

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
CERTAIN KITCHEN APPLIANCE) 701-TA-458 and
SHELVING AND RACKS FROM CHINA) 731-TA-1154 (Final)

REVISED AND CORRECTED COPY

Pages: 1 through 243
Place: Washington, D.C.
Date: July 16, 2009

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005
(202) 628-4888
contracts@hrccourtreporters.com

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
 CERTAIN KITCHEN APPLIANCE) 701-TA-458 and
 SHELVING AND RACKS FROM CHINA) 731-TA-1154 (Final)

Thursday,
 July 16, 2009

Room No. 101

U.S. International

Trade Commission
 500 E Street, S.W.
 Washington, D.C.

The hearing commenced, pursuant to notice, at
 9:32 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
 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
 JOANNA LO, INVESTIGATOR
 RUBEN MATA, INTERNATIONAL TRADE ANALYST
 CLARK WORKMAN, ECONOMIST
 JUSTIN JEE, ACCOUNTANT/AUDITOR
 DAVID FISHBERG, ATTORNEY
 JAMES McCLURE, SUPERVISORY INVESTIGATOR

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

On behalf of The Domestic Industry:

PAUL KARA, President and CEO, SSW Holding Co.
 MARK A. GRITTON, SR., Vice President, Operations,
 Sales & Marketing, SSW Holding Co.
 BRAD NALL, Director of Marketing, SSW Holding Co.
 STEVEN ROLLINS, President, Nashville Wire Products
 BRAD HUDGENS, Economist, Georgetown Economic
 Services

PAUL C. ROSENTHAL, Esquire
 KATHLEEN W. CANNON, Esquire
 Kelley Drye & Warren LLP
 Washington, D.C.

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

On behalf of Electrolux Home Products, Inc.:

DON J. MARKET, Vice President, Global Steel,
 Electrolux
 GRIFFIN HYDE, Commodity Manager, Mechanical
 Components, Electrolux
 JOHN A. HEER, Assistant General Counsel,
 Electrolux

MATTHEW P. JAFFE, Esquire
 ALEXANDER H. SCHAEFER, Esquire
 Crowell & Moring LLP
 Washington, D.C.

Heritage Reporting Corporation
 (202) 628-4888

I N D E X

	PAGE
OPENING STATEMENT OF PAUL C. ROSENTHAL, ESQUIRE, KELLEY DRYE & WARREN LLP	6
OPENING STATEMENT OF ALEXANDER H. SCHAEFER, ESQUIRE, CROWELL & MORING LLP	10
TESTIMONY OF PAUL C. ROSENTHAL, ESQUIRE, KELLEY DRYE & WARREN LLP	13
TESTIMONY OF PAUL KARA, PRESIDENT AND CEO, SSW HOLDING CO.	13
TESTIMONY OF STEVEN ROLLINS, PRESIDENT, NASHVILLE WIRE PRODUCTS	20
TESTIMONY OF MARK A. GRITTON, SR., VICE PRESIDENT, OPERATIONS, SALES & MARKETING, SSW HOLDING CO.	26
TESTIMONY OF KATHLEEN W. CANNON, ESQUIRE, KELLEY DRYE & WARREN LLP	34
TESTIMONY OF BRAD HUDGENS, ECONOMIST, GEORGETOWN ECONOMIC SERVICES	38
TESTIMONY OF ALEXANDER H. SCHAEFER, ESQUIRE, CROWELL & MORING LLP	134
TESTIMONY OF DON J. MARKET, VICE PRESIDENT, GLOBAL STEEL, ELECTROLUX	135
TESTIMONY OF GRIFFIN HYDE, COMMODITY MANAGER, MECHANICAL COMPONENTS, ELECTROLUX	136
TESTIMONY OF MATTHEW P. JAFFE, ESQUIRE, CROWELL & MORING LLP	153

I N D E X

	PAGE
CLOSING STATEMENT OF PAUL C. ROSENTHAL, ESQUIRE, KELLEY DRYE & WARREN LLP	231
CLOSING STATEMENT OF MATTHEW P. JAFFE, ESQUIRE, CROWELL & MORING LLP	237

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

5 Mr. Secretary, are there any preliminary
6 matters?

7 MR. BISHOP: No, Madam Chairman.

8 CHAIRMAN ARANOFF: Very well then. Let's
9 proceed with opening remarks.

10 MR. BISHOP: Opening remarks on behalf of
11 Petitioners will be by Paul C. Rosenthal, Kelley Drye
12 & Warren.

13 MR. ROSENTHAL: Good morning, Madam Chairman
14 and members of the Commission. The key facts
15 underlying today's hearing on refrigeration shelving
16 and oven racks are really not in dispute.

17 Imports from China have increased
18 dramatically over the period of investigation, taking
19 massive market share. There are no nonsubject imports
20 of any magnitude, so all the Chinese market share
21 gains have come at the expense of the domestic
22 industry.

23 Faced with higher costs, the domestic
24 producers have been unable to increase prices enough
25 to cover those costs. Production and capacity

1 utilization are down. Domestic producers as a whole
2 and not just the Petitioners are losing money.

3 Now, if this were a game of Clue, the board
4 game that I'm sure you've all played at one time or
5 another, it would be obvious that the name of the
6 culprit is dumped and subsidized imports from China.
7 The location is the kitchen. Of course, the weapon of
8 choice is not a gun, but low prices that have
9 undersold the domestic industry, leading to price
10 suppression, lost sales and operating losses.

11 Respondents have presented alternative
12 theories not quite as farfetched as Mrs. Peacock in
13 the drawing room or Colonel Mustard in the foyer, but
14 close. Respondents, who are large, multinational
15 original equipment manufacturers, attempt to deny that
16 price is absolutely central in their purchasing
17 decisions. They claim that whatever injury the
18 domestic injury is suffering it cannot be caused by
19 the low-priced imports.

20 What they have not done is present any other
21 plausible reason than price for the dramatic import
22 shift to China. Indeed, claims that the switch to
23 imports occurred for reasons other than lower prices
24 are simply not supported by the evidence.

25 Seeking the lowest priced inputs is not a

1 crime, of course. The Petitioners certainly
2 understand the need for the OEMs, who are under their
3 own competitive pressures, to seek the lowest priced
4 parts and materials as feasible.

5 Indeed, as we will discuss, the Respondent
6 testifying today has stated in its annual report that
7 it has increased its sourcing of imports in order to
8 lower its costs. On this chart, which you may not be
9 able to see too well, but we've passed out copies of
10 the quotes, you'll see excerpts from the 2008
11 Electrolux annual report. I'll read one quote now.

12 "Electrolux is increasing the share of
13 purchases from suppliers in low-cost countries in
14 order to reduce costs. Relative to total purchasing,
15 this share has increased from approximately 30 percent
16 in 2004 to approximately 50 percent in 2008. It is
17 expected to reach approximately 70 percent." That's
18 in their 2008 annual report at 37.

19 As I said, Petitioners understand the quest
20 for lower costs, but while understandable as that is,
21 that drive is having a devastating effect on the
22 domestic industry. Now, it's true that the downturn
23 in the economy has hurt the domestic refrigeration and
24 oven rack producers just as it hurt the OEMs, but in
25 the face of the downturn it is only the Chinese who

1 are gaining market share.

2 Since this case was filed, though, there has
3 been some good news for the domestic industries. The
4 three largest OEMs who had gone offshore to purchase
5 from Chinese suppliers began purchasing from the
6 domestic industry again. In fact, millions of dollars
7 of sales have been repatriated to the U.S. producers
8 since the beginning of this case.

9 Now, obviously this case involves
10 refrigerators and ovens, so I want to harken back to
11 an old advertising slogan by the Pillsbury Company.
12 I'm sure you all remember the slogan that says:
13 Nothing says lovin' like something from the oven.
14 Well, to adapt that phrase to the facts of this case:
15 Nothing says causation like repatriation of sales that
16 formerly had been lost to imports.

17 Repatriation shows several things. The
18 domestic industry is capable of producing a quality
19 product, the purchasers have enough confidence in the
20 reliability of the domestic producers to give up the
21 current supplier in China, even if it means giving up
22 an alternative source of supply, and, most important,
23 once you have demonstrated ability to make the
24 product, price is what drives purchasing decisions.

25 So if you're still looking for another cause

1 of injury or Colonel Mustard or even Poppin' Fresh,
2 the Pillsbury Doughboy, you can stop. As the record
3 shows and our witnesses will corroborate, the injury
4 to the domestic industry is caused by the imports of
5 refrigeration shelves and oven racks from China.

6 Thank you.

7 MR. BISHOP: Opening remarks on behalf of
8 Respondents will be by Alexander H. Schaefer, Crowell
9 & Moring.

10 MR. SCHAEFER: Madam Chairman, members of
11 the Commission, thank you. My name is Alex Schaefer,
12 Crowell & Moring, LLP, on behalf of our client,
13 Electrolux. I'd like to thank you for the opportunity
14 to make our presentation here this morning.

15 There's a technique that stage magicians use
16 and have for a long time -- misdirection. The art of
17 getting the audience to look at something flashy and
18 ultimately meaningless so that they're not looking at
19 the important bit, all right, the bit that reveals how
20 the trick was done. Give them a big flourish and a
21 wah-lah up here while you're sneaking the ace of
22 spades into your hip pocket down here.

23 Why do I mention that? Well, the brief the
24 Petitioners filed and from Mr. Rosenthal's comments
25 this morning is all about misdirection. Their

1 flourish is and therefore as a rhetorical they use
2 language about surge of imports, abysmal financial
3 performance. They refer to the U.S. industry as
4 having been ravaged by Chinese imports.

5 What they don't want you to look at though,
6 the big secret, is the data. If you look at the
7 pricing data, trick spoiled. The magic is revealed.
8 Those data show both U.S. and Chinese prices steadily
9 increasing -- not even flat; increasing -- throughout
10 the period of investigation.

11 More importantly, the data show that during
12 the POI the imports oversold the U.S. merchandise in a
13 resounding majority of instances. Those data are
14 based on head-to-head price comparisons of the
15 products that the Petitioners identified as the
16 driving pricing products in this market.

17 GE didn't select the oven rack products in
18 this case. Whirlpool didn't select them. Electrolux
19 certainly didn't select them. The Petitioners cherry
20 picked the price drivers. In spite of that, the data
21 show that the U.S. oven racks undersold the imported
22 Chinese oven racks again and again and again.

23 Now on the subject of cherry picking. The
24 Petitioners in their brief include some anecdotes of
25 alleged lost sales during the POI. They've selected

1 and culled out some quotes from Electrolux's annual
2 report, but you have to ask yourself why rely on these
3 isolated examples? The answer is because it's another
4 flourish, more misdirection.

5 Petitioners want the Commission to look at
6 those examples and ignore the pricing data as a whole.
7 They want to be able to make statements like we
8 weren't able to keep up with the Chinese prices, and
9 Chinese prices were significantly undercutting ours
10 without the Commission noticing that the data show
11 precisely the opposite to be true.

12 How can it be that you can't keep up with
13 prices that are higher than yours? How can it be that
14 higher prices are significantly undercutting you? It
15 can't be. That's why we're here. We're here to be
16 that guy, to be the spoiler.

17 We have a couple representatives here from
18 Electrolux who are eager to demonstrate the way that
19 the trick was done and explain what really happened
20 during the POI. Unlike what the Petitioners have done
21 to date, they're going to ground that explanation in
22 the record data. No magic. No misdirection.

23 Our analysis is less interesting, but it's
24 right, and it's grounded in the pricing evidence which
25 clearly shows that the domestic industry is neither

1 injured nor threatened with injury by imports of
2 Chinese oven racks. If anything, the Petitioners hung
3 themselves with the rope in the conservatory.

4 Thank you very much.

5 MR. BISHOP: Will the first panel, those in
6 support of the imposition of antidumping and
7 countervailing duty orders, please come forward and be
8 seated?

9 Madam Chairman, all witnesses have been
10 sworn.

11 (Witnesses sworn.)

12 CHAIRMAN ARANOFF: Good morning, Mr.
13 Rosenthal. Please proceed whenever you're ready.

14 MR. ROSENTHAL: Thank you. We won't spend
15 much time with the introductions this morning, but I
16 would like to mention that in addition to the
17 witnesses who will be testifying directly we also have
18 Mr. Brad Nall of SSW who will be answering questions
19 when the panel is done.

20 With that bit of background, let me
21 introduce first Mr. Paul Kara, the president and CEO
22 of SSW Holding Company.

23 MR. KARA: Good morning. My name is Paul
24 Kara, and I am president and CEO of SSW Holding
25 Company. I have held this position since October 2000

1 and was previously associated with the company as both
2 an advisor and a director for about 21 years.

3 SSW fabricates, finishes and assembles a
4 wide range of wire, metal and other products designed
5 to the unique and particular specifications of each of
6 the leading original equipment kitchen appliance
7 manufacturers in the United States.

8 Through our dedication to innovation and
9 change, a focus on lean operations and a commitment to
10 teamwork, we have developed into a world class
11 supplier over the past 63 years. In the United
12 States, we have manufacturing facilities in Fort
13 Smith, Arkansas; Ludington, Michigan; Newport and
14 Madison, Tennessee; and Clinton, Iowa.

15 Presently SSW employs 347 workers in our
16 manufacturing operations producing the subject
17 merchandise. By comparison, just a few years ago we
18 employed over 900 workers.

19 As the Commission staff has correctly described
20 in the prehearing staff report, refrigeration shelving
21 and oven racks are designed and produced for specific
22 model applications for OEMs. In other words, while
23 many refrigeration shelving and oven racks have a
24 similar appearance and function, parts are designed
25 and produced to very exacting specifications for

1 particular refrigerator and oven models of each OEM.
2 Thus, the parts are not generally interchangeable
3 among different models made by the various OEMs.

4 Unlike other products such as automobile
5 tires, which can be used across several models of
6 motor vehicles, our products are made to order for
7 each specific model of each OEM producer. We do not
8 make any refrigeration products at the plants at which
9 oven racks are produced, nor do we make any oven racks
10 at the plants that produce refrigerator shelving and
11 baskets. These two products are produced in different
12 production facilities using dedicated fabrication,
13 tooling and finishing equipment to meet OEM
14 specifications.

15 I have brought with me some samples of the
16 parts so you can refer to them as I discuss this
17 process. To help you understand the OEM
18 specifications, I would like to refer to this
19 particular freezer basket. This basket has a total of
20 16 dimensions that have to be met in order for the
21 basket to meet OEM quality requirements.

22 Those dimensions are specified by the OEM
23 customer, and some tolerances on the dimensions are
24 specified at plus or minus three/one-thousandths of an
25 inch. In lay terms, that tolerance is less than the

1 thickness of one sheet of copy machine paper.

2 Meeting these design requirements entails
3 substantial investment in tooling with each new
4 design. To remain competitive, we have invested
5 heavily in making our production facilities as
6 automated as possible through the use of robotics and
7 similar automated equipment. These investments have
8 enabled us to improve the efficiency of our plants and
9 significantly reduce overall labor cost.

10 Despite the investments we have made and the
11 resultant high-quality product we produce, we have not
12 been able to compete with the low-priced China
13 imports. As the data you have gathered show, imports
14 from China have increased in the U.S. market,
15 capturing a greater share of the market at our
16 expense.

17 These market share gains have occurred
18 solely by underselling our prices. The low prices
19 that consistently undersell SSW's prices are of great
20 concern to us, particularly as our material cost rose
21 significantly over the period 2006 to 2008. We needed
22 to increase our prices sufficiently to cover these
23 cost increases and to regain some measure of
24 profitability on these products, but in the face of
25 the large volume of lower priced imports from China we

1 were not able to do that, leading to the poor
2 financial performance we have suffered.

3 We have done everything possible to lower
4 our cost and to keep our production lines full. We
5 have rationalized plants and services and have closed
6 two facilities since 2004, including the shutdown of
7 our Evansville, Indiana, plant in 2007. Our labor
8 unions have committed to long-term agreements with
9 very modest annual wage and benefit increases.
10 Nonetheless, our efforts at improving efficiencies
11 have not allowed us to match Chinese pricing.

12 There is a limit to how much we can control.
13 At this point, there is little else we can do to
14 reduce production costs, and there are virtually no
15 means by which we can get our costs low enough to be
16 able to match the dumped and subsidized prices of
17 Chinese imports. Prices have been so low that we
18 either have to forego sales to minimize losses or
19 accept sales at prices below cost in order to maintain
20 some market share. Neither choice is attractive.

21 Respondents argue that the decline in our
22 shipments and profits is not caused by Chinese
23 imports, but simply reflects the current economic
24 downturn and housing crisis. That is not true. Even
25 as consumer demand for kitchen appliances followed the

1 downward housing market over the past three years,
2 imports from China grew significantly in absolute
3 terms. In other words, despite declining demand
4 imports continued to increase, taking a greater share
5 of the smaller U.S. market directly at our expense.

6 As the Commission's database indicates,
7 there were few, if any, nonsubject imports of these
8 products, so every sale by China comes at the expense
9 of the U.S. industry. As a result of the growth in
10 imports, we have lost a substantial volume of sales
11 and market share, which in addition to the weak
12 pricing contributed significantly to our poor
13 financial position.

14 So if demand is the problem, how is it that
15 imports are increasing? The answer is by selling at
16 lower prices. The best proof of that fact is the
17 change that has occurred in recent months as a result
18 of the effects of this case.

19 Since the imposition of the preliminary
20 antidumping and countervailing duties, SSW has been
21 able to gain back business previously lost to China
22 imports. These sales were primarily won back within
23 the past three months, a period that was still
24 affected by the economic downturn. We provided
25 details on these repatriated sales in our prehearing

1 brief.

2 That we were able to regain these sales
3 after the preliminary duties were imposed shows that
4 the sales were lost originally due to lower priced
5 imports, not due to a decline in demand or other
6 factors. These regained sales, however, will quickly
7 return to Chinese suppliers if orders are not imposed
8 in this case, and SSW and other domestic producers
9 will once again suffer from lost sales and lost
10 revenues in the U.S. market.

11 In light of our worsening financial
12 condition and loss of market share to imports from
13 China, it has been impossible for SSW to continue
14 making the investments in equipment, processes and
15 people that are necessary to be sustainable in the
16 long term. We cannot continue to invest in the face
17 of no return on that investment, nor can we continue
18 to match or beat Chinese prices.

19 We are here today because this case is
20 critical to the success of our operations. This case
21 has already provided important benefits to our company
22 with the repatriation of previously lost business.
23 With these sales, we are beginning to experience some
24 improvement in our financial condition. If Chinese
25 imports are left unchecked, however, any recent

1 improvements would be eliminated.

2 We are committed to remaining a producer of
3 refrigeration shelving and oven racks. While we
4 recognize that there is a place for imports in the
5 market, they must not be dumped or subsidized. If the
6 Chinese industry is required to stop selling dumped or
7 subsidized product in this market, we are confident
8 that we can effectively compete and again achieve a
9 healthy return on our investment as we were doing just
10 a few short years ago.

11 Thank you very much.

12 MR. ROSENTHAL: Thank you, Mr. Kara.

13 Our next witness will be Mr. Steven Rollins,
14 the president of Nashville Wire Products.

15 MR. ROLLINS: Good morning. My name is
16 Steve Rollins. I'm the president of Nashville Wire
17 Products, Inc. My company was established in 1934 by
18 my grandfather. My brothers and I joined my father in
19 our family's business about 20 years ago.

20 Within the scope of these investigations,
21 Nashville Wire is predominantly a producer of oven
22 racks. Nashville and SSW are the two most significant
23 producers of refrigeration shelving and oven racks in
24 the United States. Our company is based in Nashville,
25 Tennessee, and has production facilities for these

1 products in McEwen and White Bluff, Tennessee, in
2 addition to Nashville.

3 Since 2005, our industry has seen a rapid
4 increase in the number of imports of subject
5 merchandise from China. These imports have been sold
6 in the U.S. market at such consistently low prices
7 that the only way we have been able to compete is to
8 sell our products without being able to receive a
9 satisfactory return. We have been forced to lower
10 prices and forego price increases in a period in which
11 we have faced rising costs.

12 You can see from our questionnaire response
13 the direct impact of the large and increasing volumes
14 of imports from China. Our sales volumes have
15 declined, our prices have remained suppressed, our
16 financial condition has been consistently poor and our
17 needed investments have been postponed. All of these
18 declining trends are tied directly to the presence of
19 imports from China in our market.

20 Throughout the period of investigation, we
21 have been constantly told by our customers that they
22 have a lower cost alternative by sourcing the same
23 product from a Chinese supplier. The continuing
24 threat of being replaced by a Chinese producer has
25 eroded our ability to price our products at levels

1 where we have the opportunity to make a reasonable
2 profit.

3 I have reviewed Electrolux's prehearing
4 brief, and I'd like to address their contention that
5 Chinese imports are not underselling us in the
6 marketplace. First, I would like to state for the
7 record that Electrolux is a highly valued customer
8 of Nashville's. Electrolux has been a core customer
9 of Nashville since 2004.

10 In 2006, Electrolux expressed a concern to
11 Nashville about whether we had sufficient capacity to
12 supply two new parts that they were interested in
13 sourcing from us. In response to that request,
14 Nashville undertook a capacity expansion in 2007,
15 requiring a significant capital investment so that we
16 could satisfy Electrolux's needs.

17 Unfortunately, we were not able to use that
18 expanded capacity for long as Electrolux decided
19 instead to source those products from a lower priced
20 Chinese supplier. In 2007, in fact, Electrolux
21 shifted a major share of its oven racks business to a
22 Chinese supplier or to Chinese suppliers.

23 The reason Electrolux gave us for shifting
24 its sourcing from Nashville to Chinese suppliers had
25 nothing to do with any problems with the quality of

1 our product or the service we were providing.
2 Electrolux made clear to us that the prices it was
3 being offered by Chinese suppliers were well below the
4 prices we offered. On that basis, it was shifting its
5 sourcing to China.

6 At the time this shift in sourcing was
7 occurring Nashville had been faced with substantially
8 increasing cost, including raw material cost and
9 energy costs. Nashville was attempting to adjust its
10 prices to cover these increased costs, but Electrolux
11 would not accept our prices given the lower prices
12 offered for the imports.

13 I should add that Nashville had been
14 incurring financial losses at the time we were
15 attempting to adjust our prices, so it's not as if we
16 were unreasonable in attempting a price increase. Due
17 to an inability to adjust our prices sufficiently to
18 cover increasing cost as we attempted to remain
19 competitive with Chinese pricing, we continued to
20 suffer financial losses.

21 During this period, Electrolux sought out
22 and qualified new Chinese suppliers for both oven
23 racks and refrigeration shelving. Time and time again
24 these Chinese suppliers consistently undersold us in
25 the marketplace. As a result, we lost a substantial

1 share of business in 2007 and 2008, including several
2 high volume Electrolux parts.

3 I understand that the Commission's staff
4 report shows some overselling by Chinese imports and
5 price comparisons for oven racks. That makes no sense
6 to me based on my market experience. I'm involved
7 with the day-to-day operations and sales of oven
8 racks, and from my personal experience imports from
9 China consistently undercut our prices.

10 Chinese imports of oven racks have underbid
11 and undersold us in the marketplace in almost all
12 instances in the past three years. That is how they
13 have gained market share, not by selling at higher
14 prices than U.S. producers.

15 As a result of this underselling, we lost a
16 number of sales of oven racks to imports from China.
17 Most of these sales were sales to Electrolux. These
18 lost sales were significant, with several individual
19 lost sales totaling in the millions of dollars.

20 Indeed, between 2007 and 2008 we lost 80
21 percent of our oven rack U.S. sales to Electrolux to
22 lower priced imports from China. The prices at which
23 the imports were sold were not only significantly
24 below our prices; they were often below our cost as
25 well. This trend essentially continued until we filed

1 this trade action in August of 2008, at which time we
2 began to see some improvements both in terms of volume
3 and price.

4 With the imposition of the preliminary
5 duties in this case, we have been able to gain back a
6 substantial volume of business that was previously
7 lost to Chinese imports. I'm convinced that this
8 trade action is directly responsible for Nashville
9 winning back these sales.

10 Let me add that before deciding to file this
11 trade action last year we made our best efforts to
12 take on this import challenge and compete directly
13 with the Chinese producers. We trimmed our budgets as
14 much as possible. We filed this trade action only
15 after concluding that if dumped and subsidized imports
16 from China continued to undersell us and take market
17 share and hold down prices we would be forced to leave
18 the business entirely.

19 The production of oven racks is capital
20 intensive. Unfortunately, our returns in recent years
21 have been far too weak to justify any continuing
22 significant investments and improvements to our
23 production equipment. As you can see from our
24 questionnaire response, our capital expenditures have
25 plummeted.

1 We are committed to remaining a domestic
2 producer of refrigeration shelving and oven racks.
3 We're confident that if import relief is provided
4 Nashville Wire can effectively compete and again
5 achieve a healthy return on our investments.

6 Thank you very much for the opportunity to
7 speak to you.

8 MR. ROSENTHAL: Thank you.

9 Our next witness will be Mr. Gritton from
10 SSW.

11 MR. GRITTON: Good morning. My name is Mark
12 Gritton. I'm the Senior Vice President of Sales and
13 Marketing for SSW Holding Company. I've been with SSW
14 for 16 years. Before that I had direct professional
15 experience working for a kitchen appliance OEM.

16 I would like to describe for you this
17 morning the competitive conditions in the
18 refrigeration shelving and oven rack markets and how
19 the pricing behavior of the Chinese producers and
20 importers has caused significant injury to our
21 industry.

22 Refrigeration shelving and oven racks are
23 sold directly to OEMs of kitchen appliances, generally
24 GE, Whirlpool and Electrolux in the United States.
25 These three OEMs account for approximately 90 percent

1 of the U.S. kitchen appliance market. Virtually all
2 sales of refrigeration shelving and oven racks are
3 produced to order. Each order is produced to specific
4 OEM design requirements for the respective appliance
5 model.

6 The purchase order contracts that are
7 negotiated with the OEMs are usually for large volume
8 shipments that outline the customer's expected annual
9 usage, tooling cost for the project and the terms of
10 sale. Due to the significance of each purchase order,
11 the loss of a single purchase order has a significant
12 volume and financial impact on our business.

13 You can see from our questionnaire response
14 that the sales we have lost total in the millions of
15 dollars over the past three years. Because
16 refrigeration shelving and oven racks are products
17 made to OEM specifications, it is relatively
18 unimportant to the OEMs whether they use the product
19 of one manufacturer or another or whether the product
20 is produced domestically or by a Chinese manufacturer.

21 During the preliminary staff conference,
22 Whirlpool's witness agreed that one could not
23 differentiate between shelving and racks produced in
24 the United States from those produced in China. He
25 indicated that all suppliers are expected to meet the

1 OEM's specifications regardless of country of origin.

2 SSW competes for the same customers on the
3 same products as the Chinese do in the United States.
4 Because multiple Chinese manufacturers have qualified
5 their products at the OEMs, the resultant competition
6 for a purchase order is strictly on the basis of
7 price.

8 In the preliminary investigation,
9 Respondents argued that their sourcing patterns did
10 not change during the past three years. Our sales
11 records, however, show that the OEMs switched
12 purchases from SSW to Chinese suppliers time and time
13 again because of price.

14 In fact, the OEMs qualified several new
15 suppliers in China during the past three years. Much
16 of the growth in import volumes comes from these new
17 suppliers. By undercutting our prices, they were able
18 to increase their sales to the U.S. market in a matter
19 of just one year after becoming qualified.

20 In this final stage of investigation,
21 Respondents are arguing that they're sourcing from
22 China not for reasons of price, but for reasons of
23 quality or to diversify their supply base.

24 In terms of quality, SSW has never lost
25 business because it could not supply a high-quality

1 product or meet the OEM specifications. We are
2 qualified by the major OEMs to supply their products.
3 We lose business solely on price.

4 As to a diversified supplier base, we have
5 had some customers say over the years that they want a
6 long-term agreement with a single source. These same
7 customers often change their mind and decide that they
8 want different sources. No matter what they say,
9 including those customers that emphasize an interest
10 in a single source, if we are not willing to meet the
11 lower Chinese pricing we will lose the business.

12 Those customers that say they want multiple
13 sources, on the other hand, are also seeking out
14 low-priced suppliers and may use the low price offered
15 by one supplier to force another supplier to reduce
16 its price to keep the business. This is a common
17 occurrence in our industry.

18 What I have not seen is a customer coming to
19 us to pay a higher price in order to diversify away
20 from China. In fact, price has been a problem in
21 competing with Chinese suppliers since they entered
22 this market.

23 Beginning in 2003, in order to gain price
24 concessions from us our OEM customers began advising
25 us that China pricing was significantly below our

1 prices. Our customers threatened to move product to
2 Chinese producers if we did not meet lower Chinese
3 pricing. We repeatedly lowered our prices, but it was
4 never enough.

5 The situation deteriorated further, and
6 during the past three years we have lost major volumes
7 of business to imports from China. All of that
8 business was lost on the basis of price. The Chinese
9 producers significantly undersold us, often at prices
10 well below our cost, and were able to capture sales on
11 that basis alone.

12 That is not to suggest that high quality
13 levels are not required by OEMs in our industry. The
14 OEMs undergo a qualification process for all new
15 suppliers of refrigeration shelving and oven racks to
16 ensure a high quality product. Once companies are
17 qualified to produce these products, however, the
18 factor on which sales are made is price.

19 We are not losing sales to Chinese suppliers
20 due to a poor quality product or an inability to meet
21 their specifications. We are losing business due to
22 lower prices offered for the imports. Let me give you
23 a couple of examples.

24 We have had discussions in recent years with
25 senior level procurement executives of our major

1 customers whose comments were consistently the same.
2 They told us that they liked SSW as a supplier, that
3 we'd been a reliable partner over the years, that we
4 supply a quality product, ship our product on time and
5 bring innovations that help increase value to their
6 customers.

7 But, and here's the but, they said if you
8 cannot meet our price, the prices offered for the
9 Chinese imports are just too low to ignore. The
10 similarity and consistency of that same message from
11 my customers in recent years has been uncanny.

12 Perhaps one of the most frustrating specific
13 examples of a sale we lost due to a lower price
14 offering for the imports was a project for which we
15 had developed a prototype at a customer's request.
16 The engineering group of one of our customers asked if
17 we could develop a design for an oven rack that met
18 with the concept and performance functions they had in
19 mind. We agreed and spent over 16 months designing
20 and drafting prototypes that met the needs of the
21 customer.

22 When we finalized a suitable design, the OEM
23 took the product drawings, posted them on-line and
24 held a reverse auction for the project with the
25 project to be awarded to the lowest bidder.

1 Ultimately the OEM told us that the project was
2 awarded to a Chinese supplier, again demonstrating the
3 importance of price to purchasing decisions in our
4 market.

5 The underselling by the Chinese producers is
6 not limited to the price offered for the product. In
7 sales of refrigeration shelving and oven racks, there
8 are three main components of a transaction for a new
9 product or project. There's the unit price for the
10 parts, there is the tooling cost, and there is the
11 credit term.

12 The Chinese producers offer far longer
13 credit terms and lower tooling costs, in addition to
14 lower unit prices in competing with SSW. These
15 additional discounts are effectively a hidden price
16 reduction not captured by simply comparing the unit
17 cost of products.

18 Credit terms offered for sales of the
19 Chinese product can extend to 90 days or longer,
20 whereas U.S. terms are closer to 30 days. These
21 longer credit terms by Chinese suppliers reflect a
22 price benefit to the OEM as well.

23 Tooling costs are another means by which
24 Chinese suppliers undercut our price offers. There
25 are significant tooling and design costs associated

1 with the initial production of new refrigerator
2 shelving and oven rack designs.

3 Traditionally, the cost of tooling was
4 incurred by the OEM. When the Chinese suppliers
5 entered the market, they offered to undertake tooling
6 and charged much lower prices for tooling than
7 competing U.S. producers could offer.

8 I understand that a purchaser has admitted
9 to the Commission that Chinese tooling costs are 75
10 percent lower than tooling costs of U.S. producers.
11 In fact, I believe that Chinese tooling is at times
12 provided free of charge.

13 Discounted or free tooling has the effect of
14 further reducing the prices of already low-priced
15 imports from China. We directly trace our lost sales
16 volumes and financial problems to these lower priced
17 imports from China. There is no question that imports
18 from China significantly undersell us in the
19 marketplace on sales of both refrigeration shelving
20 and oven racks.

21 That underselling has allowed the Chinese
22 producers to significantly displace our sales and
23 market share in recent years. In fact, since China
24 entered the market and most frequently in the past
25 three years, SSW has lost significant business volumes

1 from all of our major U.S. customers to the Chinese
2 producers.

3 Notably, however, there's been a significant
4 repatriation of sales to SSW since the preliminary
5 duties were imposed in this trade case. In recent
6 months, SSW has had a large number of sales return to
7 us by OEMs that had been sourcing product from China.
8 Obviously our quality and service are not at issue or
9 the OEM would not have come back to us as a supplier.

10 The only thing that has changed is that the
11 prices of the Chinese product have increased as the
12 preliminary duties were put into effect. Absent the
13 final imposition of duties, however, these sales will
14 once again revert to the Chinese suppliers at the
15 lower prices they offer.

16 Thank you very much for your attention.

17 MR. ROSENTHAL: Our next witness is Kathleen
18 Cannon.

19 MS. CANNON: Good morning. I am Kathleen
20 Cannon of Kelley Drye & Warren, and I would like to
21 address a few legal issues in this investigation.

22 First, the domestic like product. We
23 believe the Commission should continue to find, as it
24 did preliminarily, that refrigeration shelving and
25 oven racks are separate domestic like products.

1 Application of the Commission's traditional six-factor
2 analysis indicates that the products have different
3 physical characteristics, distinct uses, are produced
4 in different facilities on different equipment, and
5 are not interchangeable nor perceived to be the same
6 product by producers or consumers.

7 Similarly, the Commission's preliminary
8 decision that the like product should not be expanded
9 to include all commercial racks and shelving, products
10 that are physically distinct and sold to an entirely
11 different group of purchasers should also be continued
12 in this final determination.

13 Notably, despite the Commission's
14 instruction that any party seeking to modify or expand
15 the preliminary like product definitions should
16 submitted comments to the Commission on the draft
17 questionnaires identifying the product revision
18 sought. No party did so. Further, no Respondent
19 party has challenged the Commission's preliminary like
20 product finding in briefs in this final stage of the
21 case. So it appears we are all in agreement on the
22 like product issue.

23 Second, the domestic industry. There are
24 two domestic industries here producing each of the
25 like products, Nashville and SSW account for the vast

1 majority of U.S. production of both products.
2 Further, although Nashville and SSW imported or
3 purchased subject imports from China, appropriate
4 circumstances do not exist to exclude either company
5 as a related party. The ratios of imports to domestic
6 production for both parties show that their interests
7 lie primarily in domestic production, not importation,
8 as is their participation as Petitioners in this case.

9 Third, the legal injury standard.
10 Electrolux admits in its prehearing brief that, "The
11 evidence of record indicates that the volume of the
12 subject of rack imports and the increase in volume
13 were significant in absolute terms and relative to
14 consumption and production in the United States."

15 We completely agree and find it significant
16 that Electrolux is conceding that the statutory volume
17 factor is met. Legally, satisfaction of this
18 statutory factor in itself is sufficient to support an
19 affirmative determination given its correlation with
20 the declining volumes, market shares and other trade
21 variables of the U.S. industry even without further
22 evidence of injurious pricing.

23 We disagree, however, with Electrolux's
24 contention that the imports of oven racks are not
25 achieving these increased volumes on the basis of

1 underselling the U.S. product. The record evidence
2 establish that both the U.S. and Chinese suppliers are
3 qualified to sell these products and points to no
4 other factor than price as differentiating the U.S.
5 and Chinese products.

6 The dramatic shift in purchases of oven
7 racks from U.S. to Chinese suppliers over the past
8 three years that is set forth in Table 2-1 of your
9 prehearing report was the result of lower prices from
10 China. Purchasers reported lower landed duty cost
11 from China and a decision to increase purchases from
12 China to avoid a requested price increase by the U.S.
13 producers. Mr. Hudgens will discuss the evidence of
14 underselling by imports in further detail.

15 Between the Respondents' concession on the
16 statutory volume standard and the evidence of imports
17 underselling and impact on the U.S. industry's trade
18 and financial condition, the statutory injury factors
19 are more than satisfied in this case.

20 Finally, the causation issue. Respondents
21 have argued that the downturns in the performance of
22 the refrigeration shelving and oven racks industries
23 reflect simply downturns in demand. By law, however, a
24 domestic industry need not prove that imports are the
25 sole or even the principal cause of the injury it has

1 suffered. The Commission need only find that the
2 subject imports are a cause of injury.

3 Congress has recognized that industries
4 facing difficulties from a variety of sources are
5 often the most vulnerable to unfairly traded imports.
6 The record evidence demonstrates that the large and
7 increasing import volumes that displaced U.S. sales
8 volumes are indeed a cause of the domestic industry's
9 problems. These import increases occurred while
10 demand was falling, exacerbating the problems of the
11 highly vulnerable industries are suffering.

12 Further, as our witnesses have testified,
13 even with the economic downturn in 2009, they have
14 regained sales that had been lost to China as the
15 remedial effect of the preliminary duties were felt.
16 There is no doubt that a causal nexus exists between
17 the increasing volumes of dumped and subsidized
18 imports and the injury to both the refrigeration
19 shelving and the oven racks industries. Thank you.

20 MR. ROSETHAL: Our last witness this morning
21 will be Brad Hudgens from Georgetown Economic
22 Services.

23 MR. HUDGENS: Good morning. I'm Brad
24 Hudgens of Georgetown Economic Service. This morning
25 I will discuss the record data concerning the

1 injurious impact of the unfair imports from China on
2 the domestic industries producing refrigeration
3 shelving and oven racks. There are several conditions
4 of competition that are pertinent to this Commission's
5 analysis of these investigations.

6 First, as Mr. Kara testified earlier,
7 refrigeration shelving and oven racks are produced to
8 order. Currently, each order is produced to specific
9 design requirements. Currently, virtually the entire
10 market is being supplied by producers in the United
11 States, in China that have been qualified by the OEMs
12 to meet specific design requirements.

13 Second, refrigeration shelving and oven
14 racks are products for which the primary determinant
15 of a sale is price. The OEMs purchase both the U.S.
16 and the Chinese products and use both products
17 interchangeable. During the staff conference
18 Whirlpool's witness testified that, "Since suppliers
19 are expected to meet the OEM specifications one would
20 not be able to ascertain whether one was made in China
21 or the United States."

22 The prehearing report indicates that
23 producers, importers and purchasers overwhelmingly
24 reported that refrigeration shelving and oven racks
25 produced in the United States and imported from China

1 can be used interchangeably.

2 U.S.-produced and imported product are sold
3 through the same channels of distribution, to the same
4 customers. Nothing could be more supportive of a
5 finding of substitutability between the U.S.-produced
6 and the Chinese products than the events that have
7 taken place during the period of investigation.

8 China's share of the U.S. market increased
9 as the domestic industry lost sales to unfair imports
10 of China entirely due to price. The domestic
11 industry's customers have increased their purchased
12 from Chinese suppliers because the quality is
13 satisfactory and the prices are significantly lower
14 than the domestic industry. Indeed, the major OEM
15 confirmed that they increased purchases of Chinese
16 product while reducing purchases of U.S. product
17 because of low pricing in China.

18 During the staff conference a GE witness
19 testified that the purchasing agent's job is to "scour
20 the world" for potential suppliers. Of course, the
21 search is not to find companies that price higher than
22 their U.S. suppliers. It is to find producers that
23 meet their specifications at the lowest price.

24 As the statements in the Electrolux's annual
25 report confirms on our chart, the company is

1 increasing purchases from low-cost countries to reduce
2 is cost. These statements by the major OEM purchasers
3 demonstrate the importance of price in their
4 purchasing decisions, and the substitutability of the
5 domestic and Chinese products.

6 Third, the demand for refrigeration shelving
7 and oven racks decreased during the period of
8 investigation primarily due to the recent declines in
9 the housing market. Respondents have attributed the
10 domestic industry's injury to this decline in demand
11 rather than to the imports from China.

12 Don't believe it. Yes, there was a decline
13 in demand over the period of investigation, but there
14 was no decline in demand for the Chinese product at
15 dumped and subsidized prices. Indeed, instead of
16 being an alternate cause of injury, a decline in the
17 overall market that only served to exacerbate the
18 injury caused by the dumped subsidized imports.

19 As I will show you this morning, the
20 domestic industry's material injury has been a result
21 of the unfair import competition from the Chinese
22 producers. With their aggressive pricing tactics
23 these producers were able to significantly increase
24 their shipments to the U.S. market.

25 For purposes of my testimony, I will conduct

1 my analysis based on the finding of two like products,
2 beginning with the refrigeration shelving.

3 Although the data are confidential, the
4 prehearing report indicates that the imports of
5 Chinese-produced refrigeration shelving increased
6 substantially between 2006 and 2008. Moreover, the
7 import increases occurred while demand in the U.S.
8 market declined, leading to substantial market share
9 growth by subject. These increases have come at the
10 direct expense of the domestic industry. As imports
11 increased during the POI, U.S. producers' market share
12 declined in almost direct proportion. Accordingly,
13 there can be no doubt that the import volumes of
14 refrigeration shelving from China are significant and
15 increasing both in absolute terms and relative to
16 domestic consumption.

17 The growth in the volume of the Chinese
18 imports has been achieved through aggressive pricing
19 and underselling of domestic producers. Now, as the
20 Commission is aware there are limited quarterly
21 pricing comparisons on record. That is because each
22 of the pricing products in the Commission's
23 questionnaire is unique to one OEM customer. OEMs
24 usually do not multiple source for each design because
25 of the initial tooling costs and the large number of

1 designs. So each product is usually produced for one
2 customer by one supplier.

3 The price comparisons that are available
4 based on the data provided by purchasers, however,
5 show underselling by imports from China and the
6 subsequent lost sales to Chinese imports in every
7 instance. Furthermore, these price comparisons do not
8 account for the fact that the Chinese producers offer
9 substantially discounted tooling costs and favorable
10 credit terms which were confirmed in the purchasers'
11 questionnaire responses.

12 So for each of the seven refrigeration
13 shelving pricing product a domestic producer
14 originally supplied the OEM purchaser until a Chinese
15 supplier offered a lower price than the U.S. price.
16 For five of the product, price comparisons within the
17 same quarters showed underselling by imports from
18 China and a subsequent lost sale from a U.S. producer
19 to the Chinese supplier for the remainder of the
20 period in the investigation.

21 For the other two products, although there
22 was no price comparison within the same quarter were
23 available, price comparisons between consecutive
24 quarters showed substantial underselling by imports
25 from China when the OEM purchaser switched from U.S.

1 to Chinese suppliers.

2 The lost sales and lost revenue data
3 submitted by SSW and Nashville confirm these pricing
4 trends. Although an initial review of the lost sales
5 chart in the prehearing report seems to indicate that
6 many of the purchasers disagreed with the domestic
7 industry regarding whether purchasers switched to
8 Chinese suppliers because of price, a close
9 examination of the actual purchaser's statement
10 demonstrates that most of the disagreement was with
11 the degree of underselling by importers, not whether
12 there was underselling by or lost sales to the subject
13 imports.

14 In most cases where the purchasers provided
15 an explanation about the actual sale, the purchasers
16 agree that they switched sales to the Chinese supplier
17 and the Chinese price was lower than the U.S.
18 producer's price. Of the two refrigeration shelving
19 allegations that the OEMs dispute whether the sale was
20 lost due to underselling, one of these allegations is
21 product one of the Commission's pricing analysis. A
22 review of those data which are on page 56 of the
23 prehearing report shows that the sale of this open-
24 ended freezer shelf was lost to a Chinese supplier due
25 to underselling at prices very similar to the original

1 lost sales allegation, and it's important to note that
2 the OEM that provided the pricing data was the same
3 OEM that disputed this lost sale.

4 Hence, both the pricing data and the lost
5 sales information confirmed that the OEM switched a
6 major share of their purchases of refrigeration
7 shelving to Chinese suppliers because of lower prices
8 during the POI.

9 In a market characterized by intense price-
10 based competition this degree of underselling coupled
11 with the increasing volume of subject imports has led
12 to the price suppression and depression experienced by
13 U.S. producers of refrigeration shelving.

14 The result of the rising volume of low-
15 priced imports from China and the suppressed and
16 depressed prices has been a significant decline in the
17 U.S. producers' operating and financial performance.
18 The domestic industry suffered deterioration in nearly
19 every trade and financial variable considered by the
20 Commission in injury investigations, including
21 producing, capacity utilization, shipments,
22 employment, sales and operating income margins. The
23 industry also experienced production cutbacks and
24 permanent layoffs over the POI due to sales declines
25 as a result of the orders lost to imports from China.

1 This downturn in the industry's performance
2 correlates with the increasing volume of low-priced
3 imports from China.

4 At this point I would like to turn to oven
5 racks where similar injurious import behavior occurred.
6 The volume of imports of oven racks from China also
7 increased substantially from 2006 to 2008. Table 2-1
8 of the prehearing staff report shows that the
9 purchases of oven racks from China increased from 12
10 percent of OEM total purchases in 2006 to 42 percent
11 of total purchases in 2008, with U.S. producers
12 experiencing an equal downturn in supply.

13 In a declining U.S. market, these increased
14 import volumes resulted in a significant growth in
15 import market share over the 2006 to 2008 period, and
16 the market share growth continued in 2009.

17 Because there were non-subject imports of
18 oven racks in the U.S. market, those increases
19 displaced U.S. producer shipments on a one-to-one
20 basis, and the domestic market share fell dramatically
21 over the period of investigation.

22 As s. Cannon noted, even Electrolux
23 concedes that the volume of imports of oven racks and
24 increases in those volumes are significant in absolute
25 terms and relative consumption. The growth and volume

1 of the Chinese imports has been achieved through
2 aggressive pricing and underselling of domestic
3 producers.

4 First, the price comparison based on U.S.
5 producers and importer questionnaires show
6 underselling in both instances where comparisons were
7 possible. Although the price comparison is based on
8 the purchasers' responses show mixed underselling and
9 overselling during the first part of the POI, the
10 underselling is more significant during the latter
11 part of the period as imports increased in significant
12 volumes.

13 Again, these price comparisons do not
14 account for the fact that the Chinese producers offer
15 substantially discounted tooling costs and favorable
16 credit terms. For the five oven rack products, the
17 quarterly pricing shows that the purchasers switched
18 from U.S. to Chinese suppliers during the period of
19 investigation. For products six and seven, the data
20 showed that domestic producers lost the sale during
21 the quarters when the Chinese suppliers undersold
22 them. for product 11, the Chinese producers
23 consistently undersold the domestic product. For
24 products five and 12, however, the quarterly pricing
25 comparison show overselling by imports despite the

1 domestic producer losing the sale to the Chinese
2 supplier.

3 We believe these data are in error. Domestic
4 producers have submitted the lost sales information in
5 the petition on these two products, showing the
6 Chinese suppliers' prices were lower than the domestic
7 producers' prices. In both instances the purchaser
8 had not provided any information to refute these lost
9 sales allegations.

10 Similar to the refrigeration shelving, the
11 lost sales chart in the prehearing report indicates
12 that purchasers disagreed with the lost sales
13 allegations concerning oven racks, but in every
14 instance where the purchasers provided an explanation
15 about the actual sales the purchasers agreed that they
16 switched sales to the Chinese supplier and the Chinese
17 price was lower than the U.S. producers' price. These
18 data demonstrate that the OEMs switched their
19 purchases of oven racks to Chinese suppliers because
20 of price.

21 Electrolux has argued that it increases its
22 purchases of Chinese-produced oven racks to obtain
23 alternate sourcing rather than to obtain lower cost
24 inputs. That claim however is inconsistent with
25 statements it made in its annual report. Our chart

1 indicates that Electrolux reported that it reduced
2 cost "mainly by increasing the purchases from
3 suppliers in low-cost countries." China would be a
4 prime example of a low-cost country.

5 In fact, Electrolux also states that its
6 dramatic shift in sourcing to low-cost suppliers has
7 occurred in 2008, and that further increases were
8 planned. Electrolux is not replacing U.S. suppliers
9 with Chinese suppliers just to have alternate sources.
10 This dramatic shift reflects a systematic switch to
11 cheaper sources of supply.

12 As increasing import volumes of oven racks
13 from China undercut the U.S. prices, the domestic
14 industry suppressed and depressed prices resulted in
15 operating losses for the domestic producers over the
16 entire period of investigation. Although the
17 U.S. industry's losses in 2008 were not as large as its
18 losses in 2006, that change occurred because the U.S.
19 industry made the decision not to continue to reduce
20 prices to the levels of the Chinese producers in many
21 instances given that it was already suffering
22 significant losses, and thus lost market share
23 instead.

24 Electrolux argues that the financial
25 performance for the domestic oven rack industry has

1 improved over the period of investigation and
2 therefore is not being injured by the imports from
3 China. This observation does not take into consider
4 several important factors.

5 The first point is the domestic industry
6 lost substantial volumes of sales during the POI.
7 Much of this decline occurred in the domestic
8 industry's four product lines, which is the nickel-
9 plated oven racks.

10 The second point is that the domestic
11 industry lost money over the entire period of
12 investigation and could never increase prices
13 sufficiently to earn a profit due to the lower-priced
14 imports. Further, the industry's operating losses in
15 interim 2009 was worse than it's year-end 2008 loss
16 while import market shares increased.

17 The third point is as a result of the
18 significant loss of business in the sales of the
19 nickel-plated oven racks the product risk naturally
20 changed with higher value oven racks, including the
21 porcelain-coated oven racks, and an oven slide rack
22 now represent a larger share of the domestic industry
23 sales, and a sample of the slide rack is on the table,
24 and the witnesses can answer any questions that you
25 may have on that rack during question and answer time.

1 But these higher-valued products have
2 traditionally provided the domestic industry with a
3 higher return than the lower-priced nickel-plated
4 products. But the sales of these other products are
5 limited in volume and cannot sustain the industry over
6 the long term.

7 Hence, the improvement in the operating
8 losses by the domestic industry on sales of oven racks
9 was more a reflection of the domestic industry losing
10 a substantial share of its core business, the subject
11 imports, and the subsequent change in product mix
12 rather than to any actual improvement in its financial
13 condition.

14 Electrolux, argues that the domestic
15 industry's financial injury was not a result of
16 depressed or suppressed prices, but rather high
17 production costs and manufacturing inefficiencies.

18 As our witnesses have testified, both
19 Nashville and SSW have done everything possible to
20 control rising costs, including rationalizing
21 facilities, laying off employees, and undertaking
22 significant capital investments. The U.S. producers
23 are among the most efficient producers of oven racks
24 in the world, yet for all the capital improvements and
25 cost reduction the U.S. producers have not been able

1 to compete with imports from China.

2 These imports are sold at such low prices
3 that they are often below the domestic industry's
4 production costs. No amount of efficiency gains would
5 enable the U.S. producers to compete against such low
6 priced imports.

7 Let me conclude with two brief points on the
8 threat of injury. First, subject imports have
9 increased by an unprecedented volume and market share
10 over the period of investigation. During the
11 preliminary stage of this case the Chinese producers
12 projected their exports to the United States to
13 increase even further. It was only with the
14 imposition of the preliminary duties that the Chinese
15 producer revised their projections downward.

16 Second, data from the foreign producers show
17 that the Chinese producers have substantial unused
18 capacity and are heavily export-oriented with the
19 United States as their primary market. Indeed,
20 several Chinese producers reported that their
21 refrigeration shelving and oven racks facilities were
22 established just to supply the U.S. market. Notably,
23 however, these data are understated as a number of
24 major Chinese producers, including some who submitted
25 responses at the preliminary stage of this case, did

1 not submit responses or submitted incomplete responses
2 to the Commission in the final phase.

3 So based on the rapid and significant
4 increases in exports to the United States, substantial
5 increases in production and excess capacity and the
6 export orientation to the U.S. market of the Chinese
7 suppliers, the volume of imports from China will
8 continue to increase absent an affirmative
9 determination by the Commission.

10 Thank you.

11 MR. ROSENTHAL: Thank you. That concludes
12 our presentation, and we'll be glad to answer any
13 questions.

14 CHAIRMAN ARANOFF: Thank you very much. I
15 want to welcome the panel this morning and thank all
16 the witnesses for traveling here and taking time away
17 from your business to be with us and answer our
18 questions. We're going to begin the questioning this
19 morning with Commissioner Lane.

20 COMMISSIONER LANE: Good morning, and thank
21 you all for coming here and helping us learn about
22 this industry.

23 Mr. Rosenthal, in your opening remarks you
24 talked about the Pillsbury Doughboy. Does that mean
25 that you are replacing Joseph and his coat of many

1 colors with the Doughboy?

2 MR. ROSENTHAL: Yes, we've often been
3 mistaken for one another.

4 COMMISSIONER LANE: Okay, thank you.

5 Let me start with Ms. Cannon. You answered
6 one of the questions I was going to ask, which is that
7 you are still asking the Commission to find two like
8 products. I would like for you to compare these two
9 products with what the Commission did in the
10 preliminary stage of the certain toe-behind lawn
11 groomers, which we took four types of lawn groomers and
12 found one like product. Do you see any comparison at
13 all or any similarities there between what we did in
14 the preliminary of lawn groomers and what you're
15 asking us to do here?

16 MS. CANNON: I'd like to look at that case
17 more closely and respond to that in the posthearing
18 brief if I might so I can answer your question more
19 completely.

20 COMMISSIONER LANE: Okay, that's fine. Thank
21 you.

22 Could you tell me what other challenges your
23 industry faces other than the weak housing demand and
24 the competition from imports that make it difficult
25 for you to earn a profit?

1 MR. KARA: Those are the two principal
2 challenges, and I'd like to elaborate on that just a
3 little bit.

4 We've been talking about injury during the
5 period of investigation, but the fact of the matter is
6 that the threat of Chinese imports began in about
7 2003. At that time all of the major OEMs began
8 telling us the same thing, which is that they had
9 received quotes on our product from the Chinese and
10 that there was substantial cost advantages to moving
11 that produce to the Chinese.

12 In fact, if I might, I'll relate an
13 anecdote. We were in Anderson, South Carolina, in
14 2003, meeting with an official of Electrolux, and at
15 that time as we had dinner that evening and talked
16 about the state of the business he introduced us to a
17 company, Jing-Su Wa-Chi, which is one of the Chinese
18 importers, and told us that it was incumbent upon us
19 to develop a relationship with them and to begin
20 buying our product from them.

21 We subsequently met them that year on a trip
22 to China, saw their facilities and so forth. But even
23 though the imports did not begin in full strength
24 later years, already we began to see that price
25 competent. And as you heard from Mark Gritton, no

1 matter how much we seem to be able to reduce our
2 prices it was never enough.

3 COMMISSIONER LANE: Okay, thank you.

4 Could you tell me what level of
5 profitability is sufficient to justify your continued
6 investment in production facilities for these
7 products, and is it the same for refrigeration as it
8 is for oven?

9 MR. KARA: It is the same, and the specific
10 amount I'd like to address in the confidential comment
11 section, but the key point is that we need to have
12 some level of profitability, and we have not had any
13 level of profitability in recent years.

14 COMMISSIONER LANE: Okay. When you provide
15 this information posthearing, could you give us a
16 specific cost analysis that you had used when
17 considering increased investment, including an
18 analysis of revenue cost and cash flow return of
19 investment?

20 MR. KARA: We'll do our best to do that.

21 COMMISSIONER LANE: Okay, thank you.

22 How do you explain the fact that the
23 domestic oven rack industry's financial performance
24 and operating margins improved in the years which saw
25 the highest volume of subject imports?

1 MR. GRITTON: Thank you. I think it's
2 important that we talk about everything that is going
3 on during that period and here are some of the
4 relevant facts.

5 Number one, during that period of time our
6 volumes of oven racks have diminished significantly.
7 We basically have lost most of the high-volume core
8 product and during that time we've been successful
9 through our innovation efforts in rolling out some new
10 products, oven racks systems such as the one you see
11 here on the display that have much higher value add.
12 This has been a good development for us.
13 Unfortunately, it is a very temporary development. We
14 have already begun to lose these systems to Chinese
15 imports that are underselling us on the higher value-
16 added products, and we are under threat to lose
17 virtually all of that production just in the short
18 time that we've been working with those type of
19 products.

20 I would like to again, as Mr.Kara did, if I
21 may give you an anecdote about how that works in our
22 business. We recently worked with one of our major
23 customers on the development of such a full-extension
24 slide-out oven rack system. We were awarded the
25 business after we cooperatively worked through the

1 project, and we began to make the tooling to go into
2 production.

3 During the time that we were making the
4 tooling we found out that our customer was in the
5 background developing a Chinese supplier to make the
6 same product, although we were not officially told
7 that this was the case.

8 So we discussed that. You know, we sat down
9 and had a conversation with our customer, and
10 basically told him that we were going to require that
11 they give us at least a one-year commitment on that
12 product after we did all the work to develop it and
13 tool it up and do the product introduction. After a
14 series of negotiations, they eventually agreed to do
15 that, but we know that at the end of that period we
16 will have to lower our price to meet the Chinese
17 pricing or we will lose that business.

18 I think that obviously since the supplier
19 was being developed without our knowledge during the
20 time that we were tooling up the project, we may have
21 lost it even sooner.

22 MR. ROSENTHAL: May I just quickly summarize
23 two points?

24 The first point is at the beginning before
25 the anecdote was that you can make -- the important

1 thing is their losses were improving but they never
2 achieved profitability in this period. Instead of
3 drowning under 20 feet of water, they are only
4 drowning under 10. Let's not lose sight of that.
5 When we're talking about magic, let's keep the eye on
6 the ball. They are still losing money despite so-
7 called improvement.

8 The second thing is what you heard was
9 they're improving their financial performance by
10 selling lower volumes of product that they were losing
11 money on. That's not a way to long-term profitability,
12 so fewer products ultimately will get you out of
13 business. The last thing you heard was that that
14 changed the product mix.

15 COMMISSIONER LANE: Okay, thank you.

16 In your posthearing, could you give us a
17 quantification of what you think your financial
18 performance would have been if the imports would have
19 been fairly traded?

20 MR. ROSENTHAL: We'll certainly do our best.

21 COMMISSIONER LANE: Okay, thank you, and
22 thank you. I'll wait for my next round to ask more
23 questions. Thank you.

24 CHAIRMAN ARANOFF: Commissioner Williamson.

25 COMMISSIONER WILLIAMSON: Thank you, Madam

1 Chairman. I, too, want to express my appreciation to
2 the witnesses for coming today to give their
3 testimony.

4 I would first like to turn to this question
5 of tooling costs and I wanted to know, are these
6 tooling costs factored into our price data so when
7 we're comparing Chinese prices to domestic prices how
8 are tooling costs factored in?

9 MR. ROSENTHAL: They are not, and that's one
10 of the problems in this particular industry, and in
11 doing your comparisons. You get this straight price
12 to price, but even though the Respondents have
13 admitted that the tooling costs are heavily
14 discounted, sometimes free, that discount does not get
15 reflected in your price-to-price comparisons.

16 COMMISSIONER WILLIAMSON: I don't know
17 whether ow or in posthearing you can give us some
18 indication of what percentage of say the cost of the
19 product tooling represents. I know it probably varies
20 from product to product, can you give us some
21 indication of what --

22 MR. ROSENTHAL: Again, you're right in your
23 assumption that it does vary from product to product,
24 and you do have to make some assumptions about the
25 volumes that will be produced using that tooling, but

1 again we'll do our best.

2 COMMISSIONER WILLIAMSON: Thank you.

3 And I don't think there has been much
4 discussion of this --

5 MR. ROSENTHAL: We raised it in the prelim,
6 and it was acknowledged in the staff report. One of
7 the problems is traditionally when the Commission
8 sends out its questionnaires it's hard to your pricing
9 sections and actually capture this accurately, but the
10 staff did a good job in the questionnaire asking
11 questions about tooling, and as indicated the
12 Respondents almost universally admitted that the, not
13 just credit, but the tooling costs are a major
14 discounted item for the Chinese and a major way that
15 they compete, and more important for the Commission's
16 point of view, it is fair to say that the Respondents
17 look at total cost, not just the price but the total
18 cost, including the discounted tooling cost and credit
19 costs when they decide on how to make their purchases.

20 I'm not revealing anything confidential
21 here. All you have got to do is look at public reports
22 by companies like Electrolux, they wouldn't do
23 anything other than that.

24 COMMISSIONER WILLIAMSON: You also raised
25 the question about credit terms and the fact that some

1 products have longer credit terms. I was wondering to
2 what extent do longer shipping times or the shorter
3 shipping times of the domestic product offset that?

4 MR. KARA: The short answer to that is that
5 the shipping time from China to the U.S. is not
6 factored into the terms or the discussion, so we're
7 not talking about the terms being from the time that
8 it leave China necessarily. It's from the time that
9 it is typically consumed by the OEM. That varies from
10 customer to customer, but that's typically the case.

11 Mark, would you like to add anything to
12 that?

13 MR. GRITTON: Only just the fact that it's
14 our experience that typically there are very large
15 inventories of the imports built up and held here in
16 the United States for shipment to the OEM factories,
17 so that supply chain is very long and there are huge
18 inventories, working capital sitting there.

19 MR. KARA: To give you one more example of
20 that, Commissioner, in the case of one of the leading
21 OEMs, and I don't want to reveal any confidential
22 information about them so we will identify them if we
23 may end up with a posthearing brief, their product is
24 all held on consignment and the terms are not
25 triggered until the consumption at the plant level.

1 So, for example, when we were notified that
2 a number of refrigeration shelves and baskets were
3 going to be repatriated, they still had to work
4 through many, many months of Chinese inventory and
5 that inventory, the trigger date for the terms happens
6 when it is consumed, not when it's shipped.

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

9 One example you presented you talked about
10 the reverse auction when you lost the sales because of
11 reverse auction. I was wondering how frequently are
12 reverse auctions used in the purchasing process by the
13 OEMs?

14 MR. GRITTON: That tends to vary by OEM, and
15 frankly, it kind of goes in and out of fashion, but in
16 general, you know, I would say we have one large
17 customer, one of the three that we talked about, who
18 does a reverse auction on every major new project, so
19 others do them less frequently, but they still are in
20 place I think pretty much with all three, so it's a
21 fairly common occurrence.

22 COMMISSIONER WILLIAMSON: Okay. What about
23 other factors that might affect the -- external
24 factors that might affect the negotiated priced
25 because for each product they're asking you what, for

1 so many, you're going to supply so many over a certain
2 period of time at a certain price?

3 MR. GRITTON: Yes, sir, that's correct.

4 COMMISSIONER WILLIAMSON: Really what I'm
5 trying to get at is how does this heavy Chinese
6 competition drive down the price when each product is
7 sort of unique, is sui generis, each contract.

8 MR. GRITTON: Well, again, I think that what
9 we -- our experience is the three main factors are the
10 unit price, which is unfairly traded, which is an
11 unfair unit price to begin with, and then the long
12 credit terms, and the heavily discounted tooling.
13 Those are the three main factors.

14 I wanted to make sure I understand your
15 question completely.

16 MR. KARA: Commissioner, if I may, I believe
17 the answer is that relates to the bidding process, and
18 that is that when a part has been designed there are
19 final prints that are issued by the OEMs, and those
20 prints are put out for bid to a variety of sources.
21 And so during the negotiation process there are
22 ongoing discussions by the OEMs among the various
23 suppliers, and in the course of that you learn a lot
24 of information about what the other pricing is that's
25 either disclosed or represented, if that answers your

1 question.

2 I may not have understood it completely
3 either.

4 COMMISSIONER WILLIAMSON: Now, let's say a
5 new design basket. How long will the OEM expect maybe
6 that contract would service? How long would that
7 demand be met and what happens when they say, okay, we
8 now need some more?

9 MR. ROLLINS: I could comment a little bit
10 on that. I mean, typically you have some sort of
11 contract for the term of the business. It could be a
12 year, it could be a quarter, or it just depends on the
13 timeframe that's negotiated. I think what would
14 typically change a price would be a change in material
15 costs since these parts are impacted pretty
16 significantly by the base materials that are in the
17 parts, and that would obviously have an impact on us
18 to need to change the price if it did change. But you
19 know, once there is a contract in place, that's what
20 is honored.

21 COMMISSIONER WILLIAMSON: Are contracts
22 typically, more typically a quarter or more typically
23 a year? I know sort of like refrigerators and ovens
24 may have a model every year but it doesn't change that
25 much.

1 MR. ROLLINS: I would say in the past -- the
2 period of investigation, especially for the past two
3 to three years, material costs have been very
4 volatile, so it's put companies like us in a position
5 where we would be more vested to have shorter term
6 contracts because of the instability of that material
7 cost. So they typically have been shorter than a
8 year. A year would be unusual at this timeframe. It
9 would be probably more like a quarter.

10 COMMISSIONER WILLIAMSON: Now does that then
11 give your competitor, Chinese suppliers an opportunity
12 to come in more frequently?

13 MR. ROLLINS: No doubt. No doubt. I mean,
14 obviously the market environment in the last couple of
15 years has been rising material costs, and obviously
16 our competitors are extremely sensitive to price
17 changes. There is lots of pressure from their
18 customers, the retailers, to remove costs and take
19 costs out. So for us to hit our customers with a
20 price increase is kind of like hitting the hornet's
21 nest, and it's a door opening for a low-cost producer,
22 you know, at the Chinese price is less than ours, it
23 just creates the window opening for them in a changing
24 market environment.

25 MR. GRITTON: The only other thing that I

1 may add to that that may be relevant is that there is
2 a stated objective on the part of all of our customers
3 to retain the flexibility to go change another low
4 price if they find out, and it's been, I'd say,
5 impossible. Even in the instances where we have
6 negotiated contracts, it's been next to impossible to
7 negotiate a contract that does not contained a "meet
8 competition" clause.

9 So that at some point even before the
10 contract is over the customer has the flexibility to
11 come to us and confront us with a lower price, and if
12 we're unable to meet it, they will exercise their
13 right to move the business.

14 COMMISSIONER WILLIAMSON: Okay. I'm running
15 out of time. Okay, I apologize for that, but I though
16 that was an important point so I did want to hear it.
17 Thank you.

18 CHAIRMAN ARANOFF: Commissioner Pinkert.

19 COMMISSIONER PINKERT: Thank you, Madam
20 Chairman, and I join my colleagues in thanking all of
21 you for being here today to help us understand what's
22 happening in your industry.

23 I want to begin with a question that is --
24 I'm not exactly sure who on the panel would be best at
25 answering this but I'll just throw it out to the

1 entire panel.

2 You know that Whirlpool argues that its the
3 downturn in the economy that is responsible for any
4 adverse circumstances in the industry, and they argued
5 that it's not subject imports. Can you give me some
6 response to that? It doesn't necessary have to be a
7 legal response about how much has to be proven, but
8 more in terms of what you actually face out there and
9 how you make that distinction.

10 MR. GRITTON: Well, the downturn in demand
11 is real. We know that that is a fact, and we also
12 know from the questionnaire responses and the data
13 that during the same time that overall demand was
14 going down, that the Chinese imports were going up,
15 and, frankly, in terms of Whirlpool during this period
16 the imports of Chinese products were going up very
17 dramatically.

18 So in a down market when we are losing
19 market share, it's like the perfect storm. It's a
20 double whammy that's devastating to us. So those are
21 really the factors and those are the issues. Yeah,
22 you know, the demand has shrunk, especially in the
23 past few months, but over the period and at the same
24 time the imports have been going up.

25 MR. HUDGENS: Can I make one other quick

1 point?

2 If you look at the record, and particularly
3 the pricing tables in Chapter 5 of the staff report,
4 and compare the volumes of what was being supplied by
5 U.S. producers versus the volume that are being
6 supplied by Chinese suppliers, there is this huge
7 shift in 2007 and 2008 is when the U.S. producers lost
8 sales to Chinese suppliers. So those shifts have
9 nothing to do with the decline in demand. It's 100
10 percent reflection of low pricing in the market by
11 Chinese producers.

12 MR. KARA: Commissioner, if I may comment
13 on -- there is something else that we probably did not
14 explain well, but your experience has been that the
15 import -- the imports have come in waves. It began
16 with the simplest product that we produced. For
17 example, in the refrigeration area, it would be flat
18 shelves. When the Chinese expertise was demonstrated
19 in those area, and as they gained capacity, and I can
20 assure you from first-hand experience that they have
21 become very capable of manufacturing, and they have
22 increased their capacity immensely.

23 But as those two events happened, then the
24 second wave would come on, and the second wave would
25 be slightly more complex parts.

1 The third wave is the wave that we've just
2 started to experience, and which was announced to us
3 during a 2008, and thankfully we had the preliminary
4 orders that had been a stop to it, but the third wave
5 is basket production which began in China during last
6 summer on a very, very large scale. Previously
7 baskets had not been imported from China to any
8 significant degree, and, of course, the oven rack
9 systems which have been designed and produced and
10 engineered by the domestic industry, that wave is
11 underway. And again if you'd like more detail about
12 some of those specific situations, we can provide it,
13 but the loss of those oven rack systems, the full
14 extension systems that you see in front of us, which
15 is a highly engineered product, is underway as we sit
16 here in this meeting but for the Commission's
17 preliminary duties. I hope that answers it or helps
18 you understand.

19 MR. ROSENTHAL: There is one more important
20 point and that has to do with pricing. The decline in
21 demand has been volume obviously, but as Mr. Kara
22 testified and I think Mr. Gritton also, the impact of
23 the Chinese occurred, first of all, beginning prior to
24 the period of investigation that you are taking a look
25 at. It first began in 2003 when the companies sitting

1 at the table were told by their customers that unless
2 you match the Chinese pricing we're going to move our
3 business.

4 In fact, what happened was the domestic
5 industry lowered their pricing to keep their market
6 share, to keep their volumes up. That was what was
7 happening in the 2004-2005 period, prior to the period
8 of investigation. That is why when you get to the
9 data that is in the record now you're seeing that
10 throughout the period the industry was losing money
11 because they had already dropped their prices in order
12 to keep their volume, and what you saw happening later
13 on as this period went on, as demand went down no
14 question, but as the Chinese imports accelerated you
15 saw a couple of phenomena, and one of them we talked
16 about in response to Commissioner Lane's statement,
17 which was the domestic industry said we cannot
18 continue to supply our product at these prices. We
19 are losing too much money. We're going to have to
20 give up volume, and so we can lose less money. That's
21 happened irrespective of the decline in demand.

22 COMMISSIONER PINKERT: Now, turning to Mr.
23 Hudgens' testimony, specifically on the oven racks,
24 I'm wondering what do you mean by a core product, and
25 what do you mean by we can't sustain profitability

1 based on the higher valued products.

2 MR. KARA: When we talk, Commissioner, about
3 a core product in oven racks we're talking about what
4 most of us would have within our homes on ranges and
5 ovens that are somewhat older models, and that would
6 be a very simple nickel-plated rack made out of a
7 fairly low gauge of fairly small wire, and its
8 functionality is fairly limited. You can pull it out
9 part of the way and it stops so that it doesn't tip
10 and spill your pie or turkey or whatever is on it.
11 That's the core product, and those core products
12 account for many, many, many millions of unit sales.

13 The higher end product or the more highly
14 engineered ones which Mark Gritton is demonstrating.
15 Mark, if you could pick that up, I'd appreciate it so
16 that all the Commissioners can see, that product by
17 comparison is high value-added product. It sits
18 within the oven cavity. It is designed to lock into
19 place. It is designed to fully extend so that you
20 don't burn yourself as you reach in to grab, for
21 example, a turkey pan on the hot element because you
22 can pull it completely out of the oven, that
23 innovation accounts for the fact that you have seen --
24 accounts, in part, for the fact that you have seen our
25 sales increase, but those very systems, as I talked

1 about the three waves, are presently under attack, and
2 we can answer more questions about that if you would
3 like. Thank you.

4 MR. ROSENTHAL: It means that these are
5 relatively lower volume compared to the -- the bread-
6 and-butter, the core product that was described. You
7 can't make just these and stay in business. Your
8 capacity utilization is way out of whack. That's
9 essentially the point.

10 If you cede all the core products to the
11 imports from China, you're not going to be able to
12 live on making relatively low volumes of these racks
13 alone.

14 MR. GRITTON: Very quickly, the only point I
15 would add to that is that the import of these systems
16 from China has already begun. The threat is that more
17 will come from China, but the example that I gave in
18 my testimony about the project that went on the
19 reverse auction, it was a system just like that.

20 COMMISSIONER PINKERT: This will be a
21 question in the next round, but that sounds like a
22 threat argument with respect to the oven racks, and we
23 may want to follow up on that in the next round.

24 Thank you, Madam Chairman.

25 CHAIRMAN ARANOFF: The argument that I see

1 in the Electrolux's brief, and I think maybe in the
2 other Respondent's brief as well, is that the reason
3 that they have turned to sourcing from China is
4 because they've seen the value of dual sourcing or
5 multiple sourcing their products.

6 But if I understood your brief correctly,
7 you were saying that for each particular part that
8 corresponds to a particular model of appliance, the
9 purchasers tend to source that from just one company,
10 and then maybe they source a different part from
11 another company. Is that what's going on?

12 MR. KARA: Yes, Madam Chairman, you've
13 describe it exactly. I will say that there are a very
14 small number of extremely high volume parts that have
15 been dual sourced, but that is the exception and not
16 the rule.

17 CHAIRMAN ARANOFF: Okay. So normally when
18 we're looking at a case of multiple sourcing, what the
19 purchasers will tell us is we have to have more than
20 one supplier because there are liability issues with
21 the supply chain where, you know, there might be
22 production problems at the plant or logistic problems
23 getting just-in-time inventory.

24 That doesn't sound like what's going on
25 here. If purchasers are relying on a sole source for

1 a particular part and then a different source for
2 another part. It seems like there is something else
3 at work.

4 MR. KARA: That is exactly correct.

5 CHAIRMAN ARANOFF: Okay. Is there any kind,
6 because normally when you are doing this dual
7 sourcing, you're going it to spread risks. Is there
8 any risk-spreading effect to the kind of marketing
9 partner that you're describing here?

10 MR. KARA: I'm going to let Mr. Rollins also
11 answer this, but I'd like to say at the outset that
12 the situation that Mark Gritton described in his
13 direct testimony is, in my mind, a pendulum that
14 swings back and forth from there is an advantage to us
15 as an OEM to have a single source. When all of the
16 price has been squeezed out of that, the pendulum
17 starts to swing back and our customers tell us, no,
18 we've adopted a new strategy, we must have multiple
19 sourcing, and in the effort to, or in the action of
20 getting multiple sourcing they will attempt to extract
21 more price concessions.

22 And while you Commissioners were not here
23 during the preliminary, the representative from
24 General Electric described exactly that process. Yes,
25 it's a time-honored strategy, if you will.

1 MR. ROLLINS: I don't know that I have
2 anything really to add to that. I mean, he's right.
3 I mean, I think the sourcing strategies change from
4 time to time whether they want to have multiple
5 suppliers or single suppliers. It just depends on the
6 environment. I think a lot of it's driven by whatever
7 achieves the best price.

8 MR. ROSENTHAL: It really is a price
9 strategy, not a risk-hedging strategy, in other words.

10 CHAIRMAN ARANOFF: Okay. I want to go back
11 to some questions that Commissioner Williamson was
12 asking about tooling, and what I want to understand is
13 when a new part is introduced in connection, I
14 suppose, with the new model appliance, who designs the
15 tooling, produces the tooling, and owns the tooling to
16 make that new part?

17 MR. GRITTON: Madam Chairman, typically if
18 it's a project that we're doing, we will work in
19 conjunction with a tooling supplier to do the actual
20 tooling design to make the part, and then
21 traditionally how it has worked is that the OEM would
22 pay for the tooling, and they would own the tooling,
23 so that, you know, it would be their property and they
24 would pay for it.

25 But the actual tooling design is primarily

1 done by the tooling -- whoever makes the tooling,
2 whoever the tooling supplier is in conjunction with
3 our engineering team.

4 CHAIRMAN ARANOFF: Okay. And that's
5 protected by some kind of intellectual property right
6 or ownership right, the design of the tooling?

7 MR. GRITTON: Not necessarily, not in
8 general.

9 CHAIRMAN ARANOFF: Okay.

10 MR. GRITTON: It can be but it's not the
11 general practice.

12 CHAIRMAN ARANOFF: Okay. And then the
13 physical tooling itself once it's produced is paid for
14 and owned by the purchaser?

15 MR. GRITTON: In most cases that's how it
16 has been, yes.

17 MR. KARA: But not how it has become, Madam
18 Chairman. Because of the pressure on the tooling,
19 less and less frequently our customers, or I should
20 say more and more frequently our customers have been
21 unwilling to pay for either all or part of that
22 tooling.

23 MR. ROLLINS: It becomes another additional
24 point of negotiation, not only the piece price gets
25 negotiated, but the tooling cost, and tooling cost is

1 typically a fixed cost. You're building a weld
2 fixture or a formed eye, and it's pretty much a set
3 cost whether it's done in-house or we outsource that
4 tooling. But with the Chinese imports and the lower
5 cost of tooling from China, that bring additional
6 pressure to match tooling prices.

7 CHAIRMAN ARANOFF: See, this is what I'm
8 trying to understand in that you told Commissioner
9 Williamson that when we're doing our price comparisons
10 between the domestic product and the imported products
11 we're not capturing the tooling cost.

12 And so how is the tooling cost normally paid
13 for, and then tell me maybe how that has changed? Is
14 there a separate contract item where they pay a lump
15 sum for that cost for each model?

16 MR. GRITTON: It is really very situational,
17 but Mr. Rollins' comment and Mr. Kara's as well are
18 exactly on track. The situation I described to you is
19 more the past, the traditional way. But more and
20 more, because the Chinese tooling is so low cost, our
21 customers are confronting us with that, and it's
22 become another point of negotiation.

23 One of the ways that it's done is if there
24 is tooling involved and we end up being awarded a
25 project is that we will pay for the tooling, and then

1 try to recover that somehow in the sales of the
2 product. That's one of the options.

3 The other is though that, and I have talked
4 recently with a person that has experience a lot from
5 China sourcing, is that the Chinese suppliers will
6 just under pressure concede to thrown in the tooling
7 for free, so that's another competitive pressure that
8 we're facing.

9 Obviously, we can't get free tooling, and so
10 it becomes another point of price pressure on us.

11 CHAIRMAN ARANOFF: Okay. So just to make
12 sure I understand, under the sort of old model that
13 you told me has now changed you would have had a
14 separate charge for the tooling which would have been
15 separate from the per unit price that you were
16 charging for the actual product?

17 MR. GRITTON: But just to be sure, that's
18 still exists. It's not that is a relic history at
19 that point. It still exists. It's just that it's now
20 understood that that is part of the overall price
21 negotiation whereas before you understood you will pay
22 for the tooling, we'll have a separate price. Now
23 everything is kind of combined to look at what the
24 Respondents have said is the total cost of this
25 project.

1 CHAIRMAN ARANOFF: So what you're telling me
2 is sort of in the past the tooling was a pass-through.
3 You just told them how much it cost and they paid it,
4 and you negotiated about the piece rate for the
5 product but now it's all part of one negotiation?

6 MR. GRITTON: Yes, ma'am, that's true. I
7 mean, in the past they always paid attention and
8 wanted -- you know, we needed to control the cost, but
9 in general that's true.

10 CHAIRMAN ARANOFF: Okay. Thank you very
11 much. Those were really helpful answers, and I'm
12 going to turn to Vice Chairman Pearson.

13 VICE CHAIRMAN PEARSON: Thank you, Madam
14 Chairman. Welcome to all of you. As my fellow
15 Commissioners know, I have actually more direct
16 experience with the oven racks, but I also have an
17 interest in refrigerators, so let me start with a real
18 basic refrigerator question.

19 Why does my refrigerator have glass shelves
20 while the freezer unit in the same appliance has wire
21 racks? Is that done for cost reasons or
22 functionality? What's going on?

23 MR. GRITTON: To some extent that's a
24 function of consumer preference or what -- because the
25 wire products and glass products are not considered to

1 be the same, so it's really just a matter of
2 preference.

3 MR. KARA: Commissioner, not to be a smart-
4 akeck, but if was our choice it would all be wire.

5 (Laughter.)

6 VICE CHAIRMAN PEARSON: I'm sure of that.
7 Up in the office I do have a refrigerator with wire
8 shelving. The Commission owns that. I had nothing to
9 do with that decisionmaking process, but I'm glad it's
10 there.

11 But is there any change in functionality if
12 in a freezer one has glass shelving? Is that
13 technically not a problem, a freezer could be designed
14 that way?

15 MR. KARA: It's possible that they could be
16 designed that way and they might be, but it's more of
17 a marketing ploy on the part of the OEMs, and I don't
18 use the term "ploy" in a pejorative sense. I mean,
19 it's a legitimate effort on their part to design what
20 they believe the consumer would view as the best
21 combination of materials within it, the best shelving
22 options.

23 VICE CHAIRMAN PEARSON: Well, for a flat
24 shelf that could be either glass or wire in a
25 refrigerator, which is less costly to produce?

1 MR. KARA: Generally the wire shelf would be
2 less costly.

3 VICE CHAIRMAN PEARSON: Okay. So the OEM is
4 paying more money putting in a glass shelf because
5 they have the belief that the consumer will prefer it?

6 MR. KARA: Typically that's been the case in
7 the past. Recently in the market there have been
8 innovations within glass shelves as well, and those
9 may be due to cost issues where the price of a
10 traditional what I'll call an encapsulated glass
11 shelf, where you see a piece of glass and there is a
12 plastic component all the way around the outer edge
13 that makes it spill-proof, there have been a number of
14 designs that have come into the market to eliminate
15 that and to bring costs down.

16 VICE CHAIRMAN PEARSON: Okay. The seven
17 refrigerator products that were priced in the staff
18 report that we ended up with wire products, all of
19 which are in the freezer section rather than in the
20 refrigerator section, can you estimate what percentage
21 of refrigerators sold today use wire shelving in the
22 refrigerator section?

23 MR. GRITTON: I think we could do that
24 probably more accurately in the brief rather than to -
25 -

1 VICE CHAIRMAN PEARSON: Okay, Just a
2 general sense.

3 MR. GRITTON: -- get it now.

4 VICE CHAIRMAN PEARSON: Half of U.S.
5 manufactured refrigerators would have wire shelving in
6 the refrigerator, just to give me some general sense?

7 MR. GRITTON: Yes, it really has to do with
8 -- again as Mr. Kara pointed out -- it's kind of a
9 marketing and product differentiation issue. At the
10 lower price points the shelving in the refrigerator
11 compartment tends to be wire, and those are typically
12 contractor models or models that are generally sold
13 for multi-family housing projects and so forth, or
14 apartments and so forth.

15 VICE CHAIRMAN PEARSON: Or commissioner
16 offices.

17 MR. GRITTON: As the price points move up
18 you will begin to see glass in the refrigerator
19 compartment. So you know, that's generally how
20 they're described. In terms of quantities, again I'm
21 just not really sure about that although I will say
22 that at the lower end of the spectrum, in the lower
23 end models there tends to be very high volumes.

24 VICE CHAIRMAN PEARSON: Okay.

25 MR. GRITTON: But I think we can answer that

1 better later.

2 VICE CHAIRMAN PEARSON: That's fine. I was
3 just trying to get some sense of what is out there in
4 the marketplace, and also I'd be curious to know how
5 the proportion of wire shelving versus glass shelving
6 might have changed over this period of investigation,
7 if at all.

8 MR. KARA: During the period of
9 investigation my perception is that there has been
10 little change. Prior to the period of investigation,
11 during the approximate decade before, there was
12 significant change.

13 VICE CHAIRMAN PEARSON: Okay. So that's
14 kind of a trend historically that's pretty well worked
15 itself out now.

16 MR. GRITTON: Yes, yes, sir. That is very
17 correct.

18 VICE CHAIRMAN PEARSON: Okay, thank you.
19 Shifting gears. Why was the domestic
20 industry not doing well at the start of the period of
21 investigation? I note that at that time the subject
22 imports were at a relatively model level, and still
23 the domestic industry was not doing terrible well.

24 MR. KARA: Commissioner Pearson, the answer
25 to that is that the Chinese price competition started

1 well before the imports reached high levels. It
2 really began back in 2003, in that timeframe when
3 there was a stated strategic move by the three large
4 OEMs to establish sourcing offices in China, and as
5 those sourcing offices developed they obtained bids
6 and quotes. About that same timeframe it became very
7 much in vogue to run auctions, in fact there were
8 businesses that were set up to conduct electronic
9 auctions. And I remember sitting in one of those
10 electronic auctions, you don't know who you're bidding
11 against, but you can see the bid changes and you know
12 in advance that there are a number of bidders. And in
13 this particular auction I think that we were the only
14 domestic bidder on that project, the remainder of the
15 bidding parties were from China.

16 And during the course of the auction, the
17 price point just kept coming down and down and down
18 and down to a level that we thought was completely
19 unacceptable because it was well below our costs. And
20 so at that point, Commissioner, we began arguing at
21 the conclusion of the auction, we began arguing with
22 our customer about the capabilities of the Chinese to
23 actually deliver the product at that pricing because
24 it was so far removed from our actual costs. And that
25 resulted in price pressure, and it brought our pricing

1 down, and as we've said before, no matter how much we
2 gave over the next couple of years it was never
3 enough.

4 VICE CHAIRMAN PEARSON: Okay, but --
5 quickly?

6 MR. ROSENTHAL: Again, I guess if I don't
7 have Poppin' Fresh next to me I'm not remembered. My
8 point that I made in an earlier response was that the
9 early response by the industry was, lower your price
10 and keep the volume. That's what happened prior to
11 the period of 2006. And so the prices were already
12 low, the volumes had not yet gotten bad because that
13 was the strategy employed.

14 VICE CHAIRMAN PEARSON: Okay, let me raise
15 another issue if I could. In the brief provided by GE
16 and Whirlpool, they point out that when SSW closed the
17 Evansville plant, in the press release they cited
18 continued migration of appliance production to
19 countries outside the United States. And my astute
20 staff seeing that did a little research and looked in
21 the US ITC Dataweb to see what type of migration might
22 have occurred that we could put some numbers on, and I
23 don't believe this is on the record yet but I'm
24 certainly happy to put it on the record.

25 But if we look back to the period starting

1 in 2001 and ending in 2008, we see that for combined
2 refrigerator freezers fitted with separate external
3 doors, and this is obviously a pretty common
4 refrigerator freezer in the United States, that the
5 U.S. imports for consumption went from less than
6 600,000 units in 2001 to 2.5 million units in 2008.
7 So in my view that's a relatively significant
8 increase. And so, now my light's gone, but the
9 question is, if we're importing refrigerators are you
10 getting to sell any wire shelving for the
11 refrigerators and freezers?

12 MR. ROSENTHAL: Just very briefly, the
13 answer is yes, but we sell into that market out of our
14 facilities in Mexico.

15 VICE CHAIRMAN PEARSON: Okay, well I may
16 come back to this because I want to understand more
17 clearly, it looks to me as if this could be a factor
18 that affected the economics of the domestic industry
19 during the POI, and so I just want to make sure that
20 we know what that stands for. Thank you, Madam
21 Chairman.

22 CHAIRMAN ARANOFF: Commissioner Lane.

23 COMMISSIONER LANE: I want to go back to an
24 issue that was raised by one of the other
25 Commissioners and that's relating to tooling costs. I

1 want to confirm that tooling costs are not included in
2 the pricing data, that the pricing data and the
3 average unit values for either subject imports or
4 domestic like product do not include the tooling
5 costs?

6 MR. ROSENTHAL: Correct.

7 COMMISSIONER LANE: Okay, thank you. One of
8 the other issues that was raised related to credit
9 terms, and you talked about that in your brief, that
10 the credit terms from the Chinese producers gave them
11 an additional advantage in competing with the U.S.
12 producers. Has the domestic industry changed any of
13 the credit terms in order to compete with the Chinese
14 imports?

15 MR. ROLLINS: Certainly yes, there's been
16 pressure there, credit terms, to compete against
17 what's being offered, have been extended further out,
18 they've not gotten shorter certainly.

19 COMMISSIONER LANE: So, I believe the
20 testimony was that the domestic industry typically
21 extended credit for 30 days, the Chinese were going 90
22 days, and so you are going more toward the 90 days
23 now?

24 MR. ROLLINS: Maybe I should submit that in
25 posthearing brief, it's confidential.

1 COMMISSIONER LANE: That would be fine,
2 thank you. Now, going back to some of the initial
3 testimony, I believe that maybe it was Mr. Kara that
4 talked about the efficiencies in the industry going to
5 robots. Now, in your automation in the industry, can
6 that explain part of the reason that there are not as
7 many employees now as there once were because of this
8 automation?

9 MR. KARA: That's a good question, and the
10 answer is frankly no. The automation that we
11 introduced was in the early part, shortly after I
12 joined the company as the president of it, we began
13 introducing robots and those were in place within a
14 couple of years. That freezer basket, for example,
15 has been made for a number of years at our Clinton,
16 Iowa facility and it has been made on a robotic line
17 since about 2002.

18 COMMISSIONER LANE: Okay, thank you. Now,
19 with the new energy efficiency legislation that I
20 think is passed or in the process of passing or will
21 be passed, I'm not exactly sure where we are on that,
22 but do you see opportunities there for an increase in
23 demand because people are going to want to be going to
24 more energy efficient appliances?

25 MR. GRITTON: I don't see how that can hurt,

1 certainly. If there's enough of a financial
2 incentive, then hopefully there will be some
3 improvement in demand. We would certainly, you know,
4 whatever demand there is would be subject to the same
5 issues around the unfairly traded imports.

6 COMMISSIONER LANE: Okay, thank you. We've
7 been talking about ovens and refrigerators, and so I
8 want to ask, who makes the racks for dishwashers and
9 how is that different than the products that we are
10 discussing today?

11 MR. KARA: There are other firms that make
12 dishwasher baskets, but as a matter of fact our
13 customers are the largest makers of dishwasher
14 baskets, and while on a very cursory level they look
15 awfully much the same, the fact is that in terms of
16 functionality there's a difference primarily in the
17 product finish. You've got to be able to withstand
18 the constant influx of water and not have rusting and
19 so forth.

20 COMMISSIONER LANE: Okay, thank you.
21 Respondent Electrolux contends on pages 23 and 24 of
22 its brief that any injury to the domestic oven rack
23 industry was self inflicted due to its failure to
24 reign in nonproduction related costs. Can you
25 respond? And since it's BPI probably you might want

1 to respond in posthearing.

2 MR. ROLLINS: I would just simply say that
3 the data that you have, I don't see that it reflects
4 that, and it's not our personal experience. And in my
5 comments I mention that in late 2006, early 2007, that
6 Electrolux had actually participated in providing
7 additional capital to us and investment for tooling
8 and capacity that we added at their request. You're
9 right, there's been a dramatic market downshift, and
10 I'm sure our company and our competitors have
11 tightened their belts considerably and tried to be
12 responsible with the way that our businesses have been
13 run, and I think the data submitted would show that.

14 MR. KARA: Commissioner Lane, if I may
15 respond to that?

16 COMMISSIONER LANE: Yes.

17 MR. KARA: Nothing could be further from the
18 truth. In fact in the last two years specifically,
19 full years, 2007, 2008, and now in 2009, exactly the
20 opposite is the case. We've had a diminution in pay
21 levels, most recently in 2009, and I'm not
22 particularly proud of this but in order to survive
23 we've had across the board salary cuts, we've had
24 benefit eliminations, including eliminating any
25 contributions to the 401K plan, we've had health

1 insurance premium increases.

2 And it was painful before we put the
3 increases in effect. We have done everything we can
4 in order to keep our people employed and to stay in
5 business. And with all respect to the Respondent that
6 raised that point, the real data will demonstrate that
7 that is absolutely not the case. And I'm afraid I'm a
8 little emotional, but I take offense to that
9 implication. Thanks.

10 MR. GRITTON: If I may make one point about
11 the data.

12 COMMISSIONER LANE: Okay, Mr. Rosenthal or
13 Mr. Hudgens, in the posthearing, would you please
14 respond directly to what Electrolux is saying on pages
15 23 and 24 of its brief and the table that it provided
16 on page 24 of the brief.

17 MR. HUDGENS: Yes we will. I might add two
18 points. One is that their arguments has to do with
19 SG&A expenses, and if you were to look at the, you
20 know, the total SG&A expenses compared to total cost,
21 they're very much in line with other industries.
22 There's no aberration, they're not excessive or high
23 compared to other industries. And second, these data
24 have been verified by the ITC Staff and reflect the
25 actual costs of the companies.

1 COMMISSIONER LANE: Okay, thank you. This
2 may already be in the record but I'm not sure. Could
3 you provide the percentage of your sales that were
4 nickel plated racks versus porcelain plated racks
5 during the period?

6 MR. KARA: We'd be happy to do that, but
7 we'd prefer to do it in the confidential section since
8 it's very very sensitive information.

9 COMMISSIONER LANE: Yes, okay, I appreciate
10 that and that would be fine. Madam Chair, I will wait
11 until my next round since my yellow light is on.

12 CHAIRMAN ARANOFF: Commissioner Williamson.

13 COMMISSIONER WILLIAMSON: Thank you, Madam
14 Chairman.

15 There's already been a lot of discussion
16 about tooling, but one question I don't think has been
17 addressed is the different tooling costs for the
18 refrigerator shelving versus the oven racks. And is
19 tooling a more significant factor in the case of oven
20 racks? It would seem from just looking at these two
21 here, but can you generalize on that?

22 MR. ROLLINS: Just in general terms, it
23 depends on the complexity of the part, whether it's an
24 oven rack or a refrigeration shelf rack. A simple
25 oven rack would have less expensive tooling, a more

1 complex one like this glide rack up here would be much
2 more expensive. And the same would be true for
3 refrigeration, so I'm not sure that there would be
4 that much that differentiates one from the other, I
5 think it would depend on the complexity of the part
6 itself.

7 MR. GRITTON: Yes, I agree with Mr. Rollins.
8 The only thing that I might add is in a system like
9 the one on the table, there may be quite a lot of
10 tooling or a fair amount of tooling involved with
11 making the components. You see the metal brackets,
12 the spring and latch assembly, and some of those other
13 components. A simpler oven rack, for example, would
14 not have all those components and therefore would not
15 have that additional tooling cost.

16 COMMISSIONER WILLIAMSON: Okay, I haven't
17 been shopping for refrigerators for a while, but I
18 didn't think I would see as complicated one in the
19 refrigerator as I do in the oven but I take it that's
20 not the case. So okay, that's fine. Let's see. I
21 was wondering, can you discuss the qualification
22 process in a bit more detail, how difficult it is to
23 get qualified by OEMs? And is it your position that
24 once a producer is qualified price is the single most
25 important purchasing decision?

1 MR. GRITTON: Yes, actually it's very
2 difficult to become qualified, it's a long process.
3 As a matter of fact, I was making some notes about
4 that -- in general, the standard process or general
5 process across the industry involves probably between
6 13 and 14 steps, can easily take up to a year to go
7 through the entire qualification process. I'm sorry,
8 I don't remember the second part of your question,
9 Commissioner Williamson.

10 COMMISSIONER WILLIAMSON: Okay, and once the
11 company is qualified, they're there for sort of the
12 life of that particular shelf or rack?

13 MR. GRITTON: Yes, sir, once a company is
14 qualified they basically stay qualified until they're
15 disqualified by not supplying quality products and
16 having problems. Yes, it's just a matter of price
17 after they're qualified.

18 COMMISSIONER WILLIAMSON: Okay, thank you.
19 Given current demand and production capacity, what do
20 you view as a realistic full capacity utilization rate
21 for each of the products? And you can respond now or
22 in your posthearing brief to Respondent's arguments
23 regarding capacity versus apparent consumption and how
24 we should assess capacity utilization in our entry
25 analysis.

1 MR. ROSENTHAL: We'll certainly respond in
2 our posthearing brief, but let me just see if there
3 are any folks on the panel who want to address that
4 now.

5 COMMISSIONER WILLIAMSON: Okay, posthearing.
6 Okay, Respondents point out that for oven racks the
7 domestic industry's market share by value remains
8 fairly stable. Is it appropriate to use the value
9 measure for this product in light of the industry's
10 move to higher value products?

11 MR. HUDGENS: In that argument the
12 Respondents base their market share trends on value as
13 opposed to quantity, and as you can see, even the
14 Respondents admit in their brief that there's been a
15 product shift over the period of investigation toward
16 higher valued products. So market share should be
17 based on a quantity basis.

18 MR. ROSENTHAL: Indeed, I can't remember the
19 last time any respondent seriously made an argument
20 that market share should be based on value. The
21 problems with doing that are, certainly been
22 identified here today, and I've never seen the
23 Commission employ that approach.

24 COMMISSIONER WILLIAMSON: Okay, thank you.
25 This probably needs to be addressed in posthearing,

1 but I'd like you to respond to the arguments on page
2 18 and 19 of the Respondent's brief regarding the
3 domestic industry's raising of prices due to increased
4 costs and whether the magnitude or duration of these
5 increases were in line with increased costs. That's
6 posthearing?

7 MR. ROSENTHAL: Yeah, I think that's the
8 safest way to do it given the confidential information
9 involved.

10 COMMISSIONER WILLIAMSON: Okay, thank you.
11 Now, how do you explain the fact that the industry's
12 operating margins improved in the years with the
13 greatest volume of subject imports?

14 MR. ROSENTHAL: Again, Commissioner
15 Williamson, we touched on this earlier, I just want to
16 repeat what was said in response to another question
17 and then if there's more to supplement after my
18 summary, I'd like to do that. What you saw is lower
19 volumes of domestic sales, which meant, since they're
20 losing money on every sale it meant that by selling
21 less they were losing less. That's number one. And
22 secondly, more volumes of the higher valued sales, not
23 enough to get them into profitability, but there were
24 some change in product mix there that allowed them to
25 do better in terms of revenues.

1 But the key here is that this is not
2 strictly a volume case and not strictly a price case.
3 You have both. What the Respondents don't seem to
4 understand is that you could be injured without losing
5 a single sale because if you lower your price to keep
6 your production you are being injured by that price
7 suppression. And you've got both price suppression
8 and lost sales in this period when the Chinese imports
9 are going up, but we're not being injured, or let's
10 put it this way, we're not losing as much money as
11 before because we're selling less.

12 COMMISSIONER WILLIAMSON: Thank you. Oven
13 racks, if you look at the trend in the industry's
14 costs to sales ratio, what is the basis for finding a
15 price suppression given the trend that we see in these
16 data?

17 MR. HUDGENS: I would argue that using the
18 traditional unit cost analysis that the Commission
19 uses to determine in the price variance analysis --

20 COMMISSIONER WILLIAMSON: Could you speak
21 more into the microphone?

22 MR. HUDGENS: You bet.

23 COMMISSIONER WILLIAMSON: Thank you.

24 MR. HUDGENS: The Commission traditionally
25 uses a cost unit analysis in their variance analysis,

1 and because the product mix has changed so
2 substantially over the period of investigation and
3 that there's been the loss of a substantial volume of
4 the core product which is valued significantly less
5 than this product that's on the table, so in the
6 latter period, the AUVs, the average unit values and
7 the unit costs have increased over the period of
8 investigation for multiple reasons.

9 One, there's been an increase in costs, one
10 there's been a decline in volume so a lot of those
11 costs have been having to cover over a smaller volume
12 of product. Third, and most importantly, there's been
13 a shift in product mix, and because the product mix in
14 the latter part of the period has a higher
15 concentration of these slide racks and the porcelain
16 coated racks, which have higher AUVs, it's hard to do
17 a trend analysis because of that trend in product mix.

18 MR. ROSENTHAL: But the bottom line is, and
19 this is again, you've seen this in other cases,
20 certainly in the cases anything involving steel where
21 you start with increasing raw material costs such as
22 scrap or nickel, or in this case the intermediate
23 product wire rod or wire, prices have gone up -- 2008
24 there was a big spike in price for those raw
25 materials.

1 And the problem has been that the prices
2 went up so fast for those raw materials that once
3 again the producers of this particular product were
4 not able to increase their prices enough to cover
5 those raw material costs. Interestingly enough,
6 Respondents complain that when the prices drop that
7 the U.S. producers of the oven racks and refrigerator
8 shelving didn't drop their prices fast enough to
9 reflect those raw material costs and that explains why
10 they did better in that particular period, but they
11 still lost money.

12 You know, the idea that you have to drop
13 your prices so much just to reflect the raw material
14 cost when you're losing money and you can't try to
15 make a profit for the first time, is ridiculous. And
16 this is not a threat case on either oven racks or
17 refrigerator shelving. This is current injury and
18 it's been ongoing for a while. And the fact that
19 prices rose to reflect raw material costs means
20 nothing when they can't cover it in their sales to the
21 customers.

22 COMMISSIONER WILLIAMSON: Thank you for that
23 answer. My time is expired.

24 CHAIRMAN ARANOFF: Commissioner Pinkert.

25 COMMISSIONER PINKERT: Thank you, Madam

1 Chairman.

2 Let's stay with that point about oven racks
3 for a moment. Why isn't the argument here essentially
4 that you can't sustain the circumstance with the
5 higher valued products for oven racks and therefore
6 there's a threat of injury with respect to the
7 domestic oven rack industry?

8 MR. ROSENTHAL: Well, what I would argue
9 there, and I'm not denying there is further threat,
10 because as Mr. Kara testified you're kind of in this
11 third wave where they're now going after this more
12 sophisticated product, but what I won't concede is
13 that there's not current injury now with respect to
14 oven racks and that there's not been ongoing injury
15 for quite some time.

16 The problem is things are going to get
17 worse. They're losing money now, they have been. And
18 as I said before, the fact that they're losing less
19 money is not all that reassuring when they've been in
20 the red for quite some time. But you're absolutely
21 right, Commissioner Pinkert, things will get worse
22 unless there's relief here because of the direct
23 attack on the domestic industry's most sophisticated
24 and presumably could be the most profitable product.

25 MS. CANNON: Let me add to that if I might,

1 Commissioner Pinkert. We're looking at one like
2 product, all oven racks, and that type of oven rack,
3 the sliding rack, is a very small component of this
4 industry. And so when Mr. Gritton was talking about
5 being threatened by that particular product shifting
6 to China, he's talking about a small aspect of the
7 product. When you're looking at the overall oven rack
8 industry, most of it are the nickel plated racks they
9 describe where the volume losses are mammoth, the
10 market share losses are huge over the period.

11 And that's a significant present injury with
12 the industry suffering operating losses over the
13 entire POI, and those losses directly correlate with
14 the sales that have shifted, a lot of them to
15 Electrolux, sales to Electrolux that have gone to
16 China that we've documented over the POI for lower
17 prices. So we think there is clear injury on that.
18 There is also threat of injury, and we've documented
19 that as well on the overall product. But I don't want
20 this to be lost on a focus on a relatively small
21 product type.

22 COMMISSIONER PINKERT: Well, let me ask the
23 question from the other end, from the perspective of a
24 present injury type of analysis. If we were to find a
25 present injury with respect to oven racks, would that

1 hinge on determinations about what occurred prior to
2 the period that we're looking at or would it hinge on
3 looking at correlations between increased imports and
4 performance during the period that we're looking at?

5 MR. ROSENTHAL: I don't think you have to
6 look -- the reason we discussed the prior period was
7 to give you some context obviously to what's happened
8 during the period of review, because as recognized
9 there has been losses throughout the period of
10 investigation. That said, if you just focus solely on
11 the period of investigation, you've seen enough, the
12 classic X that Kathy has described in the past where
13 imports are increasing and the industry production
14 shipments et cetera are going down, market share is
15 going up, every other indicator of industry health or
16 lack of health is going down, you don't need to go
17 beyond the four corners of the period of investigation
18 to find injury for that.

19 MS. CANNON: And let me just add, I think
20 that, as I said in my testimony, a real focus of the
21 injury in the oven rack side over the period of
22 investigation has been volume related, where the
23 market share shift is a complete correlation because
24 there are no nonsubject imports. This is actually a
25 relatively easy case for the Commission to see the

1 market share shift, the direct displacement of the
2 U.S. sales to the imports over that period, and that
3 also correlates with declines in production and
4 capacity utilization and the other trade variables as
5 well.

6 You don't even need to get to price, that
7 was part of my point, and this financial performance.
8 Look at the Allegheny Ludlum decision of the Federal
9 Circuit which said satisfying one of the statutory
10 factors is fine. Now, we don't stop there, we think
11 there is clear price related injury and losses over
12 this entire period. But you have a correlation on the
13 volume factors that is about as strong as any case
14 I've seen right here.

15 COMMISSIONER PINKERT: Now, turning to the
16 points that you've been making about the impact of the
17 preliminary duties in this case, how do you see that
18 evidence, whether we're talking about oven racks or
19 kitchen racks, is that just supplemental to the causal
20 linkage arguments that you're making or is that really
21 fundamental to those arguments?

22 MR. ROSENTHAL: It's what I'd call as
23 corroborative. It certainly says that -- arguments
24 about needs for other sources, well those go away when
25 those sources are higher priced. And so if you're

1 willing to go back and purchase from the domestic
2 industry, I guess you really don't need those other
3 sources so much if they cost you more. So it just
4 corroborates that point, or claims that the domestic
5 industry might not be capable. Clearly this
6 repatriation that's taken place demonstrates once
7 again the lack of substance for any kind of claim like
8 that. But as I said, it's corroborative, it
9 demonstrates or it brings into higher relief the rest
10 of the evidence in the record on causation.

11 COMMISSIONER PINKERT: Well, let's just say
12 hypothetically that with respect to oven racks, that
13 there was a perception on the part of the decision
14 makers that there was not a correlation between the
15 performance of the domestic industry and the imports.
16 Would then the performance after the provisional
17 measures be a trump card or is that not sufficient in
18 itself to make one go to present injury?

19 MR. ROSENTHAL: Well, first of all, I think
20 no decision maker should require that leap. It's
21 there without the repatriation issue. But frankly the
22 repatriation issue is really the trump card, it does
23 give you everything you need to show that there really
24 is causation here. If there's any doubt, that gets
25 you over the finish line from my point of view.

1 COMMISSIONER PINKERT: Now, turning to the
2 rest of the panel, what are the differences between
3 the products that the domestic industry has
4 historically produced and those that are being
5 produced now, what's the trend in terms of the
6 development of products in the industry?

7 MR. GRITTON: Well, certainly in oven racks
8 we've talked about in great detail. However, there's
9 still a lot of volume in the nonvalue-added areas to
10 be had. The trend in refrigeration is also toward
11 innovative, more value-added products. That's our
12 attempt, however we have not seen the same type of
13 implementation or success at this point.

14 COMMISSIONER PINKERT: What's driving that
15 difference between the success levels in the two
16 segments that we're talking about?

17 MR. GRITTON: I'm not sure. I think we just
18 -- I'm not sure. I mean if I knew, we'd be doing it.

19 COMMISSIONER PINKERT: Mr. Kara?

20 MR. KARA: That's exactly right. We need to
21 realize that in the oven rack segment, as has been
22 said several times, the high end, high value-add
23 systems are very numerically small part of the overall
24 market, but because the price points are so high they
25 distort the overall numbers. Within refrigeration, we

1 do our best is about all I can say. And whether
2 there's market acceptance or customer acceptance of
3 what we bring in innovation, it's out of our control.

4 COMMISSIONER PINKERT: Just focusing on --
5 oh, I'm sorry. Mr. Rollins?

6 MR. ROLLINS: I don't know that I have
7 anything to add to that. I mean certainly, you know,
8 new bells and whistles and ways to differentiate
9 products are always things that the OEMs want to
10 introduce with their product that's something that
11 their customers want, and these value-added things
12 like the slide racks or something that improves the
13 function of the product is certainly something they
14 want to look into.

15 And for a short period of time we can
16 benefit from that, when we can develop that product
17 with them and take it to market. But the competitive
18 pressure hits pretty quickly, and the competition from
19 the Chinese certainly take the opportunity away in a
20 hurry. And I think that's what has been demonstrated
21 in their testimony.

22 COMMISSIONER PINKERT: Thank you. Thank
23 you, Madam Chairman.

24 CHAIRMAN ARANOFF: Commissioner Lane was
25 asking some questions about credit terms and I wanted

1 to go back to that a little bit. One of the things
2 I'm trying to figure out is, you know, I understand
3 the argument that more generous credit terms are, you
4 know, in some way a discount or a financial benefit
5 and so are relevant as a price factor, but what I
6 can't figure out how to do is how to get a way to
7 quantify it. So if you've got 90 days instead of 30
8 days to pay, is there a way to calculate that in terms
9 of interest costs or some other way so that I could
10 know -- you know, is that a 1 percent discount, a 10
11 percent discount? How do I get an order of magnitude
12 on that?

13 MR. KARA: Well, our customers have come up
14 with some actual numbers, but I am reluctant to share
15 our negotiations with them on specific, in that way
16 because it's confidential information. But we'd be
17 happy to address that in the confidential section of
18 the brief.

19 MR. ROSENTHAL: Madam Chairman, since the
20 Respondents are going to be here shortly, I'm sure
21 you'll address that question to them. They're the
22 ones who actually will tell you that they look at
23 'total cost' when they're making their decision. So
24 if you could get from them their total cost
25 calculations I think that would be very helpful to the

1 analysis.

2 CHAIRMAN ARANOFF: Yeah, I will ask that
3 question, and anything that you could put on the
4 record confidentially will be helpful. I kind of
5 hoped that by going for purchaser prices we were
6 getting closer to total cost but it sounds like we
7 might not be quite there yet. So I'll raise that
8 again this afternoon.

9 You were talking about Chinese producers
10 moving up to higher value and more complex products,
11 and I'm not sure whether anyone asked, do Chinese
12 producers sell the porcelain coated oven racks or the
13 side racks that have been described as the higher
14 value products?

15 MR. GRITTON: No, ma'am, they do not sell
16 the porcelain coated.

17 CHAIRMAN ARANOFF: So that's not part of
18 this third wave that's being described?

19 MR. ROLLINS: Not that I'm aware of yet.

20 CHAIRMAN ARANOFF: Okay, that's helpful. We
21 talked a little bit earlier about reverse auctions and
22 how some purchasers use them frequently, some less so.
23 Can you tell me approximately what year purchasers
24 started using reverse auctions, and was it before or
25 after Chinese product started coming into the market?

1 MR. GRITTON: The year was 2002 pretty much.
2 And you know, as we've talked about, in answer to the
3 second part of your question, we really started to
4 have the threat of the Chinese imports around the 2003
5 timeframe.

6 MR. ROLLINS: I would agree with that.

7 CHAIRMAN ARANOFF: Okay, now I know of
8 course we have two of the larger domestic producers
9 represented here but there are other domestic
10 producers of these products. Did you see them back
11 then, do you see them now participating in these kind
12 of reverse auction competitions and how many domestic
13 producers would generally respond in a reverse
14 auction?

15 MR. KARA: Well, we don't know exactly who
16 responds. Oftentimes it's represented to us who
17 responds, so I'm afraid that I can't give you a
18 definitive answer on that.

19 MR. ROLLINS: I would just say anecdotally,
20 I mean a typical auction they're wanting to have
21 several participants, and my experience with it is
22 there are both domestic and foreign, maybe in equal
23 ratios.

24 CHAIRMAN ARANOFF: Okay. We talked by way
25 of background about what was going on in 2004 and 2005

1 in terms of a choice to the lower prices in order to
2 maintain market share and the effect on profitability.
3 For posthearing for each of the petitioning companies,
4 can you just identify for us the last year that your
5 company was profitable on these two products?

6 MR. ROSENTHAL: Yes, we'll do that.

7 CHAIRMAN ARANOFF: Thank you very much. One
8 question that I had when looking over the import data,
9 show that the volume of imports of refrigerator
10 shelving in interim 2009 is actually higher than in
11 interim 2008, which is not something we often see in a
12 final investigation, particularly in light of not just
13 the application of provisional duties but the state of
14 demand. Do you have any thoughts on why?

15 MR. ROSENTHAL: I'll let the industry folks
16 expand on this, but my understanding is, these are
17 imports or shipments that were contracted for a long
18 time ago. They've been being produced on order, and
19 since there is not a second source for those
20 particular parts, they're going to have to come in
21 here no matter what.

22 MR. GRITTON: No, that's exactly right.
23 Even in the case of the repatriated business, from the
24 time that we were told we got the business back until
25 the time we actually were able to start shipping

1 product is very long, based on all the inventory and
2 the pipelines. In fact on a lot of that business we
3 have not yet shipped product although we have gone
4 through what's called the P-PAP process which one of
5 these gentlemen can explain to you in greater detail
6 but it's a qualification process to show that our part
7 has passed all of the measures.

8 CHAIRMAN ARANOFF: Okay, well let me pick up
9 on that with a question about inventories then. I
10 think you were representing before that importers hold
11 inventories on consignment in the United States for
12 OEMs and provide the product on some kind of an as
13 needed basis. What's your practice with respect to
14 who holds the inventories, you or the customer?

15 MR. KARA: It varies from customer to
16 customer and from manufacturing site to manufacturing
17 site. In terms of how our customers handle that -- I
18 just want to correct one thing. It may be the
19 importers that are holding the imported product that I
20 described, it may be the exporters, I don't have that
21 exact level of detail, but we know first hand there
22 are substantial quantities on the ground whoever holds
23 it, and each of our large customers has a different
24 way that they handle that imported product.

25 MR. ROLLINS: I might just elaborate that a

1 domestic producer, the typical expectation is that
2 we're making just-in-time shipments. So there's no
3 inventory that's held at our customer other than maybe
4 a day or two of product, and we're making daily
5 shipments. And the expectation typically for us would
6 be that our finished goods inventory would be
7 somewhere in the range of three to six weeks probably
8 on average.

9 CHAIRMAN ARANOFF: Okay, so you're not
10 warehousing this product, you're keeping some on your
11 production site and then you're putting it on a truck
12 and it goes right to the customer, and the customer's
13 not warehousing it, they're using it when the truck
14 arrives basically?

15 MR. ROLLINS: That's accurate. I mean we
16 would have the ability to warehouse, but the
17 commitment from the customer to purchase, you know
18 there's typically written within the agreements
19 they're committed to X weeks of inventory in case
20 schedules change or move up or down.

21 MR. GRITTON: The only thing that I might
22 add to Mr. Rollins's comments is that in the case of
23 higher volume products for example we wouldn't even
24 have that amount of inventory. We often ship to daily
25 or even multiple times in a day releases.

1 MR. KARA: We're shipping right from the end
2 of the finishing line, if you will.

3 CHAIRMAN ARANOFF: Okay, yes I was
4 interested in that because there have been times when
5 people have told us for example that another price
6 factor that doesn't always get figured into the price
7 is consignment, and it doesn't sound to me like that's
8 an issue here the same way that the issues of payment
9 terms are, but that's what I'm checking. One last
10 question, which would be for the posthearing, and
11 that's just that you all referred in your
12 questionnaire responses to canceled or postponed
13 investment or expansion projects and I was going to
14 ask if you could provide some greater detail on that
15 post-hearing.

16 MR. ROSENTHAL: We'll do that.

17 CHAIRMAN ARANOFF: Thank you very much.
18 Vice Chairman Pearson?

19 VICE CHAIRMAN PEARSON: Thank you, Madame
20 Chairman.

21 Back to the discussion of the role that may
22 have been played by imports of refrigerator/freezer
23 units. We had in 2001 less than 600,000 units; now in
24 2008 we have imports of over 2.5 million. So roughly
25 an increase of two million units.

1 In a refrigerator/freezer, how many wire
2 shelves or baskets might we expect? A couple in the
3 freezer unit?

4 MR. ROSENTHAL: Well, it depends completely
5 upon the model. There are presently three main models
6 of refrigerator/freezers. I use that term
7 refrigerator/freezer as being the units that have both
8 a freezer and a refrigerator, fresh food and frozen
9 food.

10 There is a top mount which might have a
11 single shelf or two shelves. Sometimes the geometry
12 of those shelves is such that it gives you an
13 appearance that there are multiple shelves, but it
14 could be a single shelf.

15 Side by side units, the freezer cabinet is
16 narrow and typically there are three to five shelves,
17 but you've got to keep in mind there are also baskets.
18 So sometimes the baskets are substituted for the
19 shelves.

20 When you look at the bottom mount which is
21 the their configuration, the freezer is on the bottom
22 and it's a pullout, that's an example of a bottom
23 mount basket. There might be two of those baskets
24 within that freezer.

25 When you look at the type of what we'd refer

1 to as contractor models, that would typically be a top
2 mount and it would have a variety of either plastic
3 bins in the bottom and wire shelves in the fresh food
4 part of it. Any time that there's an apartment or
5 multi-family housing unit, typically the contractor
6 units, they tend to be slightly smaller. That's where
7 they'll be placed. That's a very high volume
8 business.

9 When you go, Commissioner, to the trade
10 shows as we do, you tend to see the high end, but what
11 sells tends to be the low end in mass quantities. I
12 hope that's responsive.

13 VICE CHAIRMAN PEARSON: That's very helpful.

14 Would it be reasonable to think that some
15 portion of the imported refrigerator/freezers are the
16 contractor models that are more likely to have wire
17 shelving?

18 MR. ROSENTHAL: Actually, that's typically
19 not the case. The units that are coming in that are
20 imported, and we're talking here for North America,
21 importation from assembly plants in Mexico, those
22 units tend to be the higher end units, whether they're
23 coming out of Juarez in the case of Electrolux, or
24 they're coming out of Salina in the case of GE and
25 Mahbay, or they're coming out of Monterrey or Araimos

1 Arizpe in the case of Whirlpool, and I don't think
2 I've given away any confidential information there.
3 That's widely known within the industry.

4 VICE CHAIRMAN PEARSON: And you had
5 indicated earlier that you would be able to sell some
6 shelving to those manufacturers from your own
7 manufacturing capability in Mexico, but as a normal
8 course of events the United States would not be
9 exporting shelving to Mexico for these refrigerators
10 or refrigerator/freezers.

11 MR. ROSENTHAL: That's right.

12 VICE CHAIRMAN PEARSON: Throwing around some
13 numbers hypothetically, and correct this in the post-
14 hearing if I'm way off.

15 But let's assume for the moment that there
16 are two wire shelves or baskets per imported
17 refrigerator/freezer. I've got, since 2001, an
18 increase of two million refrigerator/freezer units, so
19 I've got four million shelves.

20 Mr. Hudgens, Mr. Rosenthal, for purposes of
21 the post-hearing, could you compare that four million
22 shelf number with the volume of subject imports from
23 China?

24 The reason to do this is I want to make sure
25 I understand why the subject imports from China in

1 your view have had such a big effect on the market,
2 and yet you really didn't tell me anything until
3 asking the questions about what seems to me not an
4 irrelevant phenomenon in the marketplace of this
5 shifting to importing whole refrigerator/freezer
6 units.

7 MR. ROSENTHAL: We'll be glad to do that,
8 but I don't want to keep you in suspense, uncertain of
9 these things. So at least with respect to the
10 question of the differential impact, it's one thing if
11 you have whole refrigerators with shelving imported.
12 Clearly that affects overall demand, although as Mr.
13 Kara had mentioned, since they've got plants in Mexico
14 they're helping to satisfy that demand there.

15 VICE CHAIRMAN PEARSON: That is a wonderful
16 thing we all agree, yes.

17 MR. ROSENTHAL: I'm not sure we're all
18 agreeing on that either.

19 What we will say, though, is that the
20 domestic producers here have been able to sell to the
21 OEMs in Mexico, so that has not hurt them.

22 There's a big difference between competing
23 or having the importation of a finished refrigerator
24 with your -- presumably -- product already
25 incorporated versus having to compete head to head

1 versus a Chinese supplier of an oven rack or a shelf
2 that is causing you to in turn negotiate a lower price
3 for your product selling to the OEM here in the U.S..
4 That has a very very direct impact that is more than
5 just volume, it's a price effect, too.

6 So that's one thing I want to make sure you
7 have before we go through the numerical analysis you
8 requested.

9 VICE CHAIRMAN PEARSON: Thank you for that.

10 MS. CANNON: Commissioner Pearson, could I
11 add something legal on that?

12 First of all, to the extent that SSW is able
13 to supply the parts for these products out of their
14 Mexican production, that doesn't show that they
15 haven't been injured by their U.S. production because
16 the U.S. production, employment and everything is
17 going down and their ability to supply this market.
18 That's kind of a separate issue that they've been able
19 to do that as a company, but it really has nothing to
20 do legally with the impact on the industry here.

21 Secondly I would say that we really are not
22 trying to in any way hide from the fact that demand
23 has declined over the period. Demand has declined for
24 a number of reasons -- a downturn in the housing
25 market, the recession, and yes, the fact that some of

1 the OEMs have shifted their base to other countries.
2 And if we were watching imports fall while that took
3 place and the domestic industry fall, then you might
4 say okay, well, everybody's suffering from a common
5 cause. But the key difference here is that while
6 demand has declined, the imports have gone up in the
7 U.S. market, displacing the U.S. sales. That's where
8 we focus the injury.

9 So we're not suggesting there isn't a
10 significant problem here in terms of a demand decline,
11 but the correlation between the import increases
12 that's displaced our sales while that's gone on I
13 think is the critical point we're trying to make.

14 VICE CHAIRMAN PEARSON: Thank you for that
15 clarification.

16 There has been some discussion already about
17 what appears to be a difference in views regarding the
18 pricing data. I heard more than one speaker say in a
19 nice way that you think our staff report is wrong in
20 terms of the pricing, or it's inadequate. You didn't
21 use those words, but that was how my ear perceived it.

22 Could you tell me more about that? Have you
23 had discussions with our staff regarding pricing
24 issues? Has there been some effort to sort it out?

25 MR. HUDGENS: Yes. We talked to the staff.

1 Each one of these pricing products that's
2 listed in the staff report is associated with a part
3 number for each OEM, and we have given the part
4 numbers to the staff for them to confirm with the OEMs
5 that they are only supplying data on those part
6 numbers. To date we have not received a response
7 regarding that.

8 So we've asked the staff to go back to the
9 OEMs to make sure that they're only including the
10 correct part numbers per product. We've not gotten a
11 response.

12 VICE CHAIRMAN PEARSON: The problem that I
13 have, in terms of writing an opinion, we've got oral
14 testimony that there are problems with the pricing
15 data and then we've got the pricing data. It's not so
16 terribly hard to write an opinion saying we didn't
17 find the oral testimony persuasive for whatever
18 reason. It's a little harder for me to figure out how
19 to argue that we think the pricing data in the staff
20 report is not good. So if I've got to line up on one
21 side or the other it's easier as a technical matter to
22 line up with the --

23 MR. HUDGENS: In addition to the pricing
24 data you have significant lost sales allegations. As
25 we've indicated, there have been very few of those

1 lost sales allegations where the dispute has been on
2 whether there was underselling. There's been some
3 dispute on what the actual imported price was, but in
4 the vast majority of those cases the OEM has indicated
5 that they did purchase a lower priced Chinese product
6 and they did switch their sourcing to Chinese
7 suppliers. That's evident throughout that.

8 In fact most of these lost sales allegations
9 can also be pointed to, or compared to the pricing
10 data. Many of the pricing products are in also the
11 same products in which we've alleged a lost sales
12 allegation.

13 I even gave you one example in our
14 testimony. If you look at Product 1, that's an
15 Electrolux product. There's been inconsistent
16 statements regarding the lost sale allegation versus
17 the data they presented in the pricing data.

18 Let me make one other point on this. Also
19 we are, when we're looking at purchasing prices, --

20 VICE CHAIRMAN PEARSON: You're trying to get
21 me in trouble with the Chairman here.

22 MR. HUDGENS: Okay. When we're looking at
23 purchasing prices we're relying on the purchaser to
24 provide all of the data. They have to provide the
25 purchase price of the U.S. produced product and the

1 purchase price of the imported product.

2 In all of your other cases when you're doing
3 a traditional pricing analysis you're looking at a
4 producer's prices that they receive from their
5 questionnaire, but the importer. For every time we've
6 been able to do that we did get underselling, it's
7 just been limited.

8 So in this case we've had to rely on each of
9 the purchasers supplying their own prices. So there's
10 more to figure out in that respect.

11 VICE CHAIRMAN PEARSON: Thank you for that
12 elaboration, and I look forward to seeing what I hope
13 would be some narrowing of the views in the final
14 staff report.

15 Madame Chairman, thank you for your
16 indulgence.

17 CHAIRMAN ARANOFF: Commissioner Lane?

18 COMMISSIONER LANE: I don't have any
19 questions, but I wanted to ask Mr. Hudgens if he got
20 to say all he had to say while the red light was on.
21 If you didn't, you can say it now while the green
22 light is on.

23 MR. HUDGENS: I did, thanks.

24 MR. ROSENTHAL: May I add one thing, though?
25 Because I didn't get to say what I wanted Mr. Hudgens

1 to say.

2 (Laughter.)

3 This is kind of a unique situation where
4 you're essentially relying on the self-serving
5 statements of the Respondents in this incidence, and
6 we presented impeaching information that suggests that
7 what has been supplied is not accurate. So we've
8 asked the staff to go back and further review.

9 I think you have it in your power to get
10 further information from them, and even verify that
11 information.

12 I can tell you from our pre-hearing brief,
13 if you take a close look at that, you will see how
14 we've actually presented documents and information
15 showing that a lot of the information on lost sales
16 and other pricing information cannot be correct. So I
17 would not, with all due respect, say I've got this in
18 the staff report, it's got to be gospel. All the
19 staff is doing is writing down what has been given to
20 them by Respondents who have an interest in this
21 matter.

22 COMMISSIONER LANE: Thank you for that
23 clarification.

24 Madame Chair, that's all I have.

25 CHAIRMAN ARANOFF: Commissioner Williamson?

1 COMMISSIONER WILLIAMSON: I have no further
2 questions, but I want to thank the witnesses for their
3 testimony.

4 CHAIRMAN ARANOFF: Commissioner Pinkert?

5 COMMISSIONER PINKERT: I have a couple of
6 questions for the post-hearing.

7 First off, in the post-hearing would you be
8 able to quantify the impact of preliminary duties on
9 the financial performance of the domestic oven rack
10 industry?

11 MR. ROSENTHAL: We'll do our best. That
12 will be a difficult thing to do for a number of
13 reasons. For one thing, the repatriation that's
14 begun, as Mr. Kara said, the shipments haven't started
15 in a lot of instances, but we will do our best to
16 address your question.

17 COMMISSIONER PINKERT: Thank you.

18 Also for the post-hearing, if the industry
19 could discuss the pricing strategy for oven racks over
20 the POI including whether the strategies differed for
21 low end and high value products, and whether they
22 changed over time as the subject imports increased.

23 MR. ROSENTHAL: We'll try to do that in our
24 post-hearing brief.

25 COMMISSIONER PINKERT: Thank you.

1 Thank you, Madame Chairman.

2 CHAIRMAN ARANOFF: I have no further
3 questions myself, but I understand that Vice Chairman
4 Pearson does, so we'll go to him.

5 VICE CHAIRMAN PEARSON: Gosh, back so soon.
6 Obviously I'm just a slow learner here today.

7 You just had a question about the
8 repatriated business, and I looked at the information
9 that is in your brief. I noted that there aren't any
10 dates associated with the information that's provided
11 in the documentation, and no comparison to prior year
12 performance. Is there any way that could be augmented
13 so we'd have a better understanding of it?

14 MR. ROSENTHAL: We can certainly get you
15 more details on each of those sales or new contracts,
16 if you will.

17 VICE CHAIRMAN PEARSON: I hear what you're
18 saying about the repatriated business. We obviously
19 don't pick it up at all in the staff report. It's
20 just not there. So what you're presenting here, to
21 the extent you can present it with maximum clarity,
22 that would be helpful.

23 A miscellaneous question. I look at that
24 freezer basket and it appears wonderfully designed and
25 I would love to have a freezer that had one. But is

1 it cost effective to ship that freezer basket long
2 distances? It looks to me like you'd mostly be
3 shipping air and there probably are some
4 inefficiencies that go along with that.

5 MR. GRITTON: Commissioner Pearson, that's
6 really a function of design. One of the key elements
7 would be if there's any angle or draft in the sides of
8 the basket. If there's not, then it would be
9 difficult to nest them together. But the baskets can
10 be designed with a small amount of draft and then a
11 lot of them can be packed closely together and nested
12 so they're much more economical to ship.

13 VICE CHAIRMAN PEARSON: So this particular
14 one might be difficult to ship economically from
15 China, but a unit where you stack them all together,
16 then the Chinese can be more competitive, is that --

17 MR. GRITTON: That's true. But also there
18 may be some very minor imperceptible almost design
19 change made to that to make it easy to ship from
20 China.

21 VICE CHAIRMAN PEARSON: I'd love to see how
22 you take that one and make the design change, but I
23 accept what you're saying. It looks to me like that
24 one is going to have to sit one on top of the other.

25 MR. GRITTON: Really, the design change is

1 just a matter of putting a little bit of angle in the
2 sides that you almost couldn't see. Just enough to
3 allow one basket to slip inside another one.

4 VICE CHAIRMAN PEARSON: But on this
5 particular unit you'd have to take off the heavier
6 gauge wire that's on the bottom, on each side. It
7 looks like it might be a slide to slip into the
8 freezer or whatever.

9 MR. GRITTON: That's an excellent point.
10 There may be something you could do there sa well. I
11 was primarily thinking about just the drafting of the
12 sides.

13 VICE CHAIRMAN PEARSON: In concept I've got
14 you, I understand what you're saying. I've just been
15 enjoying looking at this one and thinking about how
16 many could you get into a container. You'd have a lot
17 of empty space in there I think.

18 This last line of -- Did you have more to
19 say, Mr. Gritton?

20 MR. GRITTON: Only that they are shipping
21 baskets like that currently.

22 VICE CHAIRMAN PEARSON: Where they won't
23 compact together nicely. They're shipping a lot of
24 air in the containers with some of the products.

25 MR. GRITTON: Yes, I believe so.

1 MR. HUDGENS: I'd just like to confirm that
2 that specific product is being imported from China.

3 VICE CHAIRMAN PEARSON: Okay. Well, the
4 shipping economics are preventing the imports.

5 MR. ROSENTHAL: But we have to concede, we
6 don't know how they're shipping them. They could be
7 finding a way to stack them more economically, we just
8 don't know that, but they are coming in from China.

9 VICE CHAIRMAN PEARSON: Thank you.

10 My last questions really go to causation.
11 It's been an interesting hearing so far this morning,
12 but I can have only a tangential discussion of this so
13 let me direct the questions primarily to Mr. Rosenthal
14 and Mr. Hudgens, not to ignore Ms. Cannon. But you
15 really have to have access to the confidential staff
16 report in order to understand the nature of the
17 question.

18 Looking first at refrigeration shelving, and
19 Table C2 is a convenient place to start.

20 I note the change in apparent consumption
21 from 2006 to 2007 and then from 2007 to 2008. There's
22 a certain trend there. And then I'm looking at the
23 change in quantities imported from China. I'm
24 comparing those, the Chinese quantity changes with the
25 changes in apparent consumption. I'm not sure how

1 much importance in that light to put on the changes in
2 imports from China.

3 So to the extent you could help explain to
4 me why I should look at this and see that, the import
5 changes are significant, that would be a help.

6 MR. ROSENTHAL: Do you want a response now
7 or in the post-conference brief?

8 VICE CHAIRMAN PEARSON: If you think you can
9 say anything now, go ahead, but I just --

10 MR. ROSENTHAL: Given the nature of the
11 discussion, we'll do it in the post-hearing brief.

12 VICE CHAIRMAN PEARSON: Part of my concern
13 is that for the purposes of the transcript, I may come
14 across this particularly inarticulate int his
15 discussion. I'm good at that anyway, but in this case
16 --

17 MR. ROSENTHAL: We'll accept this as you're
18 being elliptical.

19 (Laughter.)

20 VICE CHAIRMAN PEARSON: Some people have
21 considered me obtuse at times. I don't know which is
22 best.

23 Looking down the columns then to where we
24 get to the exposition of gross profits of the domestic
25 industry, gross profits and losses, and the gross

1 profits I think might be a little better measure here
2 than operating income because of the role that SG&A
3 might play.

4 So looking at gross profits, we see some
5 changes there from year to year, but the bottom line
6 is you look at the change that's occurred from 2006 to
7 2007 in the quantity of imports from China and the
8 change that we observe in gross profits from one year
9 to the next, and I think the thing I would like to say
10 is that I think the correlation isn't what we might
11 intuitively expect, or the relationship isn't what we
12 might intuitively expect.

13 Then the same thing is true for the next
14 year, the shift between 2007 and 2008. Once again,
15 the correlation is opposite what one might anticipate.

16 So to the extent that you can explain to me
17 why we're seeing that and why I should understand this
18 to be some indication of causation, that would be
19 helpful.

20 MR. ROSENTHAL: We will do that in our post-
21 conference brief, but I will say a couple of things in
22 my elliptical response.

23 Number one, one of the things you don't,
24 when you're comparing those different charts you're
25 describing, a volume analysis neglects all of the

1 discussion that we've had about the use of the Chinese
2 competition to keep pressure on the domestic industry
3 with respect to price.

4 So what you describe there is really a
5 volume analysis absent the price considerations, point
6 number one.

7 Point number two, with all due respect, I
8 don't believe that ignoring SG&A is a totally good way
9 to go and we'll explain why. But among the other
10 reasons is that whatever volume effect there is has an
11 effect on SG&A because of the inability to spread all
12 of our SG&A over more units. Again, we'll elaborate
13 on that as well.

14 But we will do the analysis as you request.
15 I want to say that it won't, from my perspective,
16 fully reflect what's happening in the marketplace as a
17 result of the imports for the reasons I've stated.

18 VICE CHAIRMAN PEARSON: I appreciate that.

19 The reason I thought it simplest to leave
20 out SG&A is that there's a certain element of fixed
21 cost in SG&A and I was most interested in looking at
22 the variation in kind of operating earnings from one
23 year to another. So that's, but if I should look at
24 it differently, explain that.

25 My light's gone yellow, and I really don't

1 want to go on red this time. So if we could have the
2 same sort of elaboration of the next page, the Table
3 C3 on oven racks, that same type of causation analysis
4 would be helpful.

5 MR. ROSENTHAL: Certainly.

6 VICE CHAIRMAN PEARSON: Madame Chairman, I
7 think I have no further questions.

8 CHAIRMAN ARANOFF: Are there any further
9 questions from Commissioners?

10 (No audible response.)

11 CHAIRMAN ARANOFF: Do the staff have any
12 questions for this panel?

13 MR. McCLURE: Jim McClure, Office of
14 Investigations.

15 We have no questions. I would just like to
16 make this point. We have been in touch with
17 Petitioners. We are aware of the concerns and we are
18 in touch with various questionnaire respondents in an
19 attempt to clarify any issues with respect to the
20 pricing data. And obviously as soon as we're
21 comfortable with what we have, we will release it to
22 the various parties.

23 With that, we have no questions.

24 CHAIRMAN ARANOFF: Do counsel for the
25 Respondents have any questions for this panel?

1 MR. SCHAEFER: Madame Chairwoman, we don't
2 have any questions for the panel. Thank you.

3 CHAIRMAN ARANOFF: Okay. Thank you very
4 much.

5 Then we are going to take our lunch break.
6 I guess we'll take an hour break and return at 1:35.

7 Please remember that this room is not
8 secure. Don't leave any confidential information in
9 here or anything that you consider valuable unless
10 you're here to watch it. And until 1:35 we will stand
11 in recess.

12 (Whereupon, at 12:35 p.m. the hearing was
13 recessed, to reconvene at 1:35 p.m. this same day,
14 Thursday, July 16, 2009.)

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

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

(1:37 p.m.)

CHAIRMAN ARANOFF: Welcome back to the afternoon session. The hearing is now resumed.

Mr. Secretary, will you please call the second panel.

THE SECRETARY: Yes, Madame Chairman.

This afternoon's panel, those in opposition to the imposition of antidumping and countervailing duty orders have been seated. All witnesses have been sworn.

CHAIRMAN ARANOFF: Please proceed as soon as you're ready.

MR. SCHAEFER: Thank you, Madame Chairman.

Once again, I'm Alex Schaefer from Crowell & Moring.

To start our presentation this afternoon I'd like to introduce several witnesses that we have from Electrolux. Don Market, and Griffin Hyde. Let me start by asking each of you to go through briefly your position at Electrolux during the POI and your role as it pertains to this case.

Don?

MR. MARKET: Thank you.

I'm Don Market. I've been with Electrolux

1 almost 25 years. For the last five years I've been
2 Director of Purchasing responsible for purchases for
3 all direct material for Electrolux North America.

4 Since January I have changed jobs, and I'm
5 now responsible for our global purchases for
6 Electrolux for steel.

7 MR. HYDE: My name is Griffin Hyde. I'm the
8 Commodity Manager responsible for mechanical
9 components which includes metal stampings, wire racks
10 and shelves, gas components and iron grates. I've
11 been with Electrolux since September of '08. I came
12 in at the conclusion of the POI.

13 MR. SCHAEFER: Thank you, gentlemen.

14 Mr. Market, let me start with you.

15 Can you tell me how long Electrolux has been
16 manufacturing ovens in the U.S.?

17 MR. MARKET: Over 35 years.

18 MR. SCHAEFER: Can you describe the ovens a
19 little bit? The brands, the styles, that sort of
20 thing?

21 MR. MARKET: We basically manufacture
22 freestanding ranges and ovens, both in electric and
23 gas versions, both LP and natural gas. We sell under
24 the brand names of White/Westinghouse, Gibson, Tappan,
25 Frigidaire, Electrolux, Electrolux Icon, Kenmore, and

1 Bosch.

2 MR. SCHAEFER: We know that Electrolux
3 purchases oven racks from outside vendors. Are there
4 other parts and componentry that you purchase from
5 outside vendors as well?

6 MR. MARKET: Yes. There are a lot of parts
7 that we buy from other vendors. Items such as wiring
8 harnesses, steel, stamped parts, motors, fans,
9 elements, fasteners, basically thousands of part
10 numbers that we purchase to go into the manufacturing
11 of our ovens.

12 MR. SCHAEFER: How many outside vendors or
13 suppliers for those parts do you typically have? On a
14 part by part basis.

15 MR. MARKET: Roughly 800 to 1000 suppliers.

16 MR. SCHAEFER: For each part that you buy,
17 do you just have a single supplier or are there
18 typically more than one?

19 MR. MARKET: On most parts, we've had a
20 concerted effort since about 2004 to be dual sourced.
21 We started that process back in 2004. Previously what
22 we had seen in our industry was that the purchasing
23 strategy was to single source with one supplier.

24 MR. SCHAEFER: Why would you do that?

25 MR. MARKET: You would basically go to that

1 supplier and say I'll give you all the volume, and
2 give me a better price. Quite honestly. And you use
3 the leverage of volume for price.

4 MR. SCHAEFER: What prompted you to move
5 away from that purchasing structure?

6 MR. MARKET: What we began to see in 2004
7 was that much like last year's commodity, commodity
8 prices escalated. And we were held hostage by some
9 suppliers that would come to us and say here's your
10 price, even though it was more than what the
11 commodities would have demanded. It was a higher
12 price than what we should have paid, but we had no
13 options.

14 It takes us a fairly long time to qualify
15 another supplier. So some of the suppliers would say
16 you either pay the price or I'm not going to ship. It
17 put our business at risk, and we were forced into a
18 corner to be able to say I've got to pay the price.

19 So we started that process. Basically we
20 expedited the process in early 2005, in January of
21 2005. We had a supplier, a very large supplier, with
22 several hundred component part numbers, one Saturday
23 night burned to the ground and we were single source.

24 MR. SCHAEFER: What did that mean for you
25 all?

1 MR. MARKET: We basically took an army of
2 people to that location and helped that supplier get
3 back up on its feet and start production. But there
4 was a long time lapse, as you can imagine, and we lost
5 production, we lost sales, and it cost our business
6 literally millions of dollars.

7 MR. SCHAEFER: So your decision to move to a
8 dual source operation, if I can sum up, was
9 essentially a business risk insurance policy, is that
10 fair?

11 MR. MARKET: Yes. And not only because of a
12 supplier potentially having a fire, but in the last
13 year or two it's become more evident that there's a
14 lot of suppliers that are in financial trouble. We've
15 also had issues over the last few years of suppliers
16 going bankrupt overnight. Had we not been in a dual
17 source situation, it would have been disastrous for
18 our business as we go through that same scenario of
19 trying to qualify another supplier.

20 MR. SCHAEFER: This purchasing structure
21 applies to your purchases of oven racks as well, does
22 it?

23 MR. MARKET: It applies to all component
24 parts that we buy.

25 MR. SCHAEFER: Let me just pause on that.

1 There was some testimony earlier today that Chairman
2 Aranoff was asking about with respect to whether
3 individual parts are ever dual sourced. In other
4 words the Petitioners intimated that while you may buy
5 oven racks broadly from multiple suppliers, individual
6 part numbers typically are purchased from only a
7 single supplier. Is that your experience?

8 MR. MARKET: No. It's our intent to be what
9 we call dual source or 2+1 for every component that we
10 buy. In some cases if we don't have dual tooling we
11 make sure that we have the ability to get to that tool
12 and move it virtually overnight, if we need to.

13 In the case of oven racks, we are dual
14 sourced on all those component part numbers.

15 MR. SCHAEFER: Let's talk a little bit about
16 the qualification process. Does Electrolux qualify
17 oven part suppliers and specifically oven rack
18 suppliers before you buy them?

19 MR. MARKET: Yes, sir.

20 MR. SCHAEFER: Can you describe that process
21 a little bit including time length, factors involved,
22 and that sort of thing?

23 MR. MARKET: It typically takes us,
24 depending on the component, it can take anywhere from
25 60 days to a year to qualify that component, depending

1 on whether it's an electronic component or whether
2 it's a simpler component.

3 The process is that today we'd start with a
4 quality audit of that supplier's facility to
5 understand their processes and their capabilities. It
6 requires a financial audit. That's been added within
7 the last two years. We need to understand if the
8 partner we're about to select is financially viable.

9 From there we do audits such as code of
10 conduct, ethics, those types of audits.

11 Then we move into a piece part, I think you
12 heard some of the gentlemen this morning talking about
13 PPAP. It's actually a qualification plan for each
14 specific part number to our specification. It's
15 dimensional inspections. They basically build a
16 sample, they do capability studies on a larger lot of
17 parts.

18 We do dimensional inspection and make sure
19 that they're capable of holding those dimensions.
20 Then we move into what we call a reliability or life
21 test such as oven racks. One of those tests is that
22 it has to pass the self clean test which is a high
23 temperature test without discoloration of the coating
24 that's on the rack, without deterioration or sag in
25 the rack. They have to be able to hold so much weight

1 in the application. So we go through those testing.

2 We go through life testing to make sure that
3 it will basically last double life.

4 We move into what we call a field test
5 environment, and we'll run a small sample and put them
6 out in the field and try to get the "as used" test
7 results back.

8 Then we go into a small production run, and
9 then finally a production run.

10 MR. SCHAEFER: Thank you.

11 So we have multiple sources of supply. We
12 have a fairly lengthy qualification process. But once
13 we're through all that, once we have multiple
14 qualified suppliers for a particular part, a
15 particular oven rack, let's say, what Mr. Gritton this
16 morning tells us is that once you're in that
17 situation, it's just down to price. Everything else
18 goes away. Is that right?

19 MR. MARKET: It's a piece of it. We
20 basically have five tenets that we try to look at.
21 Quality is a piece of it; delivery capability is a
22 piece of it; price or cost is a piece of it;
23 technology is a piece of it, whether or not we have an
24 advantage over, because of a technology advantage;
25 then the fifth tenet is what we call a strategic

1 business decision, whether a supplier relocates to one
2 of our facilities. Much like the gentleman this
3 morning, we've closed facilities in North America. We
4 moved some facilities to Mexico, as they have. Some
5 of those suppliers make a strategic decision to move
6 with us. So we look at that piece of it also.

7 MR. SCHAEFER: With those five tenets in
8 mind, at this point, members of the Commission, I'd
9 like to turn to the proprietary exhibits that I'm
10 hopeful at least that you've all received.

11 The first of those is essentially a
12 variation on our purchaser questionnaire data. Of the
13 five pricing products in the oven rack sphere in this
14 case, four purchased by Electrolux.

15 As I look at this data, without getting into
16 the specific numbers and counting these up, there's
17 obviously a substantial number, in fact a significant
18 majority of instances of overselling by the Chinese
19 imports.

20 Mr. Kara said this morning you don't get
21 market share by charging higher prices. Mr. Owen said
22 you can't imagine how this could be right, how imports
23 could be increasing if the prices of the Chinese
24 merchandise are higher.

25 Can you explain how it could be that

1 Electrolux was purchasing oven racks from China that
2 cost more than the oven racks from the United States?

3 MR. MARKET: In some cases, as I explained
4 earlier, it's not always about price.

5 When you have dual sources, there is very
6 very seldom that someone has the exact same price,
7 especially when you source from overseas, whether it's
8 China or Korea or any other country, there's a lag in
9 material prices. There's a lag because of the
10 shipment time from those countries versus domestic.
11 We even see that within Mexico.

12 So it's not uncommon that you would see one
13 supplier for some of the component parts to have a
14 higher cost than the other supplier. If you have five
15 suppliers for a component, you're probably going to
16 have five different costs and you're going to have a
17 variation of some of them are going to be grouped very
18 close together, and sometimes because of, especially
19 in the last year and a half in the economic
20 conditions, depending on whether or not you've been
21 able to right-size your operation to the demand, you
22 may have some premium costs or not in your operation.

23 MR. SCHAEFER: Thank you, that's helpful.

24 Mr. Hyde, let me turn to you for just a
25 moment. Looking at the state of one of the other

1 features that I know is that in late 2007 or early
2 2008 the price for the U.S. racks overtook and passed
3 the price for the Chinese oven racks. Is that your
4 experience?

5 MR. HYDE: That is a correct statement, yes.

6 MR. SCHAEFER: Now the Petitioners refer to
7 that as underselling. What it looks like to me is
8 that all the prices were rising and the U.S. prices
9 just are rising more steeply than the Chinese prices,
10 so I'd like to talk about that for a moment.

11 In that regard, can you talk a little bit
12 about wire rod during that period and the factors that
13 we've talked a little bit about in our brief, and
14 elaborate on what was going on during this timeframe?

15 MR. HYDE: Correct.

16 Coming into 2008 with the economic condition
17 we saw historic highs with commodities, specifically
18 wire rod as an example, as one of the primary input
19 costs of wire racks. We saw a significant increase
20 through the first half of the year in which our
21 domestic suppliers took the position to follow the
22 market, whereas our offshore suppliers positioned
23 themselves to be able to offer firm, extended period
24 of time pricing which obviously put them in a more
25 competitive position.

1 MR. SCHAEFER: Let me stop you there for a
2 minute, Mr. Hyde.

3 When you say these producers positioned
4 themselves to be able to offer you long term pricing,
5 I'm imagining rod is a key input. It can fluctuate.
6 How can a supplier avoid that? Can you give me an
7 example of how a supplier could position himself?

8 MR. HYDE: The primary example that the
9 suppliers would use, they clearly understand the
10 weight of their product. They typically have a very
11 good idea of the estimated annual usage of their
12 product. Using that in pounds they would do an
13 advanced purchase of material to go into our product,
14 thus securing or insulating our price from potential
15 spot market and/or market elevation, and it also is a
16 form of guaranteeing or at least committing business
17 to them for a specific period of time.

18 MR. SCHAEFER: Let me make sure I understand
19 that.

20 It's a two-way commitment, right? You
21 commit to a certain volume of purchases; they purchase
22 the raw materials for that amount in advance; that way
23 they're insulated from fluctuations in the spot market
24 for their input price.

25 MR. HYDE: That is one mechanism, yes.

1 MR. SCHAEFER: Okay.

2 Let's look at the second of these
3 proprietary exhibits.

4 Before I forget about it, did any of the
5 domestic suppliers offer that sort of long term
6 pricing during this timeframe?

7 MR. HYDE: Coming into 2008, there was not a
8 commitment to do long term pricing, and we rode the
9 market. However, with National Wire there was a brief
10 and/or a short term commitment, no longer than 90
11 days, until we got to the second half of the year
12 whereas the market continued to increase and to cap
13 itself. We took price increases on the way up,
14 however on the way down when the market started to
15 decline, we did not see the same benefit in declining
16 prices.

17 MR. SCHAEFER: I want to talk about that as
18 well, but let me back up for just one moment.

19 So the domestic suppliers didn't offer you
20 long term pricing, anything beyond 90 days from one
21 supplier, is that right?

22 MR. HYDE: To the best of my knowledge and
23 what we have on record, no. They did not.

24 MR. SCHAEFER: Did you ask for it?

25 MR. HYDE: We asked early in '08 to do firm

1 pricing, and it was not accepted.

2 MR. SCHAEFER: Let's get back to this graph.

3 What you've told us is that the spot market
4 price for the wire rod increased substantially during
5 this timeframe. That's depicted on this graph?

6 MR. HYDE: Correct.

7 MR. SCHAEFER: That's the black line on
8 here?

9 MR. HYDE: That is correct.

10 MR. SCHAEFER: Can you tell me about the red
11 line?

12 MR. HYDE: The red line is wire input costs.
13 The customer costs for their finished good.
14 Specifically that is wire rod that's converted into a
15 finished good wire product, sold to us on a per pound
16 basis, times the weight of the part. Through the
17 period, the first half of '08, we received monthly, in
18 some cases weekly discussions with needing price
19 increases. However, when the price started to fall we
20 did not receive the same type reciprocation offers
21 with pricing going down.

22 MR. SCHAEFER: So the domestic suppliers
23 don't offer you long term pricing and instead their
24 prices to you track the market for their input
25 material, wire rod, which spikes during this period.

1 Is that right?

2 MR. HYDE: Correct.

3 MR. SCHAEFER: When I say they track it,
4 they track it on the way up, but then beginning around
5 about September of '08 as it starts to drop there's a
6 delta between these two lines.

7 MR. HYDE: That is correct.

8 MR. SCHAEFER: That's what you mean when you
9 say they ratchet up their prices as their input
10 material costs were going up, but they didn't come
11 down as they were going down. Is that right?

12 MR. HYDE: That is a correct statement.

13 MR. SCHAEFER: And that, as far as you can
14 tell, is the reason why the prices for the U.S.
15 merchandise overtook the Chinese prices during this
16 window of time in 2008?

17 MR. HYDE: That will be the major
18 contributor. Correct.

19 MR. SCHAEFER: Just one final question, Mr.
20 Hyde.

21 Talking about SSW earlier this morning, Mr.
22 Kara said that they've done everything they can do to
23 reign in non-production related costs. Is that
24 consistent with your experience?

25 MR. HYDE: If you compare these

1 organizations to other domestic and off-shore
2 accounts, I would disagree with that statement.
3 Meaning most of the other, or a majority of the
4 suppliers that we deal with are typically a one stop
5 shop, meaning minimal levels of management, minimal
6 levels of overhead, minimal levels of SG&A per se.
7 When we deal with SSW, particularly, there's multiple
8 levels of management; there's multiple facilities;
9 overhead charges, that is our assumption and what we
10 found to be true in doing competitive analysis, makes
11 them an uncompetitive supplier in regards to these
12 products.

13 MR. SCHAEFER: Thank you.

14 I want to just briefly address a couple of
15 the other issues involved in purchasing before we get
16 back to current trends.

17 The first of those is tooling expense.
18 There's been a lot of discussion today about tooling
19 and who pays for it and who doesn't pay for it and who
20 charges for it and who doesn't.

21 I'm trying to get sort of a sense of the
22 quantum of what we're talking about here. We can
23 obviously put specific examples and particular numbers
24 and data in our post-hearing brief, but if you take
25 tooling and spread it across production on a per unit

1 basis, are we talking about a cost component of ten
2 cents, five cents per unit? What are we looking at?

3 MR. HYDE: I believe it's safe to say over
4 the life of a program you're talking about fractions
5 of a penny.

6 MR. SCHAEFER: Fractions of a penny.

7 MR. HYDE: Correct.

8 MR. SCHAEFER: Thank you.

9 The other issue that's come up is credit.
10 Credit terms, and who's extending favorable terms and
11 who isn't.

12 Can you talk about that a little bit, at
13 least insofar as Electrolux is concerned?

14 MR. HYDE: Not knowing the other OEMs'
15 terms, but for Electrolux the credit terms we have
16 with these two existing suppliers are identical and/or
17 very very similar to our off-shore accounts as well as
18 other domestic suppliers.

19 MR. SCHAEFER: To the extent that they
20 differ, are those differences enough to affect your
21 purchasing patterns?

22 MR. HYDE: While it is a factor in the total
23 cost, it's nothing that would deter us from sourcing
24 domestic and/or off-shore, because they are similar in
25 credit terms we have today.

1 MR. SCHAEFER: Thank you.

2 In 2009 some purchasing was shifted back to
3 the United States, is that right?

4 MR. HYDE: That is a correct statement.

5 MR. SCHAEFER: The Petitioner's position in
6 their brief and early on today is first, that that's
7 entirely in response to the dumping case. Second, it
8 proves that price was the reason you moved away from
9 them in the first place. And third, without a dumping
10 order in place, you'll abandon them entirely. Is that
11 right? Can you talk about that a little bit?

12 MR. HYDE: I cannot agree with that
13 statement. As coming into 2009, as the U.S. wire
14 market continued to reduce, that obviously made the
15 North American suppliers more competitive while at the
16 same time they changed, or the perception was they
17 changed their purchasing position to where they are
18 now offering an extended longer term input cost,
19 meaning fixed and/or firm pricing for an extended
20 period of time. Whereas in 2008 and years prior, that
21 was not provided.

22 MR. SCHAEFER: So if I can just sum up then,
23 a multiple sourcing strategy, suppliers that held you
24 over a barrel when their input costs started to drop,
25 and repatriation that has less to do with price than

1 with the five tenets in the strategic business
2 relationships that you've discussed already. Is that
3 right?

4 MR. HYDE: That's a correct statement.

5 MR. SCHAEFER: I don't have anything
6 further.

7 Mr. Jaffe, do you have any questions that
8 you wanted to add in?

9 MR. JAFFE: No.

10 MR. SCHAEFER: That being the case, members
11 of the Commission, we're prepared for your questions.

12 CHAIRMAN ARANOFF: Thank you very much.

13 I want to welcome the afternoon panel, and
14 thank you for your patience in waiting until this
15 afternoon to come on and make your case. We
16 appreciate your taking the time away from your
17 business to join us today.

18 This afternoon we're going to begin the
19 questioning with Commissioner Williamson.

20 COMMISSIONER WILLIAMSON: Thank you, Madame
21 Chairman. I, too, want to express my appreciation to
22 the witnesses for their testimony.

23 I think you've already described your
24 qualification procedures and I was just wondering,
25 would you care to describe how difficult you consider

1 them to be? And have subject producers ever failed to
2 meet your qualification procedures?

3 If you want to do that post-hearing, I can
4 understand.

5 MR. HYDE: I can confirm that the current
6 suppliers we have in fact they have successfully been
7 qualified. However, we have disqualified suppliers
8 based on their inability to perform and meet our
9 quality expectations, whether it be with a design
10 specification or overall delivery performance in
11 regard to landed cost or landed delivery.

12 COMMISSIONER WILLIAMSON: So one of the
13 criteria for disqualification or no longer doing
14 business is if they don't meet the price expectations?

15 MR. HYDE: Repeat the question, please?

16 COMMISSIONER WILLIAMSON: One of the basis
17 for you disqualifying or to stop doing business with
18 someone could be that they don't meet the price
19 expectations that you have.

20 MR. HYDE: I was under the impression you
21 asked the question about quality. We have had
22 suppliers fail a quality audit.

23 COMMISSIONER WILLIAMSON: But I heard
24 something about landed cost, and that's what made me -

25 -

1 MR. HYDE: Meaning a delivered product that
2 comes to our door that does not meet our quality
3 specifications after transit.

4 COMMISSIONER WILLIAMSON: Okay, I'm sorry.
5 I thought I heard you say cost, and -- Okay.

6 This morning the Petitioners mentioned that
7 sometimes they've had an OEM customer who would spend
8 a lot of time with them developing a particular
9 product, but then would either go immediately or even
10 at some point go quickly off-shore to another
11 supplier, a foreign supplier, to get that product. I
12 was wondering how do you, do you want to comment on
13 those allegations?

14 I particularly wondered whether or not when
15 you're working with the supplier, if there's any
16 actual property rights or value in that product, who
17 owns the product? And if it's true that OEM
18 manufacturers are going overseas right away to get a
19 cheaper price, doesn't that sort of support the
20 Petitioner's allegation that it's all about price?

21 I guess first, how do you respond to the
22 comments, the allegations this morning that the OEM
23 manufacturer sometimes will develop a new product with
24 a domestic supplier and then turn to China to get it
25 produced at a cheaper price?

1 MR. HYDE: I don't believe at this time that
2 question is applicable to at least the products i've
3 been associated with since my time with Electrolux.

4 COMMISSIONER WILLIAMSON: Okay.

5 MR. JAFFE: If I may add, I realize we're
6 also talking about separate domestic like products,
7 but unfortunately, this morning Petitioners sometimes,
8 in a lot of their testimony, failed to distinguish
9 which domestic like product they were talking about.
10 And in that particular instance, to the best of
11 Electrolux's knowledge, that did not apply to them and
12 certainly didn't apply to their purchases of oven
13 racks.

14 MR. MARKET: If I can add to it,
15 specifically we heard this morning about E-Auctions,
16 how sometimes they would work on development and that
17 would end up in an E-Auction before it got into
18 production.

19 I can tell you that I've been Director of
20 Purchasing since 2004 and we've not had an E-Auction
21 on oven racks or any other component since that time.
22 I think it might have been a different manufacturer.

23 COMMISSIONER WILLIAMSON: Okay.

24 To the extent that you do have to work with
25 the supplier on developing a particular oven rack,

1 particularly I guess a higher end one, what is the
2 general practice with regard to how long that supplier
3 may be the one you would go to for the product?

4 MR. MARKET: Typically it's at least a year.
5 The rack you saw this morning is probably the most
6 complicated rack, oven rack that we've ever had. Most
7 of our oven racks fall into the category that they
8 talked about this morning of the simplified, flat
9 version, low cost tooling, various production volumes,
10 but relatively simple components for the ovens.

11 COMMISSIONER WILLIAMSON: How often when you
12 are pursuing this dual sourcing strategy might you have
13 both suppliers being U.S. producers?

14 MR. MARKET: Actually the dual source is
15 just not off-shore. When I talked about 2+1, let me
16 explain that a little bit.

17 The intent is that we always have two
18 suppliers qualified and it's a minimum requirement,
19 that we try to have two suppliers qualified and always
20 then one that we're trying to develop. In the case of
21 oven racks, there can be, there are instances where we
22 have three or four suppliers qualified, and it doesn't
23 necessarily mean that it has to be off-shore. We
24 heard this morning about a facility called Anderson,
25 South Carolina, and that business was lost from one of

1 these companies that was represented today, but it was
2 lost domestically. Those components are not sourced
3 from off-shore. So you can lose business
4 domestically, you can lose business to off-shore
5 competition. You may see a volume drop in volumes
6 because those component parts might actually shift
7 production from a manufacturer that has a facility in
8 North America and has one in Mexico.

9 Electrolux, I can speak for Electrolux, it's
10 public knowledge that we also, as we heard this
11 morning, have closed some facilities in North America,
12 and that can also impact I think the data that we
13 heard about this morning of imports because some of
14 those refrigerators are produced in Juarez, Mexico.

15 The point is that business volumes can shift
16 from domestic to other sources other than China.

17 COMMISSIONER WILLIAMSON: Going back to the
18 question of how long you would keep a supplier, you
19 said probably annually it comes up for review?

20 MR. MARKET: I can't think of an instance,
21 unless there's been a quality or delivery or one of
22 the other tenets that's been violated, I can't think
23 of a time when we've moved business in less than 12
24 months.

25 COMMISSIONER WILLIAMSON: And when you do

1 move it after 12 months, what is usually the reason
2 for the change?

3 MR. MARKET: It can be quality, it can be
4 delivery, it can be shared volume. We're very up
5 front with our suppliers that we have a 2+1 strategy.
6 You may enjoy the volume for a period of time, but
7 eventually we've got to move to our 2+1 strategy to
8 avoid our risk, so there's going to be some shared
9 volume there.

10 It's an advantage to us, because if we have
11 a supplier sit completely out of our business for call
12 it a year, then we have to go back through
13 requalification. You heard the gentleman this morning
14 talking about they had to requalify components. Once
15 you don't produce parts and there's a minor change to
16 that part, then not only does the current supplier
17 have to requalify that part, and sometimes it's only
18 dimensionally that they have to requalify, but your
19 other three or four suppliers have to go through that
20 same process.

21 COMMISSIONER WILLIAMSON: Dimensionally?

22 MR. MARKET: Yes. You heard about the
23 tolerances this morning that can be almost paper thin,
24 if you will. If you decide to take a wire out and
25 compact the wires or make that basket an eighth of an

1 inch wider.

2 COMMISSIONER WILLIAMSON: I see what you
3 mean.

4 I notice you didn't mention price. Does
5 price ever play a role in whether or not you shift?

6 MR. MARKET: Yes, sir. If the delta becomes
7 large enough.

8 There's also a cost to move business, quite
9 honestly. We don't move business for small percentage
10 points. That's not the intent. The intent is to, we
11 certainly address cost as any business should. Not
12 only SG&A, but piece price. That's business. But we
13 don't move business for small percentages.

14 So I'm not going to sit here today and tell
15 you that price is not a piece of it. It is one of the
16 pieces. But I can tell you we'll move business a lot
17 quicker for a quality issue or a delivery issue than
18 we will for price.

19 COMMISSIONER WILLIAMSON: Thank you for
20 those answers.

21 CHAIRMAN ARANOFF: Commissioner Pinkert?

22 COMMISSIONER PINKERT: Thank you, Madame
23 Chairman. I join my colleagues in thanking all of you
24 for being here today and testifying about what's
25 happening in this industry.

1 I noted that in one of the questions that
2 Mr. Schaefer asked you, Mr. Market, he talked a little
3 bit about the coexistence in this case of evidence of
4 overselling of subject oven racks and their increasing
5 market share by quantity during the period.

6 I'm wondering if we can just focus on that
7 specific connection, if you will, and if you can tell
8 me how it could be that there could be this evidence
9 of overselling and the increasing market share by
10 quantity.

11 MR. MARKET: I think you'd have to look at
12 the mix issue within those categories. And the volume
13 impact within that mix. Along with the timing of the
14 wire rod pricing, if one supplier moves his pricing
15 sooner than the other supplier, I think if you go back
16 to the graph you'll see that there's, at one point we
17 had suppliers where those points were very close
18 together and the delta between the spot market line,
19 the black line, and the red line, was fairly close.

20 Then you see that line grow. And there's a
21 larger spread between the black line and the red line
22 which my interpretation, that can clearly be
23 additional profits. If you're charging more than what
24 the market should bear for your wire costs, then it's
25 got to go to your bottom line and that can make you

1 uncompetitive.

2 COMMISSIONER PINKERT: One thing I should
3 have cleared up at the outset, is there in fact
4 general agreement that there are two domestic like
5 products in this case? I wasn't certain of that,
6 although I heard Petitioners say that this morning,
7 and I believe you all said that in your brief. But is
8 there general agreement among all the parties in this
9 case?

10 MR. JAFFE: Among the Petitioners and
11 Electrolux I can say that we do agree that with the
12 Commission's preliminary determination. I can't
13 really speak for GE and Whirlpool who are also
14 represented, or any of the parties who are not
15 represented.

16 The only thing I would like to add, however,
17 is that this was a distinction that of course was made
18 by the Petitioners so I think it was somewhat
19 incumbent on them to split the evidence, as well.
20 Clearly, wherever there were differences they should
21 have split the evidence. There was a number of times
22 during the testimony, a number of times in their
23 briefs, where it was difficult to stipulate whether
24 they were talking about oven racks or whether they
25 were talking about refrigerators. I think to a

1 certain extent where they were unclear, that that
2 evidence shouldn't be applicable certainly to either
3 the oven rack case or the refrigerator case. That's
4 where we disagree.

5 COMMISSIONER PINKERT: Do you agree with the
6 representation that none of the parties has challenged
7 the existence of two domestic like products in this
8 case?

9 MR. JAFFE: I believe, again, I know that GE
10 and Whirlpool did in the prelim, honestly, their brief
11 was so short I can't remember whether or not they
12 challenged it or not. It was not something -- But I'm
13 sure it stipulates one way or the other in the brief.
14 And I'm sure Petitioners' counsel is honorable, and I
15 doubt that they would make a misstatement.

16 COMMISSIONER PINKERT: Thank you.

17 In the post-hearing if you have anything to
18 add to that, and if Petitioners have anything to add
19 to that, that would be helpful.

20 Although apparent consumption for oven racks
21 decreased over the period, subject imports increased.
22 Can we explain that phenomenon?

23 MR. JAFFE: Just briefly, I think a lot of
24 that has to do with the events of 2008. I think we've
25 heard various different references to the 2+1 and

1 other things that are driving obviously somewhat more
2 of a mix, a more balanced mix. Then you have the
3 events of 2008 which are relatively available to
4 Electrolux. They were able to look at it. They saw
5 that what happened in that particular time period was
6 a situation where the wire rod was very unusual,
7 aberrational going up, and yet at that particular time
8 prices were going up pretty much on a monthly basis
9 from the domestic industry to the point where suddenly
10 somewhere around the middle of 2008 Electrolux noticed
11 they were actually getting a premium. That they were
12 getting a premium above and beyond what they should
13 have been. And you see this going on. It then
14 extends out, according to that second exhibit,
15 further. When the wire rod prices are going down, all
16 of a sudden you see a situation in which the premium
17 stays in place.

18 So what you have in my opinion is a
19 temporary imbalance. The volumes are going up because
20 of a temporary imbalance. And once the domestic
21 industry in 2009 brought their prices in line with
22 exactly what they should be based upon the raw
23 material price, that was the driving force. Not this
24 case, though of course this case does enter into
25 business risk. But that was the driving force where

1 you see the shift back, the balance going back.

2 So in my opinion, the volume is a temporary
3 phenomenon because it goes against all the tenets, the
4 five tenets that Electrolux has talked about today.
5 It goes against the 2+1, and what is important to
6 Electrolux for the period of investigation and beyond,
7 way into the future, is to have this balance. So to
8 me the volume is a temporary phenomena that has
9 switched back because Petitioners basically are now
10 acting responsibly, whereas in 2008 they were not.

11 COMMISSIONER PINKERT: Talk a little bit
12 about product mix.

13 You all heard testimony this morning that
14 there's a core product and then there are these higher
15 value products. We heard testimony that the domestic
16 industry in oven racks cannot sustain a situation
17 where they're so reliant on the higher valued products
18 as opposed to the core products.

19 Do you have any response to that from a
20 business point of view or from a legal point of view?

21 MR. MARKET: I'll start with that one.

22 For our business, and I don't know about the
23 GE and Whirlpool piece of it. But for our business
24 that goes in our high end product. It was launched
25 with our Electrolux brand that was launched within the

1 last year. So it's a relatively new product for us,
2 and it is a very small percentage of our total oven
3 rack use.

4 MR. JAFFE: From a legal standpoint, again I
5 think it's almost a similar phenomenon that I just
6 talked about.

7 What is important here, and I think
8 Commissioner Lane pointed it out, was when the volume
9 from China was at its highest, the domestic industry
10 was doing its best at that particular point.

11 So even though there was this shift, this
12 product mix shift, even though there was this
13 temporary imbalance, what you have is actually the
14 domestic industry is doing quite well, and that's
15 critical to Electrolux's business. Critical because
16 they need to maintain the 2+1. They need to maintain
17 viable suppliers.

18 So again, I think it's all kind of tied
19 together, this aberrational case of 2008 and which has
20 now corrected itself in 2009.

21 COMMISSIONER PINKERT: I understand what
22 you're saying there, Mr. Jaffe, but I'd like a
23 response on the point that the Petitioners made that
24 they can't sustain the heavy reliance on the higher
25 end. Is there anything you can say either to rebut

1 that or to put it in some perspective?

2 MR. SCHAEFER: Commissioner Pinkert, I think
3 there are a couple of factual elements in the record.
4 First, as we pointed out in our brief, the market
5 share by value figures militate against that finding.

6 I understand Petitioner's counsel doesn't
7 think that's a useful metric. I'm not certain why
8 that's true. If your market share is \$10 by value and
9 you get it by selling ten \$1 units or two \$5 units,
10 it's not clear why that makes a difference.

11 So the fact that that number has been
12 remarkably flat through the POI I think argues against
13 the notion that the high value add items are
14 insufficient to sustain the domestic industry's
15 position.

16 MR. JAFFE: I think we'll also try to answer
17 you more in detail in the post-hearing brief.

18 COMMISSIONER PINKERT: That would be great.
19 Thank you.

20 MR. JAFFE: Thank you.

21 CHAIRMAN ARANOFF: One of the things you
22 argue in your brief is that the Commission should
23 focus on the domestic industry's market share in terms
24 of value rather than quantity. As you know, the
25 Commission very seldom looks at volume related

1 measures in value terms except in cases where there is
2 a very large range of unit values, like the bearings
3 cases come to mind.

4 Can you explain why it would be appropriate
5 in this case to give more weight to the value measures
6 which show a relatively flatter trend rather than the
7 subject imports market share gain in quantity terms?

8 MR. JAFFE: I'll start the answer there
9 because I am a veteran of the bearings case, as you
10 know. So I've seen a lot of value and of course just
11 recently experienced a judgment by the Court of
12 International Trade in which they said of course the
13 Commission can rely on value.

14 I think that the value assists us in
15 understanding, again, and I apologize to returning to
16 this, but it's this temporary phenomena. It's
17 something that we talked about in different ways. The
18 return to the domestic industry in 2009. The
19 temporary shifts of that higher value so that it's
20 actually doing quite well. So that when you actually
21 look at the balance here and you look at what is
22 actually happening in the marketplace. If you look at
23 it from a quantity, yes, I can understand and see
24 what's going on there; but from a value perspective it
25 also presents a very interesting explanation. Another

1 piece of the puzzle, so to speak.

2 I think it should not necessarily replace
3 your view of the volume from a quantity perspective,
4 but I think it should educate that view so that you
5 understand it more completely.

6 CHAIRMAN ARANOFF: I'm not sure I'm with you
7 on that, but if there's anything you want to add in
8 the post-hearing to persuade me, go right ahead.

9 Let me try and clarify some testimony that
10 was given in response to one of my colleagues'
11 questions. No, I think it was in your direct
12 testimony.

13 This morning the Petitioners indicated that
14 their typical pattern is to be the sole source for a
15 particular part number and that their customers might
16 have multiple suppliers, but not for a particular
17 individual part. And if I heard you correctly, Mr.
18 Market, you said that Electrolux has at least two
19 sources for every individual oven rack model or type
20 that it purchases. Was that correct?

21 MR. MARKET: That is correct.

22 CHAIRMAN ARANOFF: So those two or more
23 suppliers who are supplying you with the same part
24 that's going into the same model oven, they're using
25 identical tooling that you've supplied them?

1 MR. MARKET: No. I think we'll get into
2 tooling in a few minutes, but in some cases we don't
3 supply tooling. I think you heard Griffin say a few
4 minutes ago, a lot of this tooling is very inexpensive
5 tooling. I say inexpensive. It's not hundreds of
6 thousands of dollars for tooling. And most of this
7 tooling is almost supplier specific because that
8 tooling can't be picked up and moved to another
9 supplier. It's dependent on, especially in some
10 manufacturers they have very automated equipment, and
11 that tooling will only work with that equipment. And
12 Supplier B may have a different type of equipment and
13 may even have a manual process versus an automated
14 process. So that tooling is not interchangeable a lot
15 of times from one supplier to another supplier. If
16 that answers your question.

17 CHAIRMAN ARANOFF: I think it does.

18 So you could have two different kinds of
19 tooling that are going to yield the same product at
20 the end.

21 MR. MARKET: Yes, ma'am.

22 MR. SCHAEFER: And in fact two different
23 manufacturing processes altogether yielding precisely
24 the same part.

25 CHAIRMAN ARANOFF: So if you're going to

1 have two sources for the same product then you're
2 going to have to be collaborating with at least two
3 different people because you might be developing two
4 different sets of tooling.

5 MR. SCHAEFER: That's correct. You could
6 even have a scenario where a manufacturer has a
7 manufacturing location in the United States and has a
8 manufacturing location in Mexico and there could be a
9 situation where you have to have two different sets of
10 tooling for that same supplier because of two
11 different pieces of equipment that it can be produced
12 on.

13 CHAIRMAN ARANOFF: Thanks for that
14 clarification.

15 I wanted to go back and clarify another
16 thing that was in the direct testimony which had to do
17 with this issue of guaranteeing prices over a period
18 of time.

19 If I understood your testimony correctly,
20 you said that in this recent price spike we had for
21 steel products, for wire rod in particular, that U.S.
22 suppliers chose to follow the market on wire rod price
23 increases, but Chinese producers offered a longer term
24 firm pricing.

25 I think what you said to me was that you

1 agreed to guarantee them a certain volume of sales in
2 exchange for which they bought rod at a fixed price
3 and then could guarantee you a price. Is that how it
4 worked?

5 MR. MARKET: I think what Griffin stated,
6 when you lock in with a supplier, or a supplier is
7 willing to lock in, there's a benefit on both sides.
8 You get price stability and you take the risk the
9 market may go down, the market may go up, but you both
10 have a benefit because you have price stability on the
11 finished product. To do that you have to commit, you
12 look at it and say okay, six months' worth of oven
13 racks equates to so many thousand tons of wire. So
14 you commit to buy that many thousand tons of wire.
15 What you've done is you basically guaranteed them the
16 business for that period of time.

17 If I say I want you to go out and secure the
18 wire for six months, then I'm committed to buy that
19 wire from you as a manufacturer, so I've just
20 committed business to you for six months until I
21 consume that wire.

22 CHAIRMAN ARANOFF: What I'm trying to
23 understand exact, just so I'm real sure about this, is
24 the nature of the commitment that you made. Did you
25 commit to purchase an actual specific number of units?

1 Or did you commit to a percent of requirements over a
2 period of time?

3 Were you taking the risk that if demand
4 turned out to be a lot lower, that you were still
5 going to take a certain volume? Or was it a
6 percentage of your needs?

7 MR. MARKET: We'd like to answer that in the
8 brief because it's a bit confidential.

9 CHAIRMAN ARANOFF: That's fine, but you see
10 what I'm getting at?

11 MR. MARKET: Yes, ma'am.

12 CHAIRMAN ARANOFF: There's also been this
13 discussion about whether domestic prices did or should
14 have come back down at about the same time that wire
15 rod prices started to come back down. I wanted to
16 explore with you the way that wire rod prices figure
17 into pricing when you agree on a price with a
18 supplier.

19 There are some industries that we see where
20 the pricing includes an index for the steel input and
21 it says it's going to be adjusted every so often based
22 on the American Metals Market Price or some other
23 known index.

24 Is that how your purchase contracts or your
25 purchase agreements work? Is there actually an index

1 that's computed into the price for the wire rod?

2 MR. HYDE: I'd like to answer that question.
3 Throughout 2008 and previous years there was no
4 existing contract per se with these suppliers. It was
5 more or less a purchase agreement for whatever part
6 number or business they were awarded. And wire rod,
7 as a commodity, wasn't treated as a fixed of locking
8 commodity with the domestic suppliers until mid of
9 '09, this year, where they were actually able to go in
10 and commit to an extended period of time at a firm
11 price at whatever the market rate was.

12 In this particular situation, 2008 we rode
13 the market up, market came down, regardless of what
14 our finished good price was. In 2009 we now have
15 fixed prices for an extended period of time that they
16 made a commitment to.

17 CHAIRMAN ARANOFF: Okay.

18 The reason that I'm asking the question,
19 like I said, for some products in the steel sector we
20 do see these contracts that have a base price plus
21 some kind of an add-on that's based on an index for
22 the input price. It doesn't sound like that's what
23 was going on here historically.

24 I guess my question essentially is, if
25 there's no indexed price for the wire rod input in the

1 price that's negotiated, how is it fair to say there
2 is a premium being charged over that index, when that
3 index isn't actually formally part of the price
4 calculation?

5 MR. MARKET: I think any time you're paying
6 a higher price than what American Metal Market or CRU
7 or any of the indexes say that the spot price is, you
8 can consider that a premium. And clearly when you
9 look at the graph you can see that we were clearly
10 paying a higher price for the raw material content of
11 wire rod than what was the spot price or market price
12 at that same period.

13 CHAIRMAN ARANOFF: My light's turned red,
14 and I'm not quite where I wanted to be so I'm going to
15 come back to this, but the question that I'm
16 interested in is, if you don't have a price
17 negotiation that says you're paying this much for rod
18 and you're paying this much for our conversion cost
19 and this much -- I'm trying to figure out how you know
20 when you're being overcharged for one element if there
21 are a lot of moving pieces. Energy costs are
22 changing, labor costs are changing, whatever. That's
23 where I'm going, but I'll come back to it in my next
24 round and turn to Vice Chairman Pearson.

25 VICE CHAIRMAN PEARSON: Madame Chairman, I

1 would be pleased to yield you such time as you require
2 to finish your question, if you would like.

3 CHAIRMAN ARANOFF: Well, if you want to
4 answer the question now the Vice Chairman is giving
5 you his time.

6 MR. MARKET: I think we'll give you more
7 information in the post-hearing brief, but I can tell
8 you today that when a supplier quotes, if we ask a
9 supplier to quote today, not only for wire rod product
10 but for metal stamped parts or plastic parts, part of
11 that RFQ is that they fill out what that raw material
12 content cost is today and we know what the index price
13 is today.

14 So as the indexes move, we know what their
15 labor content is, we have the material price
16 breakdowns, like any typical purchasing organization
17 would have. We know what the beginning point is so as
18 purchasing people do when the indexes go up, we're
19 able to have those discussions of what our starting
20 point was compared to what it is today.

21 CHAIRMAN ARANOFF: That's very helpful.
22 Thanks.

23 Thank you, Vice Chairman PEARSON.

24 VICE CHAIRMAN PEARSON: I also would like to
25 welcome you here. Sometimes these hearings get a

1 little bit long where we're actually on a pretty good
2 schedule today, so at least you have the consolation
3 of knowing that you're --

4 Yes, Mr. Jaffe, if we were starting our
5 afternoon session at 2:30 then you could feel sorry
6 for yourself.

7 (Laughter.)

8 VICE CHAIRMAN PEARSON: I'd like to start
9 with a basic question.

10 I understand that some of you haven't seen
11 the confidential part of the record, but suffice it to
12 say that it indicates that the domestic producers of
13 oven racks weren't doing terribly well financially
14 even at the start of this period of investigation.

15 Do you have thoughts on what could be the
16 reason for that?

17 They are saying that it's due largely to
18 subject imports from China. And as a subtext they
19 might have been kind of saying, although not with
20 these words, that Electrolux is a difficult customer
21 and wasn't willing to pay them enough. But do you
22 have thoughts on what might have been suppressing the
23 earnings for the domestic manufacturers even at the
24 start of the period?

25 MR. MARKET: I think even at the start of

1 the period it's not only wire product manufacturers,
2 it's appliance, OEMs, everybody's operating on very
3 small margins, if you will. And as volume goes down,
4 whether it be from moving business from one supplier
5 to another or just the appliance industry that has
6 suffered dramatic downturn in sales over the last two
7 years, you've got to right-size your organization.

8 I know what our organization has done. I
9 also heard this morning what they've also tried to do,
10 but there are a lot of wire manufacturers, OEMs, a lot
11 of companies across the United States, across the
12 world, that have very small profit margins, and
13 sometimes none. We're all trying to survive.

14 VICE CHAIRMAN PEARSON: I've worked in
15 businesses that have been making money and businesses
16 that haven't been making money. It's al to more fun
17 to be there when they're making money.

18 MR. MARKET: Yes.

19 VICE CHAIRMAN PEARSON: I assume at some
20 point in its history the domestic industry that
21 manufactures oven racks has made money. We're really
22 not seeing that in this POI. I was just trying to get
23 a little longer term perspective on what's different
24 now between the years in the past when the industry
25 might have been making money?

1 I assume this has always been a somewhat
2 tight margin industry, hasn't it?

3 MR. MARKET: I think it's been a tight
4 market, but I think my impression is that there's been
5 some capital investments made. I know some of the
6 wire manufacturers have actually had capital
7 investments to move outside of the United States. And
8 I think we've all made capital investments that if we
9 had foreseen the volume decreases coming like they've
10 come the last year and a half to two years, we may
11 have rethought the capital expenditures that we made.

12 I can't today sit here and tell you that I'm
13 knowledgeable of how much cost they've tried to take
14 out of their business in the POI period versus prior.

15 MR. SCHAEFER: I'm sorry, to add to that,
16 Commissioner Pearson, without revealing any
17 proprietary information I would draw the Commission's
18 attention to the capacity utilization rates for the
19 domestic industry at the beginning of the period. I
20 think those data are self evident, although certainly
21 we'd be delighted to discuss them in more detail in
22 the brief.

23 VICE CHAIRMAN PEARSON: The point is well
24 taken, Mr. Market. If there's a lot of excess
25 capacity in any industry, it can be difficult to turn

1 a positive margin. We may see some of that on this
2 record.

3 Earlier this morning I spoke about imports
4 of refrigerators and the effect that might have played
5 in the market. Would I be correct to understand there
6 are not that many ovens that are imported? Or is
7 there quite a bit of importing of ovens into the
8 United States?

9 MR. MARKET: Are you considering importation
10 being from Mexico also?

11 VICE CHAIRMAN PEARSON: Yes, because it
12 would show up as an import in our data.

13 MR. MARKET: I can only speak for
14 Electrolux, and we don't import ovens into North
15 America.

16 I need to back up on that, I'm sorry. We do
17 have a facility in Canada that does have some sales
18 into North America.

19 VICE CHAIRMAN PEARSON: Into the United
20 States.

21 MR. MARKET: Yes. It's specialty products,
22 if you will.

23 VICE CHAIRMAN PEARSON: But just in general,
24 in your business as a seller of ovens in the United
25 States, you don't feel yourself facing a lot of

1 competition from imported ovens coming in from
2 anywhere in the world. A few from Canada that you've
3 mentioned, but the import competition is not a big
4 factor in your business. Is that correct?

5 MR. MARKET: Not as much as laundry is
6 probably the biggest threat right now, and there is
7 some for refrigeration. Yes.

8 VICE CHAIRMAN PEARSON: So when we look at
9 the demand in the United States for oven racks, we
10 wouldn't expect to see a lot of displacement of demand
11 by ovens being imported from other countries that
12 already have the racks in them. That's not a
13 phenomenon that's going on in the oven market, is it?

14 MR. MARKET: No, I don't think so.

15 VICE CHAIRMAN PEARSON: Good.

16 Mr. Schaefer, Mr. Jaffe, thoughts on other
17 potential causes of damage to the domestic producers
18 of oven racks?

19 Again, they're making an enthusiastic case
20 that much of the problem is due to imports from China.
21 How would you disabuse me of that notion?

22 MR. SCHAEFER: It's interesting, I think for
23 the Commission to accept that notion the Commission
24 has to accept the argument that they were contending
25 with imports from China before there were any. It

1 was an interesting point that Mr. Rosenthal made this
2 morning. You don't need to go outside the four
3 corners of the POI, you have everything you need here.
4 What going outside the four corners of the POI reveals
5 is that, at least based on the beginning period
6 numbers, the position is not much better or worse now
7 than it was then when there were virtually on
8 shipments.

9 So the idea that there's this sort of
10 continuing problem that that industry faces when its
11 beginnings are in a time when there were no or
12 virtually no imports, simply doesn't make any sense.

13 VICE CHAIRMAN PEARSON: Okay. Let me shift
14 gears.

15 Mr. Market, does Electrolux have a
16 preference for sourcing inputs in the United States?
17 Or is the location of the supplier not really a factor
18 in your decision?

19 MR. MARKET: Is the location -- I'm sorry.
20 Is the location not --

21 VICE CHAIRMAN PEARSON: Of the supplying
22 company. Is it not really a factor in your decision?

23 MR. MARKET: As long as you have a 2+1
24 strategy in place, typically we try to have a close-in
25 source and one maybe not so close. And in some cases,

1 I spoke a little bit ago about refrigeration shelves.
2 I have multiple sources qualified, and at least two of
3 those are domestic, and it moved form one domestic to
4 the other.

5 VICE CHAIRMAN PEARSON: So you see it
6 largely as a risk management strategy, and as long as
7 you have some combination of suppliers in which you
8 have confidence the actual location of those suppliers
9 is not a huge factor. You have some preference for
10 having a near by supplier if possible.

11 MR. MARKET: Yes. And in some cases if we
12 only have two, call it off-shore suppliers or two from
13 Mexico or not close to our facilities, part of the
14 requirement is that we have an amount of supply that
15 is close to our location.

16 VICE CHAIRMAN PEARSON: Some inventory,
17 perhaps.

18 MR. MARKET: Yes, sir.

19 VICE CHAIRMAN PEARSON: Thank you.

20 CHAIRMAN ARANOFF: Commissioner Lane?

21 COMMISSIONER LANE: Thank you. I'm going to
22 go back sort of to basics so that perhaps I can
23 understand what Electrolux does and what it is that
24 you are saying here because I've gotten a little
25 confused. Because part of the problem I think is that

1 in your brief you seem to focus mostly on oven racks,
2 and so I would just like sort of an overall picture in
3 your own words as to what you do with regard to oven
4 racks and refrigeration. Do you import more or do you
5 do it domestically, or basically just your overall
6 picture as to what this industry looks like from your
7 standpoint.

8 MR. MARKET: Pertaining to the racks, is
9 that your question?

10 COMMISSIONER LANE: Yes. I mean I sort of
11 thought that maybe you were focusing more on dealing
12 with oven racks because that's what your brief focused
13 on, but now we're talking about refrigeration, so why
14 don't you just tell me a little bit about your
15 business as far as oven racks and refrigeration racks
16 go.

17 MR. MARKET: Well, for both particular
18 pieces it depends, going back to the five tenets, but
19 I'll give you an overview of the sourcing scenarios we
20 have today.

21 COMMISSIONER LANE: Can you pull your
22 microphone just a little bit closer?

23 MR. MARKET: Is this better?

24 COMMISSIONER LANE: Yes.

25 MR. MARKET: Thank you. For refrigeration

1 or freezer business particularly, I would say greater
2 than 75 percent of our business is now located in the
3 United States. We have some portion of the business
4 that is offshore. For the oven rack business, we have
5 two primary suppliers located in the United States,
6 one in Mexico, and then multiples qualified offshore.
7 In this particular case, both SSW and Natural Wire are
8 actually competitors, so they are in some cases
9 qualified for product that both are able to produce.
10 In some cases though where there are patent issues we
11 are not able to qualify and/or find alternate sources
12 for particular components.

13 COMMISSIONER LANE: So do I understand your
14 testimony to be that you source more of your product
15 for oven racks and refrigeration racks domestically
16 than you do from China?

17 MR. MARKET: For refrigeration that is an
18 accurate statement, and for the oven business it was,
19 in previous years during the POI it was more United
20 States, during 2008 as we were able to increase due to
21 raw material escalation it was more from a volume
22 perspective offshore, but with the commodities coming
23 back in line it will be more in the United States in
24 this calendar year.

25 COMMISSIONER LANE: Okay, thank you. Now I

1 want to refer to a question that Chairman Aranoff
2 asked about the arrangements you were entering into
3 for long term commitments of supplies based upon
4 certain amount of volume that you were expecting that
5 you were going to need. Have you entered into
6 contracts to tie down that expected need?

7 MR. MARKET: For the second half of 2009,
8 yes we have.

9 COMMISSIONER LANE: Okay, would it be
10 possible to provide those contracts to us posthearing?

11 MR. MARKET: I don't see why not. Yes,
12 ma'am.

13 COMMISSIONER LANE: Okay, thank you. Mr.
14 Schaefer in his opening remarks argued that the
15 pricing data shows that the subject imports oversold
16 the domestic like product. How do those statements
17 from Electrolux's annual report in 2008 reconcile with
18 this argument? And that is the exhibit that the
19 Petitioners put into the record, that 'we have
20 succeeded in reducing our purchasing costs by
21 increasing the share of purchases from suppliers in
22 low cost countries.'

23 MR. MARKET: Let me try to respond to that
24 if I may.

25 COMMISSIONER LANE: Okay, thank you.

1 MR. MARKET: That is the Electrolux global
2 annual report. Doesn't necessarily break it down into
3 what we call sectors or regions. I can tell you that
4 there is in different sectors or regions, there's a
5 different focus on sourced finished goods product.
6 The percentage points that he pointed to this morning
7 are direct material sourcing from low cost countries
8 is not near at those levels.

9 We have added -- trying to make sure I can
10 do this without doing it in the posthearing brief --
11 we have added some additional product to our
12 portfolio, and that product typically comes from low
13 cost countries. So it drives the percentage of the
14 total up. You also have to take into consideration
15 that when we move production facilities such as the
16 refrigeration facility that moved from Michigan to
17 Mexico, we classify that as a low cost country.

18 Especially once you get outside the United
19 States into sectors like Europe and some of those
20 sectors where they've also seen volume declines,
21 there's been some consolidation of businesses into
22 some of the lower cost countries. Doesn't necessarily
23 mean in some cases that we are sourcing that product
24 from suppliers, it could mean that we're sourcing it
25 from ourselves, we're sourcing it from Electrolux,

1 from a lower cost country than what it was produced in
2 previously.

3 COMMISSIONER LANE: Okay, thank you. And in
4 your initial testimony you talked about the different
5 brands that I guess Electrolux supplies to or is
6 affiliated with, like Tappen, Frigid Air.

7 MR. MARKET: White Westinghouse.

8 COMMISSIONER LANE: White Westinghouse.
9 What kind of products, I mean I assume then you do
10 ovens and you do refrigerators, what other products
11 does Electrolux manufacture?

12 MR. MARKET: We have two oven/refrigeration
13 facilities that produce cooking products if you will.
14 We have two refrigeration facilities, one facility
15 produces what we call the top mount refrigerator, it
16 is a two door, it has the one like you have upstairs
17 it has the refrigerator with the freezer on top. We
18 have a facility, the one I reference in Juarez, does a
19 large capacity top mount refrigerator like that, but
20 the primary business down there is the side-by-sides
21 and the bottom mount. We just launched a bottom mount
22 refrigerator within the last year, which has the
23 freezer on the bottom. It's actually a three door, it
24 has a freezer on the bottom and two doors.

25 We have two laundry facilities that produce

1 washers and dryers. One of them is in Webster City,
2 Iowa, the other one is in Juarez, Mexico also. We
3 have a freezer manufacturing facility that produces
4 both chest freezers and upright freezers, two-door
5 freezers if you will, in Saint Cloud, Minnesota. We
6 have a dishwashing manufacturing facility that
7 produces built-in 24-inch dishwashers, it's located in
8 Kingston, North Carolina.

9 COMMISSIONER LANE: And do you still do
10 sweepers?

11 MR. MARKET: Yes, there is an Electrolux
12 brand of vacuum cleaners.

13 COMMISSIONER LANE: Okay, thank you. Thank
14 you, Madam Chairman.

15 CHAIRMAN ARANOFF: Commissioner Williamson.

16 COMMISSIONER WILLIAMSON: Thank you, Madam
17 Chairman.

18 I don't think you've said much about this
19 question, but I was wondering what impact has the
20 collapse of the housing market had on the demand for
21 the products we've been talking about?

22 MR. MARKET: It's been disastrous. I mean
23 it's been two years of steady decline, I think you
24 guys have seen the numbers and it's tough. The
25 housing market, the financial crisis, consumer

1 confidence, it's all had a large impact on our
2 business.

3 COMMISSIONER WILLIAMSON: Okay, I might ask
4 you any signs of more positive signs in the future or
5 will this be one of the lagging indicators rather than
6 leading ones?

7 MR. MARKET: I'd just as soon not comment.
8 I don't know.

9 COMMISSIONER WILLIAMSON: Okay.

10 MR. MARKET: If I knew that I wouldn't be in
11 purchasing.

12 COMMISSIONER WILLIAMSON: You discussed
13 tooling costs and you said that was a very small
14 percentage of the cost of the products, of the racks
15 and shelving, and I was wondering anything you might
16 be able to give us posthearing just to document that
17 and whether or not tooling costs, when is it a
18 significant factor?

19 MR. SCHAEFER: That's our intention,
20 Commissioner.

21 COMMISSIONER WILLIAMSON: Okay, thank you.
22 Because I take it some of the products we're talking
23 about it would be much more important than in others,
24 is that fair to say?

25 In your posthearing brief, could you respond

1 to the Petitioner's arguments regarding the pricing
2 data that appears on page 40 of their brief? You'll
3 have to look at that, and anything you can address
4 posthearing that would be appreciated.

5 Also in posthearing, I wonder if you could
6 address the information we have obtained on lost sales
7 and lost revenue allocations, and particularly in
8 light of the five factors that you explained, any kind
9 of documentation you can provide that would help us,
10 you know, evaluate these claims and how do the five
11 factors play into it, to what extent do those answer
12 what we've seen.

13 MR. SCHAEFER: We'll be pleased to address
14 those, Commissioner.

15 COMMISSIONER WILLIAMSON: Okay, thank you.
16 Okay, well those are actually all the questions I have
17 at this time, Madam Chairman.

18 MR. SCHAEFER: If I could just follow up on
19 one thing since you still have a green light on?

20 COMMISSIONER WILLIAMSON: Sure.

21 MR. SCHAEFER: There was some question about
22 the Petitioners did raise an issue as to certain
23 pricing that we provided, and they said that there
24 might have been some errors in that pricing. That was
25 brought to our attention a week ago, I think Tuesday

1 or Wednesday just before, notwithstanding that
2 Petitioners had our importer questionnaire,
3 purchaser's questionnaire since May, around the middle
4 of May, it was brought to our attention by the
5 Commission Staff on Tuesday and Wednesday just before
6 we were filing our prehearing brief.

7 I just wanted to make sure that there was
8 correction in the record that we did file that -- we
9 went through, we basically stopped a lot of things,
10 stopped everything and went through all our price
11 information including blueprints going back throughout
12 the entire period of investigation to investigate, and
13 we provided the Staff yesterday, and we certainly
14 served the Petitioners a copy of the corrections if
15 there were any corrections. And in fact the data that
16 you have before you in Exhibit 1 is our data as it
17 currently is with any corrections or any answers to
18 their statements.

19 COMMISSIONER WILLIAMSON: Okay, thanks for
20 that clarification. That does raise one thing, and
21 the data that you provided in the Exhibit 1 is all
22 about I think the racks for cooking. I was wondering,
23 is the situation any different when we come to the
24 pricing data on refrigerator shelving?

25 MR. HYDE: The trend remains the same. With

1 the exception of domestic, other refrigeration
2 suppliers did follow the wire trend on the way down.
3 While it wasn't a locked material they did pass on
4 material reductions as the market came down in the
5 second half of 2008.

6 COMMISSIONER WILLIAMSON: To what extent
7 then -- one thing leads to another. What about the
8 Petitioner's argument that they didn't drop their
9 price because of the fact that they were losing money
10 and that they weren't, you know, if the raw material
11 price was going down they still were losing money, how
12 would you respond to that?

13 MR. MARKET: I would probably respond that,
14 then you should have known you weren't being
15 competitive and you should understand that eventually
16 you're going to lose some volume because your product
17 is overpriced.

18 MR. JAFFE: And to be honest, and I think
19 someone raised it, one of the Commissioners, looking
20 at the price suppression data, I guess I'm somewhat
21 confused. I mean that data clearly indicates in the
22 oven racks area that price suppression is not taking
23 place. So what we have here is, we do not have price
24 overselling in almost all the instances, I mean it's a
25 significant demonstration that the Chinese prices are

1 not underselling.

2 We certainly do not have price depression if
3 you look at it, the prices of the U.S. is rising
4 throughout, and then of course you don't have price
5 suppression. There are more than covering in fact it
6 demonstrates that there's no price suppression. So I
7 do now know, I think the only thing that I can say is
8 that there is no rational connection. There is no
9 connection between the Chinese imports and what has
10 happened to the domestic industry, that there is
11 something else within the domestic industry, and we
12 talk about it as part of our prehearing brief as other
13 reasons that are causing, other reasons completely
14 unrelated to the imports of the oven racks from China.

15 COMMISSIONER WILLIAMSON: Okay, thank you
16 for those answers.

17 CHAIRMAN ARANOFF: Commissioner Pinkert.

18 COMMISSIONER PINKERT: Thank you, Madam
19 Chairman.

20 Can you tell us a little bit more about the
21 dynamics in the U.S. market? Are there price leaders
22 in the U.S. market and if so, who are they?

23 MR. HYDE: For refrigeration there is a
24 domestic supplier that's not represented here today
25 that is the leader. And for the oven racks for

1 domestics is the two Petitioners here today that we
2 primarily deal with.

3 COMMISSIONER PINKERT: And by that do you
4 mean that they lead the prices up, they lead the
5 prices down, or both?

6 MR. HYDE: I would say in 2008, specific
7 organizations in question, for the oven side, led
8 prices up. In 2009, the prices have come down. For
9 refrigeration, the primary supplier, or price leader
10 if you will, has remained stable both going up and
11 coming down, very transparent with their cost in the
12 business that we have with them.

13 COMMISSIONER PINKERT: Thank you. Did you
14 wish to add anything to that, Mr. Market?

15 MR. MARKET: And I think what Griffin is
16 trying to say is that there seems to be a few more
17 domestic suppliers on refrigeration shelving than on
18 oven racks, and I'm not sure that -- I think you have
19 the two leaders in the industry for oven racks in this
20 room. So I'm not sure whether or not I would call
21 either one of them a price leader, there's not really
22 anything else to compare them to besides each other
23 for domestic suppliers.

24 COMMISSIONER PINKERT: Thank you. Now, you
25 heard testimony this morning about the impact of the

1 preliminary duties, and I have a two part question on
2 that. First of all, in your views, what has that
3 impact been if any on the condition of the U.S.
4 industry. And then secondly, taking your answer to
5 the first question into the analysis of injury and
6 causation of material injury, what role should the
7 impact of the preliminary duties have in our analysis
8 of injury and causation?

9 MR. JAFFE: Can I start on that? Since they
10 made the argument that if you put everything aside,
11 you know, qualifications and everything aside, that it
12 came down to price. And I think we've disproven that
13 fact. So let's take a similar thing, what happens if
14 that preliminary determination was never there, okay?
15 What would have been the circumstances right now in
16 the marketplace? And I bet that it would be if not
17 exactly the same, very close.

18 And the reason is once again if you look at
19 that chart that we gave you, Exhibit 2, what you see
20 is the price of the domestics is now really in line.
21 We've talked about them as price leaders, and it shows
22 them really in line. And so it plays an important
23 role for not only where they would have been but for
24 the preliminary, they definitely would have been in
25 the same place, but it also plays an important part

1 and I think you talked about the threat in the future.

2 Even if there was no order, even if there
3 was negative, they would still be in a very good
4 position going forward, there is no threat to this
5 industry as well. So in our opinion, does it have a
6 big impact? The answer is no. Does it have an
7 impact? Again, it's a business risk analysis,
8 obviously there was some consideration.

9 But I think that if you had set it aside
10 they would have been in a very similar situation
11 because the 2008, I think what you really saw there
12 was a very temporary phenomenon, again driven to a
13 certain extent by the economic climate, driven to a
14 certain extent by the aberrational wire rod wire
15 price, and driven to an extent by a part who actually
16 acted I think irresponsibly at the time and now is
17 starting to act much more responsibly.

18 COMMISSIONER PINKERT: Well, let me put the
19 question in more purely legal terms. If we conclude
20 that the preliminary duties had a significant
21 beneficial impact on the domestic industry, does that
22 answer the causation issue? It sounds sort of like
23 the reverse Brask analysis, and I'm just wondering how
24 I'm supposed to think about that.

25 MR. JAFFE: I believe the word was that it

1 trumps everything, I think that was it. And I would
2 say it absolutely does not. That basically if you
3 look at the industry, again you look at the entire
4 period of investigation, not before the period of
5 investigation when there is I think Mr. Schaefer
6 talked about the ghost, the phantom in the air that
7 was supposed to have caused them injury, but you
8 actually look at the period, you're seeing absolutely
9 no correlation.

10 You're seeing no correlation between the
11 subject imports, between the impact. You're seeing
12 absolutely no correlation based upon price, and I
13 think there is relatively no correlation with regard
14 to the preliminary. So I don't think -- if you rule
15 on that, I think you can say still that this doesn't
16 trump everything, that in fact it's just one factor
17 among many, and substantial evidence on the record
18 significantly demonstrates beyond any reasonable
19 doubt, I think I've added all the standards of reviews
20 there, that this is not a case in which the imports
21 are the cause of injury.

22 MR. SCHAEFER: And just to build on that,
23 Commissioner Pinkert, I think that sort of analysis
24 presupposes what the Petitioners have been arguing,
25 which is that a retreat in the face of the dumping

1 duties necessarily means that price was the reason for
2 movement away from U.S. suppliers in the first place,
3 and it's simply not so.

4 Even if you accept for the sake of argument
5 that Electrolux moved back to the U.S. suppliers as a
6 result of the dumping duties -- and again that's not
7 our position at all, we think quite the opposite is
8 true and we've done our best to explain why that is --
9 that doesn't speak to the question of why it was that
10 they left in the first place. And the pricing data do
11 speak to that question.

12 It's clear that Electrolux was willing to
13 pay a premium, the overselling data show that, to be
14 able to foster its multisource strategy and that price
15 was not the driving factor. And given that price
16 wasn't the driving factor in the first instance,
17 whether you accept or not that the duties caused what
18 the Petitioners have called the repatriation of the
19 business, it can't possibly answer that question that
20 way.

21 COMMISSIONER PINKERT: Just to see if I
22 understand the testimony I've just heard, Mr. Jaffe,
23 do you agree that even if the preliminary duties had a
24 significant positive impact on the financial condition
25 of the domestic industry, that that in itself would

1 not be a trump on the causation issue?

2 MR. JAFFE: I hope I understand your
3 question --

4 Yes. It is not a trump.

5 COMMISSIONER PINKERT: Thank you. Thank
6 you, Madam Chairman.

7 CHAIRMAN ARANOFF: Going back again to what
8 I think is really the core difficult issue in this
9 case, which is the pricing data and the extent to
10 which we have really usable price comparisons, for me
11 I know what, but I really want to know when I look at
12 those price comparisons is am I really comparing the
13 purchaser's total costs for the domestic product and
14 the subject imports when I look at the purchaser price
15 data that we have. And I understand that you've, just
16 within the last day or two, submitted some new
17 information to our staff, which is much appreciate.
18 But, we did have some testimony earlier regarding
19 things like tooling costs and credit terms, which I
20 think everyone would agree whether or not you consider
21 them a price factor do affect total costs. And so my
22 question is, if I look at the purchaser price data
23 that Electrolux has provided, am I seeing the total
24 per unit cost in the way that you, as a business,
25 would be looking at your total cost per unit?

1 MR. JAFFE: If I could just answer, a very
2 short answer is yes, you're looking at it. They did -
3 - it's indicating -- well, excuse me, it's interesting
4 that any time, of course, that you disagree with the
5 price data, as Petitioners do here, that, of course,
6 that that's not good price data and so you want to go
7 to something else. Again, they are the ones that
8 selected the particular products in question. They
9 are the ones that work with the staff. They are the
10 ones that the staff arrived at these particular types
11 of price in order to get pricing.

12 Now, they suggest that there are two things
13 that bring into question that particular pricing. One
14 is tooling and I think we've addressed that, that
15 basically on average, the tooling is fractions of a
16 cent. So, that's not going to change it. The other
17 is, I think, credit and, again, we've indicated that
18 basically, they're the same, if not very, very
19 similar. And, plus, I, also, believe the way the
20 prices are established by the Commission, it takes
21 care of any -- it's a net value. So, it might not
22 have impacted at all.

23 So, again, I think you have here,
24 notwithstanding their arguments, which I believe are
25 not valid arguments, in this particular situation, you

1 have the best price comparisons that you can have on
2 the U.S.-China delivered purchase price comparisons.

3 CHAIRMAN ARANOFF: Okay. Well, fair enough.
4 What I think would be helpful to me, and I asked some
5 of these questions earlier today to the Petitioners,
6 is, first, I have your testimony that tooling costs
7 are a fraction of a cent per unit. But, if there is
8 anyway to document or quantify that in a way that
9 makes it more concrete for the Commission, that would
10 be very helpful. I don't understand, for example,
11 when you start to design a new part, how good a sense
12 you have of how many of them you need over time.
13 Well, the tooling cost is an up front cost, but you
14 don't know how many of those ovens you're going to
15 sell down the line. As a person who has been in the
16 market lately for some new appliances, the darn model
17 number seems to change every three or four months, it
18 seems to me, and you can never get a consumer report
19 that's new enough to figure out what you're looking
20 at. So, I'm not sure how long these parts last.

21 MR. SCHAEFER: She's on to you.

22 MR. MARKET: Well, since I'm the only
23 manufacturer represented here, I can help you with
24 that.

25 CHAIRMAN ARANOFF: Okay.

1 MR. MARKET: I can give you some
2 recommendations.

3 CHAIRMAN ARANOFF: Okay. Well, it's too
4 late to help me with that last washing machine
5 purchase, but I've got other old appliances at home
6 that are going to need help sometime soon. So, in any
7 event, if there's a way to quantify this, you know,
8 pennies per unit thing in whatever way you actually
9 look at it from a business perspective, that would be
10 very helpful.

11 And similarly, I know I had asked about
12 quantifying the credit terms, the differences in
13 credit terms. Now, I have your testimony that the
14 terms are very similar. And so what would be helpful
15 to me, I know there's hundreds of parts at stake here,
16 so I can't ask you to go part by part and tell me what
17 credit terms every supplier is giving you. But, if
18 there is some way to give me something that is going
19 to look representative to me, that will compare the
20 credit terms for parts that account for maybe a fairly
21 large volume and what the credit terms are for each
22 supplier, who is supplying that part, I think that
23 would be very helpful.

24 And then sort of the second issue is to the
25 extent that there are difference, as I asked the

1 Petitioners this morning, if there's a way to
2 calculate that down to a number, that would be really
3 helpful.

4 MR. JAFFE: We'll provide that information,
5 of course, in our post-hearing brief. I would only
6 note that even though perhaps the numbers on the ovens
7 change over time. I do not believe that's the same
8 for the racks that are in the ovens.

9 CHAIRMAN ARANOFF: Okay. Well, that's very
10 interesting, actually, but probably shouldn't come as
11 such a surprise to me.

12 MR. JAFFE: I'm sorry, I just meant to
13 respond to your question about tooling, how many racks
14 are you going to sell. So, actually, what you find is
15 an oven rack, which you basically design it, and it
16 ends up being used in many different types of ovens.
17 So, you could actually -- even though the oven changes
18 over time, the rack will appear in one oven, then the
19 next oven, then the next oven, then the next oven.

20 CHAIRMAN ARANOFF: Okay. Well, that's
21 helpful. So, maybe the oven model changes every six
22 months, but the rack lasts -- I don't know, you can
23 tell me, a year? Five years?

24 MR. HYDE: That's correct. We have several
25 racks that have been going -- our legacy, if you will,

1 continue to run year over year and there's very
2 minimal, if any, tooling changes required for this
3 product, as it continues to go generation to
4 generation.

5 CHAIRMAN ARANOFF: Okay. So does that --
6 when you talk about a generation really, is that a
7 year? Five years? Ten years?

8 MR. HYDE: Calendar year or different model
9 year, different SKU number. One rack may go in x
10 number of SKUs, but again lasts year over year. If
11 anything, we're adding additional SKUs, adding to the
12 portfolio of the racks that we offer today.

13 CHAIRMAN ARANOFF: Okay. Switching
14 subjects, in what year did you first began doing
15 business with Chinese suppliers of oven racks?

16 MR. HYDE: We started to develop Chinese
17 oven rack suppliers, I believe, in the development
18 phases, mid of 2005. In 2006, we saw volume increase,
19 In 2007 and ever since, the data indicates we ramped
20 up or extended production in 2008.

21 CHAIRMAN ARANOFF: And I take it from your
22 testimony earlier, but I just want to clarify, that
23 you actually went and sought out offshore suppliers.
24 It wasn't a case where they came and solicited you for
25 business first.

1 MR. HYDE: In most cases when looking at
2 alternative suppliers, there's a reason for going to
3 look for alternative suppliers. In this particular
4 case for the products that we were offered by the
5 Petitioners, we were a captive customer, if you will,
6 single source for those particular products. Like any
7 new program, we typically send out an RFQ to multiple
8 suppliers. In this case or in these cases, we look
9 offshore, whether it be China and/or other countries,
10 and, in some cases, these organizations have
11 facilities across the globe and they'll quote whatever
12 we direct them to.

13 CHAIRMAN ARANOFF: Okay. When you decided
14 to go with this multiple sourcing strategy and you
15 started developing Chinese suppliers, did you look
16 into offshore sources anywhere else? I guess there's
17 been mention of Mexico. Is that the sum total of it?
18 Are there offshore sources elsewhere that you
19 considered and rejected?

20 MR. HYDE: For refrigeration, that's
21 correct. We evaluated Mexico and several other
22 regions of the world for ovens. We've obviously been
23 to China and we've also viewed other Asian -- or Asia-
24 Pacific countries, as well.

25 CHAIRMAN ARANOFF: But, you haven't actually

1 gone through the process of developing and qualifying
2 suppliers in other Asian countries for your U.S. --

3 MR. HYDE: For refrigeration, as I mentioned
4 earlier, we've had suppliers fail. So, we've tried to
5 qualify, again, to add to a two-plus-one. They
6 failed, so we remained with the domestic supplier. In
7 oven racks, we've primarily stayed and qualified
8 suppliers in China; however, have developed or at
9 least explored opportunities in other Asia-Pacific
10 areas, as well. As we have other facilities that use
11 oven racks, just not domestically, we will tie into
12 whatever supply chain they may or may not have
13 existing.

14 CHAIRMAN ARANOFF: Okay. Thank you, very
15 much. Vice Chairman Pearson?

16 VICE CHAIRMAN PEARSON: Thank you, Madam
17 Chairman. I note with some interest a price chart
18 that you provided here at the start of your
19 presentation. And what I was wondering, is it
20 possible that the domestic producers of oven racks had
21 contracted or otherwise committed to buy a bunch of
22 wire rod at relatively high prices perhaps in August
23 of 2008 and then were stuck with that cost going into
24 2009, giving them limited ability to reduce their
25 prices, do you have any information about that?

1 MR. HYDE: To the best of my knowledge,
2 there was no documentation and/or commitment given to
3 Electrolux that they went out and purchased material
4 on our behalf to secure their business, because it
5 certainly wasn't that way on the way up. It was this
6 is your price, it's what it is, but there was no
7 agreement or documentation provided, to the best of my
8 knowledge, stating we've procured x pounds and this is
9 what we're committed to.

10 VICE CHAIRMAN PEARSON: Okay. Well, for
11 purposes of the post-hearing, if counsel for the
12 Petitioners has anything that they would want to add
13 to this, if there's anything we should know about
14 that, by all means, please advise.

15 MR. MARKET: And I think, also, if you -- I
16 can go back into that time era and oven rack
17 suppliers, wire rod suppliers were knocking on the
18 door every month. Every time they had to order wire,
19 they were telling us that this is the price you've got
20 to agree to before I order the wire or before I'll
21 commit to manufacture the product. Then as we got
22 into mid-year, some of those suppliers came back to us
23 and we said, hey, the price is going back down and
24 it's, well, you know, we've got all this inventory of
25 wire, our lead time of wire is out there three or four

1 months. And just miraculously over night, as the
2 price of wire started to go down, there became
3 inventory in the system and they didn't have to order
4 wire every month and there was, in some cases.

5 VICE CHAIRMAN PEARSON: Okay. I'm sure that
6 there are interesting discussions between customers
7 and suppliers about these things. Thank you for that
8 clarification. Like I said, if there's more for the
9 post-hearing, by all means, let us know.

10 I'm interested to know a little bit more
11 about the contracting. There's already been some
12 discussion of this. But, looking back at when the
13 wire rod prices were peaking last year, you would have
14 had some portion of your demand for oven racks
15 committed to domestic suppliers and some portion
16 committed to overseas suppliers, okay. And then the
17 clock goes forward a couple of months from when prices
18 peaked and you start to see this delta open up between
19 the wire rod prices reported in American Metal Markets
20 and what your domestic suppliers were actually
21 charging. How long does it take you, then, to adjust
22 to that reality and start to place more of your
23 business with a non-U.S. supplier? Are the contracts
24 updated monthly? Quarterly? Every six months? I
25 just don't have sense of how responsive the market is

1 to these sorts of changes.

2 MR. HYDE: Not until recently has there been
3 a contract per se with a domestic supplier. There may
4 have been handshake agreements for limited periods of
5 time, but nothing firm and/or a legal binding contract
6 that both organizations signed until the second half
7 of this year. We've executed agreements with both of
8 the Petitioners here today.

9 VICE CHAIRMAN PEARSON: And the second half
10 of 2009, so just very recently.

11 MR. HYDE: That is a correct statement.

12 VICE CHAIRMAN PEARSON: Okay. So, the
13 informal working agreements that you would have had,
14 then, would have been for the next couple of months,
15 for the foreseeable future, please deliver me these
16 wire racks and they would say, yes, the rod is costing
17 us x and so the price is going to be this, and you
18 kind of say, okay, that's --

19 MR. HYDE: As it -- through 2008, I can say
20 that National Wire specifically would provide 90-day
21 increments, we will fix a price for this period of
22 time. SSW, you know, provide that same type of
23 arrangement. It was a month-to-month.

24 VICE CHAIRMAN PEARSON: Okay. And then
25 what's the experience working with the overseas

1 suppliers? Do they bind price for a longer period of
2 time or is it the same sort of ongoing discussion with
3 them regarding the price of each container that
4 they're putting on the water?

5 MR. HYDE: As I noted earlier, coming into
6 end of 2007, where we start to see the commodities
7 increase, we, obviously, asked the suppliers to
8 position themselves to give us a firm price to avoid
9 any type of escalation. Whether their mechanism was
10 an advanced purchase or some type of internal
11 financial position they took, they could form a price
12 for an extended period of time. In this case, it was
13 between six and eight months, at which time, like we
14 would do with any other commodities contract, is that
15 time period would expire, we would start to
16 renegotiate or see how we can reestablish that locked
17 position.

18 VICE CHAIRMAN PEARSON: Okay. And this may
19 not be something you want to comment on here in the
20 public session, but I'm curious, now that you have a
21 more formal contracting structure with the domestic
22 producers, is that a three-month or six-month time
23 horizon? I would be curious to just know whether
24 you're locking in longer periods of time.

25 MR. HYDE: I believe the request was to

1 provide a copy of the existing -- or the new
2 arrangements and we'll do that in the post-hearing.

3 VICE CHAIRMAN PEARSON: Okay, great. Yes,
4 thank you. Stepping back and looking once more at
5 this question of the contracts, the reality would be
6 that the contracting situation has been sufficiently
7 fluid such that adjustments could take place fairly
8 quickly in this market. This isn't a marketplace like
9 some we see, where there are longer-term contracts
10 that bind people. I mean, this actually allows
11 Electrolux to adjust fairly quickly to what has been
12 going on in the marketplace during the period of
13 investigation here. Is that a correct understanding?

14 MR. HYDE: Repeat the question, please. I'm
15 sorry.

16 VICE CHAIRMAN PEARSON: It was a long and
17 rambling question. I just want to make sure, it's
18 correct to understand that given the conditions of
19 competition in the marketplace during this period of
20 investigation, Electrolux had significant ability to
21 shift quantity around to different suppliers based on
22 their ability to serve your needs at a given price. I
23 mean, it was a fairly fluid marketplace. Is that a
24 correct understanding?

25 MR. HYDE: I believe it goes back to the

1 two-plus-one, where we have opportunities for pricing
2 structures and/or input to lock a specific material,
3 to insulate us from market escalation by having those
4 multiple suppliers being able to move product within a
5 reasonable amount of time. Yes, it did help us with
6 that position.

7 VICE CHAIRMAN PEARSON: Okay. That's fine.
8 Because some of the products we deal with have much
9 longer contract periods and are more fixed in place, I
10 wanted to make sure I was understanding this
11 correctly. And with some time lag, I've gotten to the
12 point where I think I understand it.

13 In the event a final antidumping order goes
14 into effect on oven racks, what affect, if any, would
15 you expect it to have on imports into the United
16 States from China? I mean, what's going to be the
17 response in the marketplace if the final duty goes
18 into effect?

19 MR. JAFFE: Well, as it -- I guess the
20 question is we have to just really wait and see. I
21 don't think we have a response to that. Obviously,
22 it's going to change the market dynamic and it's
23 difficult to forecast into the future exactly what
24 impact it will have.

25 VICE CHAIRMAN PEARSON: Okay. I accept that

1 it's difficult to know with specificity. Apparently,
2 the question is asked because at least in some other
3 products that we've dealt with, there's an expectation
4 that if product -- if imports from one country are
5 effectively cut off or really discouraged by an
6 antidumping duty, that domestic industry will go work
7 with suppliers in some other country and develop
8 relationships there on the thesis that it can be
9 easier to work with other foreign suppliers than, at
10 times, with the domestic industry. That's not what
11 we're seeing here?

12 MR. JAFFE: Well, I think, again, it really
13 comes down to the two-plus-one, which actually, from
14 our standpoint, is what actually drives and has driven
15 everything here. So if, I guess, you're in a
16 situation and, again, just talking hypothetically, in
17 which one supply arrangement is cut off, so that it's
18 no -- you don't have that opportunity, then I suspect
19 you're going to have to, in order to continue the two-
20 plus-one, develop that opportunity. I do not know
21 whether, and I don't think Electrolux can predict at
22 this moment whether or not that means that they will
23 then look to another country. I think what's critical
24 here again is this qualification process. I think
25 they said even before this, they've looked into all

1 these issues and sometimes I think it was
2 refrigerators, so I can't speak to oven racks, but in
3 that -- utilizing that as an analogy, they looked in
4 other areas and they didn't qualify. But, certainly,
5 in order to keep the two-plus-one, I think they're
6 going to have to consider options, if the antidumping
7 duty order basically stops importation of this product
8 from China or makes it can't happen. We don't know
9 right now what the duty is, though I suspect that
10 Petitioners know.

11 VICE CHAIRMAN PEARSON: Okay. Well, if
12 there's anything more you would like to add in the
13 post-hearing regarding possible reactions in the
14 marketplace to imposition of a final duty, I would be
15 happy to see it. Thank you, very much. Madam
16 Chairman, I believe that concludes my questions.

17 CHAIRMAN ARANOFF: Commissioner Lane?

18 COMMISSIONER LANE: Thank you. The kitchen
19 shelving and racks that you import from China, are
20 they fully interchangeable with comparable U.S.-
21 produced products or are there certain shelving and
22 racks that can only be produced in the United States?

23 MR. HYDE: I would say there's two answers
24 to that. In most every case, again going back to the
25 two-plus-one, we may have the same part number, same

1 print, same specification with a domestic supplier and
2 an offshore supplier. In some cases, where there may
3 be a patent issue, particularly with a domestic
4 supplier, there will not be a bill source or a second
5 supplier for those particular components.

6 MR. MARKET: And I could add there,
7 especially when we consider the nickel-plated racks,
8 we'll bill a source there, sometimes triple or more
9 source there. But, we're not on the porcelain. So, I
10 want to clarify that, that we are, for every -- I say,
11 we are for every part number, that is on the nickel-
12 plated racks, not necessarily the porcelain racks,
13 which is not a high volume either. So --

14 COMMISSIONER LANE: Okay. Now, let me go
15 back to a question I asked earlier. As I understand
16 your brief, you were focusing mostly on oven racks.
17 So, does that mean that you are conceding that the
18 domestic industry is injured by subject imports
19 relating to refrigerator shelving?

20 MR. JAFFE: Matthew Jaffe. We did drop a
21 footnote that indicated that, no, we're not conceding.
22 We fully expect, of course, that the Commission will
23 make its determination based on the evidence of the
24 record in that particular matter. However, for
25 purposes having to do with Electrolux and their

1 decision, they decided just to focus their arguments
2 on oven racks.

3 COMMISSIONER LANE: Okay. Now, as I
4 understand your brief, also, and correct me if I am
5 wrong, you are arguing that the domestic industry is
6 not going poorly because of subject imports, but
7 because the domestic industry cannot get its costs --
8 its non-production costs under control. Is that
9 correct?

10 MR. JAFFE: I believe it's certainly the
11 first half and I think the second half we're making
12 that argument. But, there are things that we don't
13 know about the domestic industry. What we do know is
14 that you have to have a causal nexus. I know we
15 talked about -- the Petitioners noted our statement
16 about volume, but the fact that just because there's a
17 volume increase in the United States does not mean
18 that you're going to have material injury. You have
19 to have a causal nexus to the particular imports. And
20 I believe what we were seeing in this particular case,
21 where we actually step forward to make our argument,
22 is that it was apparent to us that from Electrolux's
23 point of view, and Electrolux was named by the
24 Petitioner as the person that they said was causing
25 them injury, we knew for a fact that there was no

1 connection, causal nexus between the imports and the
2 impact, and I think that's clearly demonstrated by the
3 price data that the Commission has collected.

4 COMMISSIONER LANE: Okay. So, let me make
5 sure that I understand what you just said. Are you
6 still saying that the injury is related to the non-
7 production costs?

8 MR. JAFFE: The injury is related to the
9 non-production costs and other non-price factors.

10 COMMISSIONER LANE: Okay, thank you. Now,
11 let's talk about the oven racks and the refrigerator
12 racks as a percentage of the total product. So, let's
13 take an oven that Chairman Aranoff says she needs to
14 buy and a refrigerator, perhaps. What percentage of
15 the cost of let's say a mid-range range and a mid-
16 range refrigerator, what would be the percentage of
17 the cost of that product related to the racks?

18 MR. JAFFE: If I understand your question,
19 Matthew Jaffe again, there was a question in the
20 questionnaire, U.S. purchaser's questionnaire, III-4,
21 which talks about the percent of cost accounted for by
22 certain kitchen appliance shelving racks, and we
23 answered that for refrigeration, cooking ranges, and
24 freezers, and so without going into and indicating
25 here publicly what that is, I just want to point it

1 out to you that that particular answer is on the
2 record and it indicates it. I would indicate that
3 oven racks generally are a very small percentage of
4 the final product.

5 COMMISSIONER LANE: Okay, thank you. Madam
6 Chair, that's all I have.

7 CHAIRMAN ARANOFF: Commissioner Williamson?

8 COMMISSIONER WILLIAMSON: Thank you. I have
9 no further questions and I want to thank the panel for
10 their answers today.

11 CHAIRMAN ARANOFF: Commissioner Pinkert?

12 COMMISSIONER PINKERT: I, too, thank the
13 panel and look forward to the post-hearing submission.

14 CHAIRMAN ARANOFF: Okay. At this time, I am
15 the one, who still has a few questions left. I don't
16 think anyone has raised this yet, so correct me if I'm
17 wrong. In the Improvian brief at page 37, Petitioners
18 raised some concerns about the completeness and
19 accuracy of the import data that the Commission is
20 using in the report, which is derived from importer
21 questionnaires. In your opinion, what is the most
22 reliable data source available to the Commission for
23 assessing the volume of imports? Is it the importer
24 questionnaire data, the purchaser questionnaire data,
25 or something else?

1 MR. JAFFE: Honestly, given our position on
2 imports, I would like to, if it's okay with you, focus
3 that answer in the post-hearing brief, just so that I
4 can understand their full argument.

5 CHAIRMAN ARANOFF: Okay. I think the
6 argument is that we haven't heard from importers
7 representing some portion of the imports and that the
8 purchaser data shows up a larger volume of imports
9 than the importer data. Does that jog your memory at
10 all?

11 MR. JAFFE: No.

12 CHAIRMAN ARANOFF: okay. Then, we'll have
13 to wait for the post-hearing brief.

14 MR. JAFFE: Thank you. I greatly appreciate
15 that.

16 CHAIRMAN ARANOFF: On another data question,
17 Petitioners argue that the Commission's data for
18 subject producer capacity and production are
19 significantly understated due to the failure of
20 certain Chinese producers to respond at all or
21 completely to our questionnaire. Do you agree with
22 that and, if so, what conclusions should we draw about
23 the size of Chinese capacity and any underutilized
24 capacity of Chinese producers?

25 MR. JAFFE: I think there, again, that's an

1 issue that we have to address in the post-hearing
2 brief to make sure that we're not mis-speaking about
3 what we understand the data to show.

4 CHAIRMAN ARANOFF: Okay. I'll wait for
5 that. Thank you, very much. Now, there was one
6 question that I asked this morning that I wanted to
7 come back and ask you, which was whether Chinese --
8 you are aware that Chinese producers are able to make
9 or sell porcelain-coated oven racks, which are the
10 higher value product.

11 MR. MARKET: I don't believe for our free-
12 standing ovens; but, honestly, I'd have to ask and put
13 it in the post-hearing brief. But, I know they do
14 some porcelain-coated racks, but I think it's more for
15 grills, heavier gage, than for ovens. We haven't
16 particularly pursued that because there are some
17 patents surrounding the porcelain racks domestically
18 and we haven't really pursued that.

19 CHAIRMAN ARANOFF: Okay. If there's any
20 further detail that you can give in the post-hearing -
21 -

22 MR. MARKET: Okay.

23 CHAIRMAN ARANOFF: -- that would be
24 appreciated. With that, I don't think I have any
25 further questions. Commissioner Lane, do you have any

1 further questions?

2 (No further questions from Commissioner
3 Lane.)

4 CHAIRMAN ARANOFF: Okay. Are there any
5 further questions from Commissioners?

6 (No further questions from Commissioners.)

7 CHAIRMAN ARANOFF: Great. Do the staff have
8 any questions for this panel?

9 MR. MCCLURE: Jim McClure, Office of
10 Investigations. We have just a couple. With regard
11 to the development of your dual sourcing, the two-
12 plus-one approach, I take it from what you said that
13 essentially began to evolve in 2005?

14 MR. MARKET: Actually, we started that in
15 early 2004 and it got accelerated in 2005.

16 MR. MCCLURE: Was that because of the -- I
17 think you mentioned you had a supplier, who burned to
18 the ground, and then a couple, who went bankrupt?

19 MR. MARKET: Yes.

20 MR. MCCLURE: That happened in 2005?

21 MR. MARKET: Yes, sir, January of 2005 and
22 later periods of suppliers in financial distress.
23 But, it basically pointed out that we needed to have -
24 - eliminate some of the risk to our business by being
25 sole-source.

1 MR. MCCLURE: Can you tell me who burned to
2 the ground?

3 MR. MARKET: I can supply that in our post-
4 hearing brief.

5 MR. MCCLURE: Okay. And, likewise, on the
6 bankruptcies. You probably don't know this, but I'll
7 give it a try. For instance, would GE and Whirlpool,
8 do they practice dual sourcing, do you have any idea?

9 MR. MARKET: I don't know to what extent
10 they do.

11 MR. MCCLURE: But, you think to some extent,
12 they do?

13 MR. MARKET: Yes.

14 MR. MCCLURE: And that would be true in both
15 cases?

16 MR. MARKET: Yes. I don't know if they've
17 taken across -- a broad array of component parts like
18 we have though. I don't know the scope of where
19 they're at in their process.

20 MR. MCCLURE: Okay, thank you. And now Mr.
21 Fishberg has one question.

22 MR. FISHBERG: David Fishberg, Office of
23 General Counsel. Just one quick question. You
24 mentioned the develop, I guess, of five tenets that
25 you practice to determine, I guess, purchasing

1 decisions. Do you have any documentation related -- I
2 guess this follows on a question that Commissioner
3 Williamson asked -- do you have any documentation in
4 which you base an analysis of whether or not you're
5 going to purchase from a domestic or an offshore
6 source, particularly any involving any of the lost
7 sales allegations, do you have any documentation
8 showing your analysis and what factors you looked at
9 to make those decisions? If you could include that in
10 your post-hearing brief, that would be very helpful.

11 MR. MARKET: What I'll do is I'll supply
12 some examples from what we call our sourcing board,
13 where we have various disciplines of our organization
14 participate in the supplier selection process and also
15 supply a few examples of -- we have quarterly reviews
16 with the suppliers, where we come in -- where they
17 come in and we have what we call a talk-to-top
18 meeting, where we review their tenets, if you will,
19 quality delivery costs, those types of things. So,
20 it's a business review.

21 MR. FISHBERG: Thank you. And one further
22 question there. There appears to be some debate about
23 some of the lost sales allegations and whether --
24 there are two disagreements about lost sales, about
25 what the actual price was. So, if you could just

1 elaborate a little bit on whether or not you are
2 disagreeing with some of the lost sales allegations,
3 even accepting some of the data that's been provided
4 is true, what effect, if any, that has on the lost
5 sales allegation that's been made, that would be
6 helpful.

7 MR. JAFFE: Matthew Jaffe. We'll certain
8 provide that in our post-hearing brief. Thank you.

9 MR. FISHBERG: Thank you. No further
10 questions.

11 MR. MCCLURE: Jim McClure, Office of
12 Investigations. Staff has no further questions.

13 CHAIRMAN ARANOFF: Thank you. Mr.
14 Rosenthal, I understand that you do have questions for
15 this panel. Please proceed.

16 MR. ROSENTHAL: Just brief ones. Mr.
17 Market, can you respond once again to when you began
18 and your current position, please?

19 MR. MARKET: I began my current position in
20 2004 of director of purchasing. Actually, my current
21 position, as I stated earlier, is I'm the director of
22 purchasing for global steel since January of 2009.

23 MR. ROSENTHAL: Okay, thank you. Mr. Hyde,
24 when did you start in your position? Did you say
25 September 2008, is that correct?

1 MR. HYDE: That is correct. I started my
2 employment with Electrolux September of 2008.

3 MR. ROSENTHAL: Mr. Hyde, in response to a
4 question from Commissioner Williamson, you said, 'in
5 your time' -- 'in his time with the company,' you
6 hadn't seen the company work with a domestic supplier
7 to develop a product and then go to China for a lower
8 price. Is that a correct characterization of what you
9 testified to earlier?

10 MR. HYDE: I'm not aware of anything prior
11 to me. But since being employed at Electrolux, I have
12 not participated or have working knowledge of the
13 development of the domestic and then moving to an
14 Asian source.

15 MR. ROSENTHAL: Thank you. For Mr. Market,
16 can you just clarify whether the two-plus-one strategy
17 means that you have two suppliers that are qualified
18 or that you are actually buying from two sources on
19 the same part, at the same time?

20 MR. MARKET: The intent is to have two
21 suppliers qualified -- a minimum of two suppliers
22 qualified and working on the plus one. As the
23 progression goes, you would normally have one
24 supplier. You would be working on the second supplier
25 and maybe sometimes the second and the third supplier

1 at the same time, but it's a progression that you move
2 through. And in some cases, you may have two
3 suppliers that you're buying from at the same time.
4 But the point is that you -- and at some point, you
5 may only have one that you're buying from. But over a
6 period of time, we try to move that to at least two
7 suppliers and maintain the qualification of the second
8 source or the third source of the multiple source, if
9 you will.

10 MR. ROSENTHAL: Okay. But just to be clear,
11 when you talk about two suppliers, for the most part
12 and in most instances, you're not actually buying from
13 two suppliers for the same part simultaneously. And
14 if the answer is you are, would you, please, supply
15 for the record those instances where you're actually
16 buying simultaneously from the same supplier for the
17 same part.

18 MR. MARKET: Are you talking for oven racks
19 or all parts?

20 MR. ROSENTHAL: Both. My understanding,
21 just to be clear, is that in general -- first, when it
22 comes to refrigeration shelving, virtually no one
23 actually buys from two suppliers at the same time,
24 which is really what you were talking about with
25 Commissioner Aranoff earlier. If that is incorrect,

1 please tell us why that is.

2 And, secondly, when it comes to two-plus-
3 one, we're not talking about qualification. The whole
4 issue here was whether you are actually simultaneously
5 buying from two suppliers for the same part at the
6 same time. If you're doing that on more than a rare
7 occasion, please indicate that to the Commission when
8 you can.

9 MR. HYDE: I believe I can answer a portion
10 of that question. Yes, across the multiple
11 commodities, at least that I'm responsible for, we may
12 have one, two, three suppliers supplying the same
13 specific part number at the same time across multiple
14 finished good units. The same will apply specifically
15 with the oven racks. We may have -- or we do have
16 two, in some cases three suppliers supplying the exact
17 same part number, unless there is a patent issue,
18 which we don't. But, we do have capability and we do,
19 during some period of time, have multiple suppliers
20 supplying that identical part number.

21 MR. ROSENTHAL: Thank you. Mr. Jaffe, in
22 response to a question from Commissioner Pearson,
23 where he asked if the antidumping orders were in
24 place, what would happen, you would say -- will it
25 stop imports, what would you do. And you, basically,

1 said something to the effect that the antidumping
2 order might stop imports, if I'm not mischaracterizing
3 your statement, is that correct?

4 MR. JAFFE: Well, again, just to indicate, I
5 used the term 'might,' because, of course, I do not
6 know. So, again, if it goes into effect, maybe it
7 will, maybe it won't. We've seen many instances where
8 antidumping orders have stopped. We see other
9 instances where you have new shipper reviews, where a
10 new shipper might come in. There's many other
11 different instances that can effect the marketplace in
12 the future. A lot of times, like you say, you do have
13 new shippers.

14 MR. ROSENTHAL: If price is not the reason
15 for sourcing in China in the first place, the
16 antidumping order would merely cause the Chinese to
17 price fairly, stop their importations.

18 MR. JAFFE: As you know, there are many
19 instances in which there is facts available, in which
20 you actually establish a very high price, so that it
21 makes it very difficult. But, again, it may not in
22 any particular place stop imports and that's why I've
23 indicated 'might.' It might stop imports; it might
24 not.

25 MR. ROSENTHAL: No further questions. Thank

1 you.

2 CHAIRMAN ARANOFF: Mr. Secretary, can you
3 let me know at this point how much time is remaining
4 for Petitioners?

5 MR. BISHOP: Ten minutes, Madam Chairman.

6 CHAIRMAN ARANOFF: Thank you. Okay. Well,
7 I want to thank this panel, very much, for all of your
8 answers to our questions this afternoon. We, very
9 much, appreciate it. It's always desirable to hear
10 about the business from the people, who are involved
11 in it day-to-day, not to disparage the attorneys and
12 economists, who work so hard on these cases. But, we
13 really look forward to hearing from the business
14 witnesses at our hearings. So, thank you, very much.
15 I am going to invite you all to take your seats again
16 at the back and then we will go on to the rebuttal and
17 closing.

18 So, as of now, Petitioners have remaining 10
19 minutes, total time. That includes the five minutes
20 for closing and five minutes left from direct. And
21 Respondents have a whopping 41 minutes left from
22 direct presentation, plus the five-minute closing. We
23 traditionally combine those and have each speak just
24 once, if that's acceptable to you. If it's not
25 acceptable to anyone, please just speak up and let me

1 know.

2 Okay, so that's the way we're going to
3 proceed. So, Mr. Rosenthal, as soon as you're ready,
4 please come on forward.

5 MR. ROSENTHAL: Thank you. I don't want to
6 be accused of any sleight of hand, so I want to make
7 sure that everything is revealed. And, in fact, we
8 don't need the magic or sleight of hand. The facts
9 are all we require here to have you reach an
10 affirmative determination.

11 I would like to respond to a few points that
12 were made earlier by the Respondents and also follow-
13 up on some of the questions that were asked. In
14 response to a question by Commissioner Lane concerning
15 the consistency with the annual report and the
16 policies that are being employed by purchasers of the
17 racks and shelving, Mr. Market tried to say that the
18 annual report for Electrolux was a general statement
19 that didn't necessarily apply or that the goal, the
20 numerical goals weren't necessarily applicable to all
21 of the regions and all of the products. In our post-
22 hearing brief, we'll point to the record to explain
23 whether or not the refrigerator shelves and oven rack
24 sourcing is consistent with the numerical goals you
25 saw in the statement -- in the annual report. I'm

1 sure that the other side will have the same
2 opportunity to comment on the consistency or lack
3 thereof with the annual report generally.

4 By the way, there was a lot of discussion by
5 the Respondents on excess capacity. I wanted to
6 remind you of Mr. Rollins' testimony that early in the
7 period of investigation, that Electrolux encouraged
8 capacity increase at National Wire and then took the
9 business to China, leaving more excess capacity for
10 National to deal with.

11 In response to a question from Commissioner
12 Pinkert, Mr. Jaffe says that imports were declining in
13 -- increasing a declining market -- and by the way,
14 there's not been one good explanation yet about why
15 imports were declining -- increasing in a declining
16 market -- because, in his view, Petitioners' prices
17 were not responsible. In fact, throughout their
18 discussion, even though they want to continue to talk
19 about alternative sources of supply, it kept coming
20 back to the Petitioners' pricing were irresponsible,
21 they're unreasonable, our price is -- the Petitioners'
22 prices didn't match with the commodity prices for wire
23 rod, et cetera. That is all about price, okay. It is
24 not the province of the Respondents or anyone else to
25 say whether the Petitioners, the domestic industry are

1 not sufficiently efficient or that their prices are
2 not low enough. Indeed, the whole point of a dumping
3 case is to compare when the foreign producers, in this
4 case, the Chinese, are able to offer long-term fixed
5 price contracts, to say, we'll take all of the risk.
6 Because of our subsidies, because of our dumping
7 policies, we'll supply you this and we don't care what
8 happens to the price of commodity. And, yet, the
9 domestic industry has to care. So, gaining market
10 share because of the discrepancy in pricing, they may
11 call it an unreasonable price, but it is a price that
12 the domestic industry has to charge to survive. And
13 by the way, all of the discussion about the domestic
14 industry doing well, et cetera, I don't know what
15 reports they're reading, but they're not the staff
16 report with the data that you've got. This domestic
17 industry has not made money, even when they were
18 charging the so-called 'unreasonable prices,' charged
19 by the -- or claimed by the Respondents. And, indeed,
20 I heard testimony by the Respondents' witnesses that
21 they are so concerned about their bankrupt suppliers,
22 that they have a program in place for them and they're
23 worried about them. How do you expect -- how do you
24 think companies get into bankruptcy? By not being
25 able to pass through the costs that they have and make

1 a reasonable profit. That's exactly what's happened
2 here.

3 There's a lot of discussion about the
4 pricing information supplied principally by the
5 Respondents. As you know, we have a great deal of
6 skepticism about that. We don't think it looks right.
7 It's not consistent with the experience in the
8 marketplace that the Petitioners have had. We will
9 supply you with a great deal of additional information
10 concerning that pricing and the primacy of price in
11 all the negotiations with the Respondents. And,
12 incidentally, the discussion of tooling, I'm glad you
13 asked these questions. It is very important and it's
14 hard to know when you're doing a negotiation,
15 sometimes how much -- how many units will the tooling
16 be amortized over. It may be fractions of a penny, as
17 said by Respondents. But, it sure seems to be
18 important to the Respondents because it's a
19 negotiation point for them. If it's \$50,000 or
20 \$100,000, it seems to be a very, very big factor in
21 their decisions, along with the basic price of the
22 component part. And even though, in response to a
23 question from Commissioner Lane, the Respondents
24 admitted that they are -- the cost of the racks and
25 the appliances is a relatively small portion, they

1 seem to want to fight for every fraction of the penny
2 that they can. They are facing a competitive world
3 and we totally understand that. But, it is not
4 possible to credibly deny that price and every
5 component that goes into that, including tooling
6 costs, including credit costs, matters to them.

7 Apart from the two-plus-one program that
8 you've heard about, the Respondents really have no
9 explanation for the rising imports. In fact, the
10 explanation simply comes down to price, if you listen
11 to it closely. And you asked the question, well, with
12 that price, there's still a pattern, mixed pattern of
13 underselling and overselling. And as I said, we're
14 not conceding that the pricing information submitted
15 thus far is accurate. But, let's assume for a minute
16 that it is accurate, the Commission has longstanding
17 precedent that says a mixed pattern underselling and
18 overselling supports an affirmative determination of
19 injury. And so, we don't have to show underselling in
20 every instance. It is enough to show underselling in
21 several instances at lost sales, as we have, to
22 prevail in this proceeding, as we've showed.

23 I want to come back to my conclusion. We
24 don't have to rely on magic, no 'Hail Marys,' no
25 tricks. This is a very, very basic case. And,

1 thankfully, the Respondents have helped to narrow down
2 the issues very precisely. We're not -- there's no
3 question, it's been conceded that import volumes are
4 up, both in an absolute sense and a relative sense.
5 That's point number one.

6 There is no question, because they've
7 conceded this today, that in 2008, the imports have
8 undersold the domestic industry and offered lower
9 prices. If you go back and you look at the chart that
10 was provided, the confidential chart that was provided
11 by the Respondents and you look at when that delta
12 that they complained about took place, that was well
13 after the time the orders were placed for importation
14 during 2008. Those orders were made in 2007 and the
15 first quarter of 2008 and imports came in through the
16 rest of that year. The delta didn't begin to get
17 created until August, September, later in the year,
18 well after the imports were on the water, well after
19 the decisions were made to purchase. Everything
20 you've heard today about the delta, the
21 unreasonableness, that was all post hoc
22 rationalization for why they made the decision to buy
23 from China in the first instance. And, now, you've
24 got another post hoc rationalization on why in 2009,
25 they're buying again from the domestic industry. It's

1 not price? Of course it is. They admitted that
2 they're buying now because the U.S. prices come down,
3 they say, only for the commodity reasons -- commodity
4 inputs. They don't acknowledge that the Chinese
5 prices have stayed up or going up, as a result of the
6 antidumping duty preliminary determination.

7 So, you've got volume without question.
8 You've got price effects of that question. And if you
9 look at the bottom line, you've got the overall
10 effects on a domestic industry, which show injury.
11 And I'm talking about not just the refrigeration
12 shelving, the oven racks. And I'm talking about
13 causing material injury.

14 Threat is obviously there. You don't have
15 to go too far. You can either make an adverse
16 inference at this point, given the lack of response by
17 the Respondents in this case. That, I think, is, no
18 offense, an easy decision to make. And I thank you
19 for your time today.

20 CHAIRMAN ARANOFF: Thank you. Mr. Jaffe,
21 come up whenever you're ready, please.

22 MR. JAFFE: If it's okay with you, I'm not
23 going to take off my jacket. We don't have anything
24 to hide. We don't have to demonstrate that we don't
25 have anything to hide. Because, honestly, I've got

1 right here something that I think I don't need to
2 hide. It's called the staff report. And in that
3 staff report is the data that demonstrates to us and
4 should demonstrate to you that there is no causal
5 nexus between the imports and what the industry is
6 calling their injury. There is no causal nexus
7 between the imports and any threat of injury.

8 I want to tell you that Electrolux was
9 particularly reticent. We're not involved in the
10 preliminary. This is unusual for them. They are in a
11 situation where they have enormous loyalty. I think
12 that was demonstrated -- excuse me, loyalty to their
13 suppliers. And I think that was demonstrated.
14 Remember the story Mr. Market told, the supplier that
15 burnt down to the ground and how Electrolux basically
16 came in and actually rebuilt it? And they've got
17 incredible loyalty to their suppliers. So, they were
18 very reluctant here. But, as the clues were developed
19 for this particular case, they noticed that, for some
20 reason, the clues weren't being developed properly.
21 So, they decided to come in and demonstrate, because
22 what's interesting about this case, about oven racks,
23 I hadn't really seen in other cases, is that you look
24 at the products, and this is product five, six, seven,
25 11, and 12, these are the oven racks, they named the

1 particular company. They said, it's Electrolux. And
2 so, the Petitioners, so to speak, have charged
3 Electrolux with acting badly; when, in reality, it's
4 them.

5 Again, let's just go chronologically through
6 the database. First of all, they've talked about
7 2005. That's not the period of investigation. And,
8 yet, we're talking about a situation where ghosts,
9 where phantoms have appeared and for some reason
10 caused them injury so much so that they're injured at
11 the very beginning and that it's caused by Chinese
12 imports, even though the Chinese imports are not
13 there. And you look at the volume, you look at the
14 database, and you look at the price -- my God, look at
15 the price, right there, it shows overselling,
16 overselling in every single product by the Chinese
17 across the board in 2006. Again, overselling pretty
18 much across the board in 2007, again. And what's
19 interesting, it's not only overselling, but we're
20 seeing rising prices, okay, rising prices by the
21 Chinese, yes, but also by the domestic industry, also
22 by the domestic industry. So, we're not seeing price
23 depression. We're not really seeing price
24 underselling, price overselling, until you get really
25 the last 2007, beginning of 2008.

1 Now, when I saw that, I must admit, I
2 couldn't get it out of my mind. I kept thinking of
3 that McDonald's case, you know, a few years back,
4 where people brought this case against McDonald's, and
5 the judge ended up rejecting it. You might remember,
6 they were saying that we have actually gained weight
7 because of McDonald's. The judge says, if a person
8 knows or should have known that eating copious orders
9 of super-sized McDonald's product is unhealthy and may
10 result in weight gain, it's not the place of the law
11 to protect them from their own excesses. Nobody is
12 forced to eat at McDonald's.

13 Well, if you look at 2008, what you see is
14 not price depression. What you really don't see is
15 price underselling. What you really see is that the
16 domestic industry has done this to themselves.
17 They're the ones that increased the price over, way
18 high, much faster than the Chinese. They're the ones
19 that we find are defined as the price leaders. And it
20 got to a point where all of a sudden, they were acting
21 responsibly -- irresponsible. They didn't act in a
22 way that when they looked at it, and Electrolux
23 analyzed the particular situation, you have a
24 situation here where, yes, okay, you have this import
25 volume. But, you have to understand it's at an import

1 volume, which again is balanced by the fact that it's
2 also probably the best time of their lives during this
3 particular period of investigation.

4 And I must, again, return to the fact that I
5 think this was a temporary phenomenon, that as soon as
6 they acted more responsibly, went down, again because
7 of this two-plus-one, because of the five tenets that
8 is core to Electrolux, that they gain the business
9 back. There's no threat to them, unless, of course,
10 they again act irrationally in the future. There's no
11 threat to them now. There's no present injury.
12 There's no past injury that is related to the
13 particular imports. There's no rational connection at
14 all. In 2006, import volumes were low and they were
15 doing the worse. In 2007, 2008, its' the other way
16 around. So, there's actually no nexal connection.
17 So, I'm going to ask you to examine the record and
18 based on the record find, with respect to the oven
19 racks case, that there has been no material injury
20 caused by the subject imports and that there is no
21 threat of future material injury because of those
22 imports. Thank you.

23 CHAIRMAN ARANOFF: Thank you and thank you,
24 again, to everyone, who has participated, for making
25 this a very useful and informative hearing. Post-

1 hearing briefs, statements responsive to questions,
2 and requests of the Commission and corrections to the
3 transcript must be filed by July 23, 2009. Closing of
4 the record and final release of data to the parties
5 will take place on August 6, 2009. And final comments
6 are due on August 12, 2009. With that, I believe we
7 have completed our business for the day and this
8 hearing is adjourned.

9 (Whereupon, at 4:13 p.m., the hearing was
10 concluded.)

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Kitchen Appliance
Shelving and Racks from China

INVESTIGATION NOS.: 701-TA-458, 731-TA-1154 (Final)

HEARING DATE: July 16, 2009

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: July 16, 2009

SIGNED: Raymond Vetter
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: John Del Pino
Signature of Court Reporter