that can exist at, you know,
25 so many sizes, and people find their place. It would

1 never occur to me to find someone who is making a
2 mattress in their garage.

3 MR. CAMERON: That's not where you're going
4 to shop for that mattress?

5 (Laughter.)

6 MR. CAMERON: Your son will be happy to hear
7 that.

8 CHAIRMAN ARANOFF: On the other hand, I
9 could just buy a frame and make him sew himself a
10 mattress. I've always told him that, you know, if he
11 wants to get a wife, he's going to have to learn how
12 to cook and how to sew. But, whatever.

13 Okay. Now, all right. I can't pronounce
14 Vietnamese names, but Mr. Nguyen, can you tell me, do
15 people use innerspring mattresses in Vietnam?

16 MR. NGUYEN: Can you repeat the question
17 again, please?

18 CHAIRMAN ARANOFF: Do people use innerspring
19 mattresses in Vietnam? Is there a market for these in
20 Vietnam?

21 MR. NGUYEN: There's a very small market in
22 Vietnam. First of all, the housing over there, very
23 small. So the number growing up, it's very small. I
24 bet you this, tomorrow you go there, you say get me
25 one container springs, it probably take them a month

1 to do it.

2 I mean, look at the number in Vietnam grows
3 very slowly.

4 CHAIRMAN ARANOFF: And are you describing
5 just what's going on in households? Or would that
6 also be true, for example, in the hotels that, you
7 know, Western visitors to Vietnam are staying in?
8 They need these, right?

9 MR. NGUYEN: Yes, I think those foreign
10 hotels, they have an import market somewhere. From
11 Singapore, from Sealy, whatever, somewhere.

12 CHAIRMAN ARANOFF: So the supplier who was
13 supplying you was not selling in the home market?

14 MR. NGUYEN: They sold to the home market
15 very later.

16 MR. TRAMEL: Madame Chairman, if I may, I
17 have a licensee in Vietnam who licenses our product
18 and our brand. And they do sell only to the
19 Vietnamese market. It is a growing market. They're
20 doing around 80 to 85 pieces a day. Which on an
21 American basis is quite small. Over there, they are
22 ahead of projections. It's a three-year-old startup
23 company.

24 CHAIRMAN ARANOFF: Okay, that's helpful.

25 One of the things that we heard a few times

1 from the Petitioner's panel this morning was, I don't
2 want to put words in their mouth, but basically the
3 Chinese industry came to the Commission in 421 and
4 said we've got full coverage, there's not a lot here,
5 and it's not going to get bigger. And that the level
6 of imports since that time tends to make that untrue.
7 And they're kind of making a, um, lie-to-me-once,
8 don't-believe-them-this-time argument.

9 Have you got a response to that?

10 MS. MENDOZA: Well, obviously we were not
11 counsel in the 421, so I don't know the circumstances
12 of the confidential record in that investigation.
13 What I will say, though, is that since that case,
14 Leggett & Platt has opened up four companies in China
15 producing innersprings and mattresses, so, obviously,
16 something was going on in the Chinese market over that
17 period of time that caused Leggett to invest there.

18 Just because there is capacity over there
19 does not mean that it's going to be directed to the
20 U.S.

21 CHAIRMAN ARANOFF: True, but also the level
22 of imports has gone up higher than we were told, you
23 know, capacity was available to do back at the time of
24 the 421.

25 MS. MENDOZA: Right. I guess what I was

1 trying to suggest is that Leggett & Platt opening up
2 facilities over there suggests that the dynamics in
3 the Chinese market changed pretty dramatically. They,
4 themselves, started participating in that market.

5 CHAIRMAN ARANOFF: But I could find both of
6 those things true. Right? I could find that there
7 has been a lot of demand in the Chinese market that
8 Leggett & Platt is serving, and I could still find
9 that there is a lot of export available capacity that
10 has turned up.

11 MS. MENDOZA: Right, but, I mean, you also
12 have to look at import patterns since 2006 and 2007.
13 I can't talk about Chinese import patterns, but look
14 at what happened between 2006 and 2007. I mean,
15 you're not seeing a lot of effect of them -- well, I
16 can't really go into it, but --

17 MR. CAMERON: Exactly. I mean, the
18 suggestion is being made that you don't do this, and
19 what you've seen, you ain't seen nothing yet. Right?
20 That's basically the suggestion, not to put words in
21 her mouth. But they are basically suggesting that
22 this is going to continue to increase.

23 The record in this investigation doesn't
24 really support that. That really is kind of part of
25 what this chart is all about. This is what the growth

1 was of total imports over this three-year period.

2 You know, we've all dealt with a lot of
3 Chinese cases. This is not what one would call
4 extraordinary growth. This isn't runaway, surging
5 imports that are, you know, putting the U.S. industry
6 on death's door.

7 The other thing, and I realize this is
8 petty, but this isn't a panel of Chinese exporters.
9 This isn't a panel of Chinese producers. This is a
10 panel of American producers of mattresses and American
11 companies that are related to this industry who are
12 trying to give their best understanding of what is the
13 situation in the market.

14 What we're looking at and trying to analyze
15 is what are the market forces, and what exactly has
16 happened in this market? And if everything that they
17 said were true, imports would have been a heck of a
18 lot higher than they have been, but they are not, and
19 why is that?

20 That's what we've been trying to go into,
21 and, in fact, the structure of the market and the
22 things that we've been explaining does go a long way
23 to explaining why it is that imports are as minimal as
24 they are in this market, import growth is as minimal
25 as it was, and we've all been in cases where demand

1 was declining, and imports shot up like a rocket.

2 Well, this isn't a rocket ship here. This
3 is an industry in which these guys are supplying a
4 market niche, and that's what it is. It doesn't go
5 much beyond that.

6 So I realize that's not a complete answer to
7 your question, but it goes a little ways to answering
8 it.

9 CHAIRMAN ARANOFF: Let me ask one more
10 question. In sort of each case that we've had in the
11 last two years that's had to do with China and had to
12 do with anything that has steel in it, we've sort of
13 been told that there weren't going to be imports from
14 China because everything was being used for the
15 Olympics.

16 Indeed, I know I read somewhere -- it must
17 have been in the record of this case because I don't
18 know where else I would have read it -- that, you
19 know, a lot of mattresses were needed because of the
20 buildup in hotels and other housing associated with
21 the Olympics, and I think this is maybe the first case
22 where this has come up, post-Olympics, where, assuming
23 this is true, that there was this big buildup in
24 domestic demand in China for the Olympics, and that's
25 now over, for threat purposes, should I be considering

1 whether there is now this overhang of capacity in
2 China for producing innersprings and maybe mattresses
3 that could now become available to the U.S. market?

4 MR. TRAMEL: I really can't speak too much
5 to that, as an expert. I've been there about a dozen
6 times. I have not been in China in a year and a half,
7 so I don't know.

8 I think it is important for you to
9 understand the producers in China and what that looks
10 like because it is very, very different than the model
11 that we have here in America. Here in America, you've
12 got the list of those vertically integrated companies
13 and those producers of innersprings that are also
14 manufacturers. As you can see, the list is quite
15 short.

16 In China, virtually everyone who builds a
17 mattress also builds their own innersprings. These
18 are very small, exactly what you had in mind, except
19 for the small children part. You have the part about
20 the garage building, you know, four people working on
21 it. That's what you're talking about.

22 Victor testified that it takes four hours to
23 build an innerspring, the same innerspring that
24 Leggett & Platt, with their automated equipment, can
25 build in four minutes. That's what you're looking at

1 in China, and it's very different.

2 So out of that whole industry in China, you
3 have not very many people that could even think about
4 exporting. It would take quite a while to build one
5 container for the vast, vast majority of those
6 producers over there.

7 MR. CAMERON: And what we're saying is, in
8 industries where you have a low barrier to entry, and
9 you've had those before, a number of them, pipe and
10 tube being a random example, and what do you see? You
11 see, well, there actually does become uncontrolled
12 imports, to an extent.

13 You haven't seen that here, and that
14 basically is where we're getting to. So we understand
15 the question, and yet the data doesn't support the
16 premise, I guess, is basically where we're coming to.
17 Actually, what it's basically shown is the data
18 supports the idea that there are a limited number that
19 are exporting, and there are reasons that they do what
20 they do. But this isn't a case where there is another
21 thousand just lurking to pounce on the market with all
22 of their capacity as well.

23 CHAIRMAN ARANOFF: Okay. I think my time is
24 up. Vice Chairman Pearson?

25 VICE CHAIRMAN PEARSON: Thank you, Madam

1 Chairman.

2 Mr. Nguyen, I found your statement
3 interesting, as you discussed the problems that had
4 arisen with the manufacturer in Vietnam that you
5 worked with, a combination of high inflation and labor
6 unhappiness.

7 What would have to happen in Vietnam for
8 that country to become a reliable supplier of
9 mattresses for the export market or rather of
10 innersprings for the export market?

11 MR. NGUYEN: I would say that it would
12 probably take them a lot of more years to become that
13 point. Unfortunately, Vietnam is not famous for
14 mattresses. As you know, they used to sleep on the
15 wood, on the floor, and the country would build a
16 house very small. It's one in ten houses that you
17 could bring the queen-sized mattress in. The rest you
18 cannot, okay?

19 So I think the industry in Vietnam is very,
20 very poor. Up to now, none of the Vietnamese can even
21 make one handspring machine yet, and that machine in
22 China costs about \$200. So you can see how far away
23 Vietnam is behind in technology in here, in particular
24 mattresses. You might see the flooring in the Macy's,
25 in some department stores, yes, but for that mattress,

1 Vietnam does not favor that business.

2 VICE CHAIRMAN PEARSON: Okay. So we would
3 not expect some surge of innersprings from Vietnam in
4 the reasonably foreseeable future.

5 MR. NGUYEN: I don't expect anything. As a
6 matter of fact, I have three pictures here that I can
7 show you how big the factory is. You might laugh at
8 me when I show you the picture, but I'll just show you
9 anyway.

10 MR. CAMERON: We'll put in the brief. Okay?

11 VICE CHAIRMAN PEARSON: That would be fine.
12 Thanks. Okay.

13 Back to Sealy again, for a moment, if I
14 could, I've done a quick perusal, with the help of
15 staff, of what we may have on the record now regarding
16 its pricing and sales activity in 2007. I find
17 Exhibit 10 from your prehearing brief, and I find a
18 reference on page 6-17 of the staff report. Do we
19 have anything on the record other than that that would
20 help us understand or corroborate what you're telling
21 me about what Sealy did in that timeframe?

22 MR. CAMERON: Not that we're aware of. That
23 was the reason we were going to put the 10-K on the
24 record, which actually does corroborate it. I was
25 reading verbatim from it, and they were the ones --

1 I'll read it again, just for your reference, because
2 it is actually important.

3 What they say is that -- they start out by
4 saying, "The increase in net sales attributable to --
5 total American net sales were \$1.5 million. This
6 increase was primarily related to operations in the
7 American segment," et cetera, et cetera.

8 "Our focus has been on driving unit volume.
9 By driving unit volume, we were able to maintain the
10 number of slots on the floors of our retail customers.
11 We believe that, by maintaining these slots, we are in
12 a better position to take advantage of any improvement
13 in industry conditions and, more importantly, ensure
14 that we will have sufficient distribution points for
15 new products. This strategy drove a U.S. net sales
16 increase of \$57.3 million, which was attributable to
17 an 8.8-percent increase in unit volume, partially
18 offset by a 3.7-percent decrease in average unit
19 selling price.

20 "The increase in unit volume is primarily
21 attributable to the strong performance of our Sealy
22 brand promotional product sales," which is what we
23 were referring to, "which were up 16 percent from the
24 prior year period, and growth of our specialty bedding
25 product sales, which increased 64 percent over the

1 comparable prior year period. The decrease in our
2 average unit selling price is primarily due to the
3 higher volume of lower-priced mattresses, such as our
4 Sealy brand promotional products, and lower sales of
5 our higher-priced, luxury, innerspring products."

6 So we will put this 10-K on the record, but
7 that is exactly what was being described by Mr.
8 Karmin. It was a promotion of their promotional
9 brands. They slashed the prices in order to push the
10 volume in order to get the floor space. As a plan,
11 it's a plan, but it also ended up, number one,
12 suppressing prices for innerspring producers because
13 all of those other makers are competing now with Sealy
14 -- right? -- so that's the impact that it had. But we
15 will put this on the record.

16 Do you have anything else on that?

17 MR. KARMIN: Sealy Posturepedic is the
18 number-one brand in the United States. When they want
19 to lower their prices, that goes all the way down the
20 food chain to everybody, and all of the data to back
21 that up is in public documents everywhere. There are
22 a public company. They are listed on the New York
23 Stock Exchange. The stock is simply "ZZ," and,
24 through the Edgar Reports and SEC filings, they have
25 been very open about their practice in '07.

1 VICE CHAIRMAN PEARSON: Okay. From the
2 information that we have, do we know how many units
3 were being sold at lower prices? It's not completely
4 clear to me how it breaks out promotional versus
5 others.

6 MR. KARMIN: They are a premium-market
7 business saying they are going into the promotional
8 end. It's significant. It's not insignificant. I
9 don't know the exact numbers, but it was a big deal
10 that year.

11 MR. CAMERON: We'll take a look and see if
12 we can get any better data on that.

13 VICE CHAIRMAN PEARSON: Thanks.

14 MS. MENDOZA: I just wanted to make one
15 point, and that is that we are going to put the data
16 in there. I think, you know, the effect on the market
17 is separate from the absolute units that may have been
18 sold, in that sense, but we'll go into that.

19 VICE CHAIRMAN PEARSON: I would agree. We
20 sometimes see that with subject imports having a
21 disproportionate effect on the market relate to the
22 number of units.

23 MR. CAMERON: That's true, not in this case,
24 but you've seen it in other cases.

25 VICE CHAIRMAN PEARSON: Okay. This has been

1 a very interesting afternoon, the morning, too. Let's
2 just say I continue to learn a lot.

3 At some point, we're going to have to write
4 an opinion on this case, and, you know, I'm not an
5 attorney. I say that once very few months at a
6 hearing. You guys know that already.

7 So if I'm trying to get my mind around an
8 opinion, I could go down the list for an affirmative,
9 and I could see a modest increase in volume. I could
10 check that box, and, particularly, since apparent
11 consumption was decreasing, we might find it a little
12 more significant because of that.

13 There is pervasive underselling combined
14 with confirmed lost sales and revenue, so I could
15 check that box, and there is some indication of
16 impact, particularly in the financial indicators.

17 So I would look for someone else to do the
18 writing, but there is probably an opinion in there for
19 an affirmative material injury finding.

20 What can we point out in the record to write
21 a sustainable negative opinion? Okay? For each of
22 those points, each of the volume-price impacts, how
23 would one, based on substantial evidence on the
24 record, see this case as a negative?

25 MR. CAMERON: Well, I think we would start

1 with the increased volume. Yes, your right. There
2 was an increased volume, but, over the period of
3 investigation, that increase was modest. It was so
4 modest that it doesn't begin to even approach the
5 decline in U.S. shipments nor the decline in apparent
6 consumption, which is a rough that.

7 VICE CHAIRMAN PEARSON: So you would see it
8 as noise in the marketplace rather than something
9 tangential in the marketplace.

10 MR. CAMERON: We think that it's clearly
11 noise in the marketplace.

12 Secondly, given that fact, it is further
13 complicated by, number one, the highly concentrated
14 nature of this industry in which you have Leggett &
15 Platt as basically the 800-pound gorilla in the
16 industry, plus you have the Big 4 S's, which
17 essentially shield a large part of this market from
18 import competition, before we get to the issue of
19 proprietary brands and proprietary brands to various
20 mattress producers.

21 We have the issue of underselling. Yes, you
22 have underselling, which we concede that we have
23 underselling, and yet it's very difficult for you to
24 look at the underselling and find a relationship
25 between the underselling and any pricing developments

1 that have occurred. Therefore, it raises, in one's
2 mind, the question of the relationship between
3 underselling and the imports themselves, if there, in
4 fact, is no correlation, whereas we do have a
5 correlation between U.S. pricing products.

6 Further, look at the issue of the decline in
7 profitability, and, again, we would refer to the
8 amount of increased imports. I mean, seriously, let's
9 look at the degree to which there was a change in
10 profitability, and let's see what happened in the
11 marketplace.

12 It's very difficult to conceive of a case in
13 which imports had that degree, or anything close to
14 that degree, of an impact on the market, and yet we
15 have detailed a number of other factors that, in fact,
16 have a substantial impact on the market, and that's
17 what gets to this issue of volume, that's what gets to
18 this issue of demand, that's what gets to the issue of
19 Sealy, and that's what gets to the issue of
20 alternative types of bedding, such as foam, air, and
21 viscous.

22 MS. MENDOZA: I would just add that, you
23 know, I mean, the point here is that you have a very
24 limited amount of competition in one segment of the
25 market. The other segment is insulated from import

1 competition. You do not see any material effects over
2 the period that are caused by imports, and you can
3 account for the trends that are occurring in the
4 industry by other factors that don't have anything to
5 do with imports.

6 So, at the end of the day, the volume of
7 imports and the volume of the increase is so small,
8 given the overall conditions of competition in this
9 industry, which are essential -- I mean, you just
10 can't say, "Okay, imports increase, and there was some
11 underselling, and, therefore, it's affirmative." The
12 statute, as you well know, requires a lot more, in
13 terms of how you look at these factors and how you
14 analyze them, in terms of the conditions of
15 competition.

16 Almost every case, every product has some
17 import competition, some imports and perhaps some
18 underselling, given the fact that we know that imports
19 always have to compete with domestic producers in all
20 of these cases and that the Commission has found, in
21 prior cases, that there is always a margin of
22 underselling to compensate for that.

23 VICE CHAIRMAN PEARSON: Okay. Well, thank
24 you very much for that summation. I have no further
25 questions, so I appreciate very much your

1 participation today, and, Madam Chairman, thank you so
2 much for your indulgence on the red light.

3 CHAIRMAN ARANOFF: For you, anything.

4 Commissioner Okun?

5 COMMISSIONER OKUN: Thank you, and, in light
6 of that, I think I just have one question left for
7 you, and, again, it just goes back to this issue of
8 the proprietary versus the Bonnell and trying to get a
9 better grip on that.

10 One thing that would help me -- I'm just
11 trying to understand -- in your brief, on page 54, you
12 had stated that the share of the innerspring market
13 accounted for by nonproprietary, Bonnell-type
14 innersprings, the only segment in which subject
15 imports compete, is declining. But then, earlier in
16 your brief, on page 21, you had stated that mattress
17 producers switch for more expensive, advanced,
18 continuous, or LFK-type innersprings to Bonnell
19 innersprings.

20 So I'm still trying to kind of reconcile
21 what you're saying about the size of the proprietary
22 and then also, you know, is there more competition
23 there because everyone is going into that or not?

24 MR. CAMERON: I think you're referring to
25 the fact that there was decontenting, which has been

1 referred to earlier.

2 COMMISSIONER OKUN: Right.

3 MR. CAMERON: In other words, when steel
4 prices went up, many producers decided that they were
5 switching. They switched models to Bonnells. The
6 domestic industry also produces Bonnells, so this is
7 not necessarily going to imports. But they switched
8 to Bonnells in order to reduce the steel content and
9 lower their price points. Do you have anything else?

10 That's all we're saying on that. I don't
11 believe that there is a contradiction between the two
12 things. We're talking about the private label market.
13 They put private label material into the retails. As
14 far as we know, that has been a fairly constant part
15 of the market.

16 COMMISSIONER OKUN: Okay. Again, what I
17 think the Petitioners argued this morning is that you
18 can't keep further dividing this market by saying,
19 "Our proprietary is protected where people can't
20 design around," when what we've had to do is either go
21 to Bonnell, and Bonnell is where the imports are.

22 So I'm just trying to kind of reconcile
23 again that competition.

24 MR. ENOCH: Maybe I can shed some light on
25 that.

1 COMMISSIONER OKUN: Okay.

2 MR. ENOCH: If you look at the cost to
3 produce these products, a pocketed coil is the most
4 expensive, the Bonnell is second most expensive.

5 What Leggett & Platt have done is, through
6 technology and research and R&D, they have developed
7 continuous-wire products, which are Superlastic and
8 Miracoil, and LFK, light-wire-technology products,
9 that are not produced by anyone else, whether covered
10 by patent or not.

11 There is no one in the world that I know of
12 that Leggett has not licensed to make Miracoil, which
13 is the product that they sell proprietarily to Serta
14 and only Serta. It's a very efficient use of wire.
15 So when manufacturers around the world try to find a
16 lower price to meet a lower-price-point product, they
17 end up going to the Bonnell, although it costs more to
18 make, but they can buy it from many, many sources.

19 So does that shed any light on?

20 COMMISSIONER OKUN: Yes. It does help me to
21 understand.

22 MR. CAMERON: And I think it's fair to say,
23 and we're not saying that Leggett & Platt has been
24 abandoning their proprietary brands. In fact, we
25 believe that they have been strengthening their

1 proprietary brands.

2 MR. TRAMEL: That's certainly true. The
3 Verti-coil is certainly a proprietary brand now
4 because only Leggett has the patents on it, and so
5 while they said, this morning, three percent, I
6 believe, was the number of proprietary, patented
7 products, that that number was shockingly low, for one
8 thing, but it's certainly in their long-range plan to
9 have that number go significantly up because they are
10 trying to get out of the Bonnell business and into the
11 Verti-coil business, which, again, can't be shot by
12 anyone anywhere because it will be patent protected.

13 COMMISSIONER OKUN: Okay. With that, I
14 appreciate very much all of the responses, and I look
15 forward to reading your post-hearing briefs.

16 Thank you, Madam Chairman.

17 CHAIRMAN ARANOFF: Commissioner Lane?

18 COMMISSIONER LANE: I have one more
19 question, and perhaps I should have asked it this
20 morning, but I'll ask it now.

21 In looking at the uncovered innersprings,
22 and we've seen these samples, and we talk about the
23 different products and the different mattresses, are
24 there lots of variations of these coils, or have we
25 basically seen all of the coils that are available?

1 MR. TRAMEL: I would say that there's a lot
2 of variations of the coil types that you saw:
3 different coil counts, how much wire is in them,
4 heights of the unit. So there's quite a few
5 variations there.

6 MR. CAMERON: Those were, like, models of --

7 COMMISSIONER LANE: What I'm trying to
8 figure out is, are there so many different variations
9 of these coils that, when you talk about the
10 manufacturers of the mattresses want the newest and
11 the latest, is it the coil input that is new and
12 different, or are they just making it a prettier
13 package on the outside?

14 MR. KARMIN: The gentleman, this morning,
15 from Leggett & Platt said that the unit determines how
16 the bed feels. So if you get on the bed, and you use
17 a certain kind of unit, and the other person jumps in
18 next to you, you won't feel him. But if you buy
19 another type of unit, and somebody jumps in, you will
20 feel him because of the construction.

21 So there are lots of different variations of
22 innerspring units that determine how a bed feels, lots
23 of them. Is that what you're looking for,
24 Commissioner? And they use that as part of the
25 marketing: how the bed feels.

1 MR. TRAMEL: Perhaps maybe we should come
2 clean a little bit, in the fact that, from an industry
3 standpoint, we have made this a very confusing
4 purchase, for those of you who have been shopping for
5 a mattress. This is not easy. It's not easy to
6 research.

7 Statistics show that now 28 percent of the
8 people, before they buy a mattress, are looking on the
9 Internet and trying to become educated about their
10 purchase. People work hard for their money. They
11 want to make a well-informed purchase. That number is
12 up significantly from virtually zero 10 years ago.
13 People would go in and trust their salesperson.

14 Part of the problem here is that what we get
15 from our customers, Mr. Retailer, is that they want
16 their own story. They want their own bed. So what
17 we're guilty of is that we wouldn't give them a
18 product that only they get because they are so special
19 to us and dear to us, so we give them exclusive, and
20 then we go sell, across the street, a very, very
21 similar product that functions very, very similarly.

22 They look almost exactly the same, but it's
23 got a different story, and, hence, the marketing of
24 the mattresses -- I will confess that I'm guilty of
25 that, and we look for tweaks in a lot of these units,

1 if that answers your question a little bit more.

2 COMMISSIONER LANE: Well, I don't want to
3 belabor the point because maybe I'm just too tired to
4 understand, but I understand that there are a whole
5 bunch of different mattresses out there, and there are
6 a bunch of different brands, and they all look
7 different, but if I rip all queen-size mattresses
8 apart, am I going to find, basically, 10 different
9 coil configurations, or am I going to find hundreds?

10 MR. TRAMEL: I would say you're going to
11 find very few different coil types: pocketed coils,
12 Bonnells, LFKs, Verti-coils. Okay? From that, those
13 variations are going to go up pretty significantly,
14 probably not in the hundreds but not too far off from
15 that, from the basic describe of the particular
16 innerspring in question.

17 COMMISSIONER LANE: Okay.

18 MR. CAMERON: What they were illustrating
19 for you was the basic design, and then you're going to
20 have many variations off of that, depending on coil
21 count, height, number of wires, number of turns, et
22 cetera. So it's going to be a lot more than that.

23 COMMISSIONER LANE: Okay. Thank you.

24 Madam Chair, that's all I have.

25 CHAIRMAN ARANOFF: Commissioner Williamson?

1 COMMISSIONER WILLIAMSON: Thank you, Madam
2 Chairman. Just a few more questions.

3 I see, on page 37 of your brief, you
4 indicate that the prices of most domestic pricing
5 products were closely correlated, and I was just
6 wondering, have you tried to do a correlation between
7 domestic prices and subject import prices?

8 MS. MENDOZA: Yes, we have, and I think it
9 is in our brief. If it's not fully explained, we can
10 certainly do that. I mean, our argument is that,
11 regardless of the level of import competition in any
12 product category, because there are some categories in
13 which there is no import competition, that,
14 regardless, you see the very high correlation between
15 domestic prices, regardless of whether imports are in
16 or out of the category, their levels. Aa lot of it's
17 confidential, obviously.

18 MR. CAMERON: We did, but it didn't turn out
19 to be positive. I think that was what we tried to
20 explain in the brief, although maybe unartfully, so
21 we'll look at that and try to make it clear.

22 COMMISSIONER WILLIAMSON: Thank you. I
23 don't think you've addressed this since the
24 Petitioners did. They frequently examine trends
25 starting from 2004, which was the data in the

1 preliminary phase of this investigation rather than
2 2005. Do you believe the Commission should use the
3 2004 data?

4 MS. MENDOZA: The Commission typically uses
5 the same data period in order to have consistency and
6 to always examine the same periods. I didn't see any
7 completing arguments. I didn't hear any compelling
8 arguments today as to why 2004 is relevant. It seems
9 to me it was their burden, in terms of trying to
10 convince the Commission that they should change the
11 period that they use in every single case to adapt to
12 this case. I really didn't hear any of those
13 arguments today, and, no, we don't think so.

14 COMMISSIONER WILLIAMSON: Okay. Thank you.

15 MR. CAMERON: I was just going to add, I
16 mean, the problem with expanding the period beyond
17 what you have in your questionnaires is the problem
18 you always have, which is that, as you try to expand a
19 period, your database is more imperfect, and you have
20 more holes in the database, and they, of course, have
21 assumptions that they would like you to fill those
22 holes in with.

23 I understand the concept, but that doesn't
24 make it right, and that's why you have to have a
25 compelling case in order to do that.

1 COMMISSIONER WILLIAMSON: My last question.
2 This morning, the Petitioners -- I'm now talking about
3 the noninnerspring mattresses, the foam, the other
4 alternatives, and I think their point was that
5 basically these tend to compete at, should we say, not
6 the highest price point but kind of the upper middle
7 maybe or something like that, and sort of that they
8 are really kind of limited competition.

9 The impression I get from you is that that's
10 quite the contrary. Do you want to address that
11 point?

12 MR. KARMIN: We retail alternative products
13 from \$599 to \$3,999, so competition to innersprings
14 comes almost all through the category.

15 COMMISSIONER WILLIAMSON: Any trends in
16 terms of that competition?

17 MR. KARMIN: Yes. In early '08, sort of the
18 same period of time that Leggett was raising prices on
19 steel, the price of foam went up. Foam is a
20 derivative of oil, so prices were going up rapidly on
21 foam products, and steel -- the price of innersprings
22 was going lockstep behind them. So, as they were
23 lifting the ceiling on the market, you could find
24 steel running right behind it, so that was the big
25 trend, '08. That's maybe all going to unwind here. I

1 don't know, but that was the trend earlier in the
2 year.

3 MR. TRAMEL: If I may, the perception that
4 was given this morning in testimony, in terms of the
5 unit usage that was taken away from innersprings by
6 the specialty category, is quite different than what
7 we've seen from Leggett & Platt.

8 I believe it was in March of '07, and it may
9 have been June or July, but it was sometime in the
10 second quarter of '07 that they had what was called
11 the "Spring Alive Tour," and it was part of a massive
12 publicity effort to reinvigorate spring purchases and
13 was basically head to head. They were taking the
14 gloves off, and they were going to get their share
15 back from the foam industry that had been diluting
16 their business.

17 COMMISSIONER WILLIAMSON: Now, has this
18 trend been, say, long term, and has it been any
19 different in the last three years, from 2005 on?

20 MR. KARMIN: So the trend between steel, the
21 people preferring alternative products over any steel
22 innerspring products has accelerated over the last two
23 or three years, you know, and has leveled off. They
24 have recently seen a leveling off because the overall
25 economy; the same thing that the steel producers were

1 feeling, you know, the innersprings, they were feeling
2 a leveling off. We sort of figure that it's not the
3 eight percent of the market. They are at 20 to 30
4 percent of the market. It's over a billion dollars,
5 the size of the alternative markets, over a billion.

6 MR. CAMERON: And, Commissioner, just to put
7 a top on this, this also goes to this issue of loss of
8 profitability, declining profitability, over the
9 period, because this is the highest and most
10 profitable item that they compete with. To the extent
11 that they are losing market share to the foam and to
12 these, those are generally higher-profit items than
13 the Bonnells, so that does go directly to the bottom
14 line.

15 COMMISSIONER WILLIAMSON: Okay. Thank you
16 for those answers, and I have no further questions.

17 CHAIRMAN ARANOFF: Commissioner Pinkert?

18 COMMISSIONER PINKERT: Thank you, Madam
19 Chairman. Just one or two additional questions.

20 In light of the testimony that you've given
21 about the dominance of Leggett & Platt in the U.S.
22 marketplace, can you help me to understand why the
23 domestic industry has been unable to cover increasing
24 costs during the period of investigation, or do you
25 dispute that the industry has been unable to do that

1 during the period of investigation?

2 MR. KARMIN: Can you say that one more time
3 real quick?

4 COMMISSIONER PINKERT: Well, I'm trying to
5 get an explanation, given the dominance that you're
6 claiming for Leggett & Platt in the U.S. marketplace
7 for innersprings, why you think there has been an
8 inability to cover increasing costs during the POI, or
9 do you dispute that there has been an inability to
10 cover increasing costs?

11 MR. KARMIN: Well, I think that Leggett
12 chose not do raise prices when they could have, and
13 they decided that they wanted their people they supply
14 to be able to compete with Sealy's lowering prices.
15 So, you know, what I saw happen was that Leggett was
16 under pressure from their suppliers to match the Sealy
17 price cutting, and that's why they were unable to
18 raise prices. As a dominant player, that's why they
19 were unable to raise prices.

20 You'll see that when Sealy stopped their
21 process, at the end of '07, Leggett was free to raise
22 prices in '08.

23 COMMISSIONER PINKERT: Just because they are
24 a dominant player in the market doesn't insulate them
25 from market factors. I think that was our point, in

1 that there are other market factors that are going on,
2 aside from imports, that possibly, in some cases, are
3 more significant.

4 MS. MENDOZA: Our position is that they did
5 have healthy profits. I mean, they do say that the
6 innerspring segment of their business is a bright
7 spot.

8 The fact of the matter is that, you know,
9 when they talk about some of these other components,
10 like foam and wood and fiber and things like that,
11 those components were also suffering from the effect
12 of market demand and competitive products.

13 So our position is that if you see
14 innersprings, innersprings actually is a bright spot,
15 and they did do well on that product, but that doesn't
16 mean that there weren't market forces at work that
17 they had to adapt to.

18 MR. CAMERON: I think that if you look at
19 our brief, we did do an analysis and discussed the
20 issue of what Leggett & Platt internally had targeted,
21 according to their public statements. Right? If you
22 look at the performance of the industry during the
23 same period in which they were making those
24 projections, it wasn't really very far off. They
25 actually came very close to those targets, and that's

1 why we're suggesting to this Commission that we hear
2 what they say.

3 We understand that there has been declining
4 performance over the period. Declining performance
5 doesn't necessarily mean that they have been
6 materially injured, and, frankly, given the economic
7 conditions that have prevailed overall in the last
8 couple of years, I would say that there are a lot of
9 industries that would be pretty happy with the
10 performance.

11 MS. MENDOZA: I would just interject that
12 the reason that the Commission evaluates profitability
13 and other things in the context of the conditions of
14 competition is that very reason. In other words, just
15 because profits decline does not mean that the
16 industry is materially injured.

17 I mean, if there are conditions of
18 competition that are occurring simultaneous, like
19 Sealy, like foam, and the fact that foam was really
20 keeping prices down in 2007 and letting prices go back
21 up in 2008; if those conditions of competition are
22 going on, it would be expected that profits would
23 change to reflect those factors.

24 COMMISSIONER PINKERT: But just to clarify,
25 my question was more about the cost-price

1 relationship. It was not the broader question of
2 profitability.

3 MR. CAMERON: I understand, but, then again,
4 you get to the cost-price relationship and the issues
5 of demand, for instance, what is happening with the
6 mattress market does get very much into that, and
7 that's where you do get into, well, what was happening
8 with the Big S's, and what is happening to the Big S's
9 is really pretty important because that does dictate
10 what happens with the rest of the market, and,
11 clearly, imports didn't have a thing to do with what
12 was happening in their pricing structure with the Big
13 S's.

14 So possibly, and that's what we're
15 suggesting to you, is that, to the extent that a cost-
16 price squeeze may have existed, that would go a long
17 way to explaining that, as opposed to imports that
18 didn't really move that much.

19 COMMISSIONER PINKERT: Thank you. I would
20 like to thank the panel, as a whole, and I look
21 forward to the additional submissions in this case.

22 CHAIRMAN ARANOFF: Are there any further
23 questions from Commissioners?

24 (No response.)

25 CHAIRMAN ARANOFF: Do the staff have any

1 questions for this panel?

2 MR. McCLURE: Jim McClure, Office of
3 Investigations. We have no questions; just one thing.
4 The 10-K from Sealy that we were referencing is
5 already on the record, for whatever it's worth, maybe
6 in the interest of saving a tree.

7 He has already stepped away, Victor Nguyen.
8 I would like to thank him. He has helped Kelly Clark
9 and me out a lot on trying to get what information we
10 could on the Vietnamese industry, both in the
11 preliminary and in this phase, so I would like to
12 thank him, and that's all we have.

13 CHAIRMAN ARANOFF: Do Petitioners have any
14 questions for this panel?

15 MR. RYAN: No, Madam Chairman, we don't.

16 CHAIRMAN ARANOFF: Okay. Thank you. Well,
17 I want to thank the panel. We appreciate your time
18 and your patience, as well as your willingness to fly
19 into town and spend the day with us and away from your
20 businesses, and let me just check now with what time
21 there is remaining.

22 Petitioners have 15 minutes left from your
23 direct presentation for rebuttal, as well as five
24 minutes for closing, for a total of 20 minutes.

25 Respondents have six minutes remaining for

1 rebuttal time, as well as five minutes for closing.
2 We generally combine those, if it's acceptable to
3 everyone. Okay.

4 So we will dismiss this panel and ask you to
5 take your seats further back in the room, and whenever
6 Petitioners are ready, you can come forward for your
7 combined rebuttal and closing.

8 MR. BAISBURD: I know it's late, so we will
9 try to be brief, but there are several very important
10 points that we think need to be clarified and made
11 before we adjourn today.

12 First, a couple of just housekeeping matters
13 that my clients asked me to clarify. Mr. Cameron
14 misunderstood Mr. Davis. Leggett & Platt did in fact
15 have a customer who was purchasing LFK units -- not
16 considering purchasing LFK units, but actually
17 purchasing LFK units for a bedding line -- and then
18 they approached Leggett saying look, we got better
19 pricing from imported bonnells. We're thinking of
20 going there. Can you help us? Can you cut us a deal
21 on price?

22 Leggett was unable to meet the very low
23 price of the imported bonnells and lost that sale to
24 that customers. We can provide more information about
25 that in the posthearing submission.

1 The second point, again about the
2 proprietary springs, Miracoil. There was a statement
3 that Leggett only sells Miracoil to Serta. That's not
4 true. They also sell it to Kingsdown, which is
5 another national chain.

6 And finally on this question of dealing with
7 customers and shortages and what Leggett is willing to
8 do and not willing to do. I've been told that they
9 have offered to sell units to the gentleman from Ortho
10 Mattress on an individual basis, but without providing
11 a discount.

12 However, if he was willing to take larger
13 volume -- I know this is a shock, but sometimes
14 companies give benefits to customers who buy in volume
15 -- he would have received a discount. He was
16 unwilling to go that route.

17 So this is a case about cumulated subject
18 imports that cause material injury and threaten to
19 cause material injury to the U.S. producers. This is
20 a case about China, South Africa and Vietnam, and as
21 the statute requires for your material injury analysis
22 you will cumulate them. So when we talk about subject
23 imports, we're talking about cumulated subject
24 imports.

25 We also in our brief, and I won't go over it

1 now, also argue why we believe cumulation is
2 appropriate for threat. Let me be very clear. This
3 is not just a case about China.

4 Respondents have a kind of interesting, to
5 say the least, theory of the case that jumps around a
6 bit, so let me see if I can understand what's going on
7 here. First they say there are the four big Ss and
8 they are captive, and they're not going to purchase
9 subject imports. Subject imports are unattractive to
10 them because they're too big.

11 I'm sorry. We're talking about moving
12 containers from China to the United States. Companies
13 have been doing this for a very long time. WalMart
14 wouldn't exist if it was some kind of logistical
15 nightmare to move containers from China to anywhere in
16 the United States. That's the first point.

17 The second point is they talk about not
18 buying subject imports, but then Mr. Enoch in his
19 testimony admitted that when he worked for Springair,
20 one of the four big Ss, they purchased imports. He
21 also admitted in his testimony or stated -- it's not
22 really an admission -- that he was approached by
23 Springair I believe during the period of investigation
24 to purchase imports. They wanted financing or they
25 wanted some terms.

1 He wasn't able to provide it so they didn't,
2 but this notion that somehow the four Ss, because of
3 their size, are not going to purchase subject imports
4 is not consistent with the record that's before you
5 because some of them have in fact purchased imports,
6 and others of them are considering or have considered
7 doing so in the past.

8 He also testified about the fact that there
9 were warehouses for local distribution of subject
10 imports in Los Angeles, in New York and in North
11 Carolina, and the gentleman from Leggett & Platt has
12 testified about other warehouses I believe in
13 Washington state.

14 So there are networks in place and there
15 have been during the POI networks in place to service
16 all types of customers -- the small customers who
17 wanted to buy individual pieces and the large national
18 customers who have multiple locations who wanted to
19 buy hundreds of thousands of pieces.

20 So this notion of attenuated competition and
21 limited markets is simply false. Seventy percent of
22 this market is open market. Now, they claim that only
23 10 percent of the market is available to subject
24 imports because of patents, because of special
25 designs, because of captive production. Let's take

1 them at their word that 10 percent of the market is
2 available.

3 Look at your public staff report. Let's
4 assume for a second that all imports are subject
5 imports because otherwise the numbers are proprietary.
6 They own 100 percent of the portion of the market that
7 they say that is available to them because their
8 market share for the total U.S. market is around 10
9 percent, and if you look only at the open market their
10 market share is much greater, so clearly there's
11 something wrong there.

12 Let's talk about China for a little bit.
13 There was testimony that there are only 10 to 12
14 producers in China. Who are they? Where are they?
15 We haven't gotten coverage from them. I understand
16 that this has been a problem for the Commission in
17 many investigations, and it was a problem in the
18 previous 421 case.

19 You have to go with the best data you have
20 before you, but what you cannot do is take an
21 inference that is favorable to people who haven't
22 appeared before you.

23 This notion also about imports from China
24 declining is inconsistent with the chart that Ms.
25 Mendoza was citing to you. If you look at the chart,

1 imports increased of innerspring from 2005 to 2007.
2 I'm not entirely clear where that information is
3 coming from or why their notion that imports started
4 leaving the market before the filing of the petition.

5 To that point I would direct your attention
6 again, please, to Footnote 38 of our brief which lays
7 out in very clear terms what the purchasers and
8 importers have said as to what their behavior was with
9 respect to imports. It's clear from that record that
10 the filing of the petition had a significant impact on
11 the volume of imports that came into the United States
12 in 2008.

13 There's also been a lot of talk about what
14 happened to Savall and Atlas. You don't need to
15 speculate, and you don't have to take what we say or
16 what the Respondents say is the reason for why Savall
17 and Atlas closed. They told you themselves.

18 As an affidavit to the petition, you will
19 find affidavits from Savall Spring and Atlas Spring
20 explaining clearly why they shut down. Hickory
21 Springs, in their brief as well, the prehearing brief,
22 provided that information to the Commission as well.
23 You can hear it straight from those companies.

24 Obviously what they said was that subject
25 imports was the cause of their shutting down. They

1 were not acquired by Leggett & Platt. Leggett & Platt
2 purchased their productive assets after they shut down
3 because they weren't able to compete with subject
4 imports.

5 The reason Atlas isn't in southern
6 California anymore to service those types of mattress
7 manufacturers is because they couldn't face the brunt
8 of subject imports. That didn't happen in 2002 and
9 2003. It happened right smack in the middle of the
10 POI in 2006.

11 Now, there are only a few key facts I think
12 you need to take away about this case. Innersprings
13 are a commodity. They compete with each other, and
14 the way you can see that is that the vast majority of
15 sales by both Hickory Springs and Leggett & Platt are
16 of bonnells. They're a commodity type innerspring.

17 That is exactly where the subject imports
18 are. It's undisputed that the vast majority of
19 subject imports are competing head to head in the
20 heart of the marketplace where 60 percent or more of
21 U.S. producers make their sales, which is a bonnell
22 innerspring in the open market.

23 This notion that you can have a significant
24 volume, an absolute volume of imports at the heart of
25 the marketplace being sold at what Mr. Cameron

1 described as nominal margins of underselling, but
2 which your report shows is in many cases double digit
3 margins of underselling, and not have an effect on
4 market prices is I think inconsistent with the
5 information that you have before you.

6 The other part of their case which I think
7 is odd is this notion that Sealy, because they sold
8 mattresses at the lower end of the market, was having
9 an effect on innerspring producers upstream. Let's be
10 clear. Sealy sells very, very, very few innersprings
11 in the open market. They sell mattresses. They're in
12 business to sell mattresses.

13 They keep their financial statements and
14 their P&Ls, as far as we know, based on mattresses and
15 not on innersprings, so frankly we have no idea how
16 they reported the financial data they did in the
17 questionnaire responses, how they calculated those
18 FMVs, how they determined their allocation for
19 overhead and things of that nature.

20 What we do know is that it's unclear, and I
21 haven't heard Respondents say how the sale of Sealy
22 mattresses can affect the pricing of innersprings in
23 the U.S. market, so I think that that is an
24 inconsistency.

25 Finally, they said imports leave the market

1 as raw material prices increased in China and the
2 dollar depreciated. Well, now we'll submit in our
3 posthearing brief, and we talked about it a little bit
4 this morning. That situation has reversed. We're now
5 seeing that the delta for raw material costs in China
6 is increasing; that those raw material costs in China
7 are coming down, and the dollar is appreciating
8 against the RMV.

9 So if imports left the market, as
10 Respondents say, when the opposite was true then we
11 would expect to see those imports flood right back now
12 that that's changed.

13 At the end of the day, what the Commission
14 has to ask yourselves are were subject imports a cause
15 of the injury? The injury is clear. The drop in
16 income and the drop in margins and the drop in
17 production and sales over the POI is material injury.

18 Thank you very much.

19 MR. RYAN: When we finished this morning,
20 the Commission congratulated us on our endurance, but
21 it's nothing like your endurance here in paying
22 attention to a lot of the witnesses and asking great
23 questions. I congratulate you on your own ability to
24 stay through the whole day.

25 I'll try to hit some points that I think are

1 not a waste of your time. I'm going to start with
2 where Commissioner Pearson left off. It was nice of
3 you to give Mr. Cameron an opportunity to tell you
4 what's the best negative decision he can give. Here
5 you are. You're a very experienced trade lawyer.
6 Write my negative decision for me.

7 I'm going to start with those issues.
8 They're primarily issues that don't go to the core of
9 the case. They're sort of fringe issues. I'll tell
10 you why they're nonissues.

11 The first one is patent protection. You
12 know, the domestic industry is protected by patents.
13 We wish we were. I'd love to say that none of our
14 products can be provided by imports, but that's not
15 the case. It's a commodity market primarily, and at
16 best the Respondents have made the point that maybe
17 there's a couple of products that are a relatively
18 small volume that may be covered by patents.

19 Mr. Enoch said we had a patent on Interact.
20 That's not true. We rebutted that in the preliminary,
21 as well as the final. We have a box spring that's
22 patented. It's not a subject product. This case
23 isn't about box springs. It's about innersprings.

24 Another issue. Just-in-time delivery. Mr.
25 Baisburd has already talked about it that service

1 centers were established throughout the country by
2 importers in order to be able to supply on the same
3 basis as domestic producers, and indeed they do.

4 As one of the witnesses said, well, in North
5 Carolina the service center shut down that's in
6 Hickory Springs' home state. Well, they shut down
7 when imports disappeared in 2008. That's been since
8 the imposition of provisional duties.

9 Another sort of a nonissue that the
10 Commission has clear data on is what's going on with
11 mattresses that are not innerspring mattresses.
12 That's been a relatively stable four percent of number
13 of units sold in the market throughout the period of
14 investigation, nowhere near the 30 percent that the
15 Respondents allege.

16 Underselling. It was an interesting
17 development this afternoon, and I saw quite a bit of
18 puzzlement from the faces on the staff that
19 underselling can be sort of at least in part explained
20 by credit terms.

21 The staff has already looked at credit
22 terms. You've got a page in your staff report, page
23 Roman numeral IV-7, that shows you that the credit
24 terms offered by importers and by U.S. producers are
25 identical. What they were comparing, what you heard

1 from Respondents, is what their foreign exporter
2 provides to the importer.

3 You know, they have to pay cash for the
4 stuff they buy, but the point of competition in the
5 United States, the purchaser of innersprings, the
6 credit terms are identical. The underselling is on a
7 direct comparison basis with the same credit terms.
8 It can't be wiped away by saying well, when I buy from
9 my foreign producer I've got to pay for it. There's
10 no extended credit terms.

11 At the point of competition in the United
12 States, the credit terms are identical and the
13 underselling can't be explained away by any
14 differences in credit terms.

15 A lot of talk today about integrated
16 producers, the big Ss. There's another company called
17 Symbol Mattress that I hope the Commission will think
18 about carefully when trying to decide what to do with
19 this case. They were an integrated producer, but are
20 no longer. They ceased innerspring production. To
21 Hickory Springs' understanding, they shifted in part
22 to imports and purchasing in the merchant market, so
23 the integrated producers are not immune to import
24 competition.

25 I think Mr. Baisburd has already hit on that

1 the Commission should cumulate on a threat basis with
2 South Africa and Vietnam. When we talked about
3 subject imports or imports, it didn't mean China. It
4 meant all subject imports.

5 So that's kind of the negative case and why
6 there is none. Let me go back to why the Commission
7 should find that the affirmative case -- it's a fairly
8 simple opinion to write. I wrote Commission opinions
9 or at least worked with the staff here for quite a few
10 years to write Commission decisions for nearly a
11 decade actually, so I could easily write you a much
12 better affirmative than a negative. I'll just walk
13 through that.

14 You know, you're going to start with the
15 volume of imports. It would be nice for the
16 Petitioner to ignore 2004 and start with 2005, but
17 even their best chart when they're talking about the
18 volume of imports, it's sort of an upside-down chart.

19 I found this interesting. This is the one
20 they handed out. In order to show that domestic
21 producers are doing well, they have to make a negative
22 number to make it look like it's a positive number.
23 The chart should be like the growth in U.S. numbers
24 should be down. These are all negative numbers, and
25 those are actually positive numbers.

1 If you wanted to do a chart that showed you
2 what the volume effect is, you should take market
3 share, and we'll do this in our posthearing brief.
4 Take market share from 2004 to 2007 and the interim
5 period and see where the shifts are.

6 U.S. producers are all going to be the
7 negative numbers that are on this side, and the
8 imports are going to be all the exact mirror opposite
9 growth over the entire POI until 2008. You've got an
10 easy case on volume.

11 Underselling is clear, a big underselling
12 and inability to raise prices as raw material costs
13 have increased. That directly translates into an
14 impact. The impact on Hickory Springs in particular
15 is laid out for you in our confidential submission.

16 Respondents told you why you should ignore
17 2004. Well, it's because we haven't met our burden of
18 proof, but at least three of you, the last time you
19 visited this industry, was in 2004 so it would be
20 natural for you to look back and say well, what's
21 different?

22 At that time, you know, you voted negative.
23 You saw that imports weren't a real factor. You used
24 words like negligible, nonexistent or virtually
25 nonexistent. That was in March 2004 when you issued a

1 decision on the China specific safeguard case.

2 So you've got to start from that base of
3 nonexistent, virtually nonexistent imports, and if you
4 look at the staff report now we've got imports at 16.6
5 percent of the market.

6 The Respondents would tell you there's been
7 no growth in imports, but actually the unanimous
8 Commission said in that case the import volume wasn't
9 there. We're sorry. Come back another day. Here we
10 are back another day with imports at 16.6 percent.

11 Another reason to look back to 2004 is
12 because at that time you had other producers talking
13 to you. They left the market in 2006 sort of partway
14 through. In order to understand why that happened,
15 and we submitted a letter that was provided by a
16 former executive of Atlas, you need to consider at
17 least this period back to 2004 when they were here.

18 They were talking to you. What happened to
19 them between then and when they shut their business in
20 2006? We think 2004 is definitely a relevant period
21 for both those reasons.

22 So we looked at all those things and the
23 impact on the industry. There's really one issue that
24 kind of really -- I won't get as excited as Mr.
25 Cameron because I'm just not that kind of guy, but the

1 issue of postpetition information.

2 I think it would be a real travesty if the
3 Commission were to vote negative in this case because
4 the petition has been as effective as it should be to
5 give the industry some relief.

6 Huge antidumping margins were alleged when
7 the case was filed at the beginning of 2008 after the
8 industry struggled and several producers went out of
9 business. You've seen some changes in the market.
10 Hickory Springs has just started to recover, is still
11 in a very vulnerable condition.

12 To us it's clear that it's the varying --
13 you know, the duties range from 116 to 234 percent.
14 To say that they have no effect is absurd. What's the
15 alternative explanation? It is absurd.

16 Raw material costs in China have gone up to
17 such an extent that the Chinese producers can no
18 longer sell in the United States. Well, our costs
19 have gone up as well.

20 I think, Commissioner Lane, your question
21 was right on point. You know, if raw material costs
22 in China for steel had gone up to that extent then
23 there should be at the same time that the innerspring
24 imports disappear there should be all steel products
25 from China -- pipe and tube and everything else that

1 uses steel in China -- should have disappeared at the
2 same time if it were raw material costs and not the
3 pendency of this case.

4 I think that was a good point that you made.
5 Of course, Mr. Cameron dodged it very well, but I
6 thought that was a very insightful question.

7 I appreciate the Commission's attention to
8 my little closing here. Thank you.

9 CHAIRMAN ARANOFF: Thank you very much.

10 MR. CAMERON: Madam Chairman, members of the
11 Commission, before I start, I would like to thank you
12 all for your attention and we also appreciate the
13 consideration that the Commission shows to the
14 witnesses, both for the domestic industry and our
15 witnesses.

16 I think it's a tribute to this commission
17 that this is the way people are treated, and I think
18 that it is a good thing for government; for all of
19 those who don't believe in government, I actually
20 believe that this is a tribute to that. So, I would
21 like to thank you for that. I think you stand for the
22 best of what we do, even when you don't vote for me.

23 Look, we heard this morning a lot about
24 2004. I'm rather puzzled about 2004 -- I hope this
25 microphone works -- and I guess the thing that I'm

1 puzzled by is why it is that the data on the POI, if
2 it's so convincing, and it's so overwhelming, why is
3 it that we keep reaching back to 2004? I mean, is
4 there something wrong with the database of 2005, 2007?
5 I would suggest to this Commission that yes, there is,
6 which is the reason they're talking about 2004.

7 Now, I understand about 2004, but let's hear
8 what Leggett & Platt said in their 2005 financial
9 statement with respect to the 'does Asian
10 manufacturing pose a threat to Leggett & Platt?' The
11 answer, again in their 2005 financial statement, 'Yes,
12 but it's not as big a threat as some people believe.
13 In fact, it presents some significant opportunities
14 for Leggett. Leggett mitigates the Asia threat in two
15 ways: first, we minimize the labor content of our
16 products; our factories are very automated and the
17 bulk of our cost is for raw materials. It is more
18 expensive for us to manufacture goods in China and
19 ship them to the U.S. than it is to simply produce the
20 products in North America.'

21 Parenthetically I would say that the record
22 supports that so far, that's why they have four
23 investments in China; nothing being imported here, and
24 the fact that their automated machinery produces a lot
25 faster than the Chinese.

1 Second, this is a newsflash -- that's
2 editorial too -- 'many of these products we produce
3 are proprietary.' Whoa! Unbelievable. 'We possess
4 over 1,250 patents and have another 675 in process,
5 not only of the products themselves but sometimes also
6 on the machinery or process used to make the product.
7 We have research centers across the world dedicated to
8 product innovation and to new development. Asian
9 manufacturers in general benefit from lower commodity
10 costs sometimes subsidized by their government,
11 leaning in attitude towards safety and environmental'
12 etcetera.

13 'On the other hand, Asia must overcome
14 higher transportation costs, increased working capital
15 needs, and difficulty matching U.S. manufacturers'
16 level of service, flexibility, and logistics.'

17 Now this is their statement in 2005, with
18 respect to the threat from imports from China and I
19 daresay this report was issued after the imports from
20 2004. So, it seems to me that we made our statement
21 with respect to that. We know what your period of
22 investigation is and frankly, there is nothing
23 compelling about -- to extend it, but it does raise a
24 question: if it's so important to Petitioners, what's
25 wrong with the current investigation period? Is it

1 possible that some of the things that we said happen
2 to be accurate?

3 Now, I'm just going to hit a couple of
4 additional points because I think they are relevant.
5 I'm not going to spend too much time, again, we
6 appreciate the time that you have spent and it's
7 getting late. But when Mr. Davis tried to answer
8 Commissioner Pinkert's question earlier today about
9 whether or not it was true that there are, you know, 4
10 S's, large 4 S's who don't purchase imports, I mean,
11 he basically danced around the question, which is
12 fine, but by the end of his answer in his reference to
13 just in time inventory practices, it was clear that
14 his answer is really yes, they don't import.

15 And the reason that they don't import is the
16 reason that he was explaining -- because of the need
17 for just in time inventory and the need for national
18 production of individual models. Now, is it possible
19 that something could happen, yeah, I mean all sorts of
20 things can happen. But what we can say is that they
21 have not happened in this industry and they have not
22 happened for very good reason. So, again, it's
23 fascinating to me.

24 According to Petitioners, this record is
25 rock solid. We've got increased imports, we've got

1 declining performance, what more do you need? Last
2 time I was here, we needed a little more than that,
3 but that's actually a fairly typical out of your
4 Petitioners' playbook argument. But again, if that's
5 the case, why are we arguing about the part of this
6 issue that is really pretty unassailable -- which is
7 that sales to the 4 S's are shielded. There really
8 hasn't been a good argument as to say; well, you're
9 wrong. I mean, okay, I don't think so, and I don't
10 think that the record substantiates the fact that we
11 are wrong, and I think that the testimony of Leggett &
12 Platt, quite frankly, substantiated it.

13 But again, if this case is so rock solid, why are we
14 arguing about things that really are not all that
15 debatable? I find that curious.

16 Finally, let's talk about threat of injury.
17 We just heard from counsel for Petitioners; look, we
18 talked about subject imports, subject imports are
19 subject imports, and we're talking about the same
20 thing. Well, that's interesting because I believe
21 that they are all experienced practitioners -- as a
22 matter of fact, I'm willing to confess that some of
23 them have actually worked with me in the past in one
24 of our other previous iterations, and I will say
25 they're excellent lawyers, I will tell you that -- but

1 the last time I was here when we dealt with threat of
2 injury, we also recognized the fact that in threat of
3 injury we look at the issue of cumulation
4 individually. Should you cumulate, should you not
5 cumulate for purposes of threat of injury?

6 We really haven't heard an argument about
7 that. We haven't heard an argument about why it is
8 that imports from South Africa are a dire threat to
9 the viability of this industry. We haven't heard why
10 it is that imports from Vietnam, which dropped off the
11 table in 2007, are such a dire threat to the U.S.
12 industry. We haven't heard any of that, and the
13 reason we haven't heard any of it is it's very
14 difficult to make a credible argument to this
15 Commission and then not have to take questions and
16 answer those questions. So I guess it's not
17 surprising that we didn't hear anything.

18 But again, I will repeat: the only
19 discussion that we heard from Petitioners today, until
20 the rebuttal statement, with respect to anything
21 having to do with either Vietnam or South Africa, was
22 in response to specific questions from this
23 Commission. And again, I find that curious. I find
24 that very curious because if you really have a case,
25 you pound it. We heard about China all day, all day -

1 - it's been a long day -- all I've heard about is
2 China. Is the Chinese industry the Vietnamese
3 industry? I don't think so. Is the Chinese industry
4 the South African industry? Again, I don't think so.
5 If they were that important to them, believe me you
6 would have heard as much about South Africa and
7 Vietnam as you did about China. And you didn't
8 because frankly the numbers tell the tale; they don't
9 matter.

10 Again, I would like to thank this Commission
11 for your patience and I appreciate your indulgence of
12 my eccentricities and I appreciate your patience.
13 Thank you very much.

14 CHAIRMAN ARANOFF: Well, I'll just express a
15 final thank you to everyone who participated in
16 today's hearing. Staying this late is all in a day's
17 work for us but maybe not for all of you.

18 Post-hearing briefs, statements responsive
19 to questions and requests of the Commission, and
20 corrections to the transcript must be filed by October
21 29, 2008. Closing of the record and final release of
22 data to parties, November 7, 2008, and final comments
23 are due November 10, 2008. I don't believe we have
24 any more business before us, and it's a good time to
25 go home and have dinner, so this hearing is adjourned.

1 (Whereupon, at 6:26 p.m., the hearing in the
2 above-entitled matter was adjourned.)
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CERTIFICATION OF TRANSCRIPTION

TITLE: Uncovered Innerspring Units from China

INVESTIGATION NOS.: 731-TA-1140-1142 (Final)

HEARING DATE: October 22, 2008

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: October 22, 2008

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos E. Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter