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In Support of the Imposition of Antidumping Duty Order:

On behalf of Mid Continent Nail Corporation:

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GEORGE J. SKARICH, Executive Vice President of Sales, Mid Continent Nail Corporation

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In Opposition to the Imposition of Antidumping Duty Order:

On behalf of Dubai Wire FZE, Itochu Building Products Co., Inc.:

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On behalf of Precision Fasteners LLC:

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AARON JOSEPH LEFFLER, Vice President, Sales and Marketing, Hitachi Power Tools

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APPEARANCES: (Cont'd.)

In Opposition to the imposition of Antidumping duty Order
(continued):

On behalf of Precision Fasteners LLC (continued):

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1 information. Please speak clearly into the
2 microphones and state your name for the record for the
3 benefit of the court reporter.

4 If you'll be submitting documents that
5 contain information you wish classified as business
6 confidential, your request should comply with
7 Commission Rule 201.6.

8 Mr. Secretary, are there any preliminary
9 matters?

10 MR. BISHOP: No, Madame Chairman.

11 CHAIRMAN OKUN: Very well. Let us proceed
12 with our opening statements.

13 MR. BISHOP: Opening remarks on behalf of
14 Petitioner will be by Adam H. Gordon, Wiley Rein.

15 CHAIRMAN OKUN: Good morning and welcome.

16 MR. GORDON: Thank you very much. Good
17 morning, Chairman Okun, Vice Chairman Williamson,
18 members of the Commission, and Commission staff. I'm
19 Adam Gordon from Wiley Rein LLP. We are appearing
20 before you this morning on behalf of Mid Continent
21 Nail Corporation, the Petitioner in this case.

22 As you know, this industry was here just
23 four short years ago at the end of an earlier
24 investigation involving steel nails from China and the
25 UAE. In that case, the Commission unanimously found

1 that Chinese imports were a source of present material
2 injury to the U.S. industry after the Commerce
3 Department found that Chinese imports were dumped, but
4 that imports from the UAE, from Dubai Wire, the only
5 UAE producer at that time, were not being dumped.

6 During that case, and after the dumping
7 order on Chinese imports went into effect in August of
8 2008, the U.S. industry experienced some temporary
9 relief. The market firmed, and prices increased
10 despite significant declines in overall demand.
11 However, large U.S. distributors and importers, who
12 had been buying dumped nails from China, went looking
13 for another source of dumped nails, and the UAE
14 industry obligingly, essentially doubled its capacity
15 in the space of a few short months, as one and then
16 two new producers were created and came online.

17 From 2008 through 2011, imports from the UAE
18 skyrocketed, jumping 130 percent in volume in absolute
19 terms. U.S. distributors and importers used very
20 aggressive underselling to take market share from both
21 the domestic industry and from nonsubject imports.
22 One truly striking feature of this investigation is
23 the way UAE imports surged at a time when all demand
24 drivers were collapsing during the collapse of the
25 housing market and the global economic crisis and

1 recession.

2 U.S. producers and nonsubject imports
3 followed demand down, but UAE imports behaved as
4 though the market were robust and expanding. This
5 behavior stands in stark contrast to Dubai Wire's own
6 sworn testimony during the 2008 final investigation,
7 when the company's president testified in this very
8 hearing room that nails from the UAE followed demand
9 to the U.S. market and in fact described his company
10 as being, quote unquote, "very sensible" in the
11 downward market.

12 During the period, when demand began to
13 recover, the UAE producers kept pushing into the U.S.
14 market and prevented the domestic industry from taking
15 advantage of the increase in demand. Over the period,
16 UAE producers used low prices and significant
17 underselling to take market share with predictable
18 results.

19 From 2009 to 2011, the U.S. industry lost no
20 fewer than six or seven producers as companies
21 consolidated, shut down entirely, or moved operations
22 overseas. Other producers have been acquired in order
23 to survive. The industry lost substantial capacity,
24 saw its profitability decline even further, lost
25 hundreds of jobs, and saw wages decrease for the jobs

1 that were left.

2 The lost sales and revenue that have been
3 documented in this case are very significant. Rather
4 than realize continued benefits from the dumping order
5 on China, the industry has been forced to contend with
6 a market in which dumped imports from the UAE have
7 caused a new injury. The Respondents would like the
8 Commission to conclude that all things considered, the
9 U.S. industry, quote unquote, "is performing
10 remarkably well," and is, quote, "in robust health."

11 I respectfully submit that the companies
12 that have closed and the workers that have lost their
13 jobs, and whose data are not part of this record,
14 would strongly disagree with those characterizations,
15 and in fact the data that have been collected by the
16 Commission in this final phase and in the prelim phase
17 tell a completely different story.

18 At the end of today's hearing, I am sure
19 that you will have heard vastly differing testimony
20 from the domestic industry and from the Respondents
21 and their witnesses. We respectfully submit that the
22 record, however, speaks for itself and is wholly
23 consistent and even stronger than the data gathered in
24 the preliminary investigation, and supports a
25 determination that this industry has been materially

1 injured by reason of imports from the UAE and is
2 vulnerable and threatened with additional injury if
3 relief is not granted. Thank you.

4 CHAIRMAN OKUN: Thank you.

5 MR. BISHOP: Opening remarks on behalf of
6 Respondents will be my Ned H. Marshak, Grunfeld,
7 Desiderio, Lebowitz, Silverman, and Klestadt.

8 CHAIRMAN OKUN: Welcome. Make sure your
9 microphone is on.

10 MR. MARSHAK: Good morning again. I'm Ned
11 Marshak of Grunfeld Desiderio. I appear today with
12 Brandon Petelin of our firm on behalf of Dubai Wire
13 FTZ, the largest of two UAE exporters of nails to the
14 United States, and Itochu Building Products, which is
15 responsible for importing virtually all Dubai wire
16 nails, as well as nails from other mills around the
17 world.

18 In my opening statement, I will be speaking
19 on behalf of my clients as well as Precision
20 Fasteners, the other UAE exporter and its customers.
21 Unless the Commission or its staff has any lawyer-type
22 questions, you won't be hearing from me again today.
23 Mike House of Perkins Coie, counsel for Precision,
24 will present our closing statement, and our testimony
25 will consist entirely of statements from members of

1 the nails industry, Rupak Ved, owner of Dubai Wire,
2 and four customers, both large and small, accounting
3 for the vast, vast majority of UAE exports.

4 This is what we had hoped for. Lawyers and
5 accountants could take these cases only so far.
6 Lawyers talk too much. Numbers are important, but can
7 be very important. In contrast, industry witnesses
8 like Mr. Ved, who has traveled halfway around the
9 world to be here today, and Mona Zinman, who has been
10 in the nails business all her life, know how to make
11 nails and sell nails, and will be able to answer your
12 questions as to what is really going on in this
13 industry without being filtered by their hired guns.

14 But I'll try to very briefly set the table.
15 Did imports of nails from the UAE increase in 2009
16 and 2010, both absolutely and as a share of domestic
17 consumption? Yes, they did. Did this increase take
18 place during the great recession, in which the U.S.
19 housing market has spiraled downward in the worst
20 crisis since the Depression? Yes, it did.

21 These were the reasons why Mid Continent
22 brought this case. And you'd think that given these
23 facts, we'd lie down and give up, concede the domestic
24 nails industry is injured and needs help. But the
25 industry witnesses and the companies they represent

1 did not give up. They worked hard to succeed in the
2 marketplace, and we believe that they will succeed
3 before the ITC because the gross numbers don't come
4 close to telling the actual stories to conditions of
5 competition in the nail industry. And the reasons why
6 this industry is as healthy in 2012 as it has been for
7 many years and promises to be even stronger in the
8 future: first, UAE nail mills did not push massive
9 volumes of subject nails into the United States.
10 Rather, exports increased because one customer, Itochu
11 Building Products, which sells its nails to its sister
12 corporation, Prime Source, decided to distribute nails
13 made by Dubai Wire in the UAE, and a second customer,
14 Hitachi, merely stayed the course.

15 Second, Itochu did not choose Dubai Wire
16 because of price. Rather, it needed a new source of
17 supply because of the uncertainty surrounding
18 shipments from China. It chose Dubai Wire because
19 Dubai Wire has the ability to produce over 1,000 SKUs,
20 fill complex orders of multiple SKUs, ship anywhere in
21 the USA, reliability, quality, reputation, not price.
22 As a matter of fact, Dubai Wire is not a low-cost
23 vendor, and neither is Precision.

24 Third, Itochu's market leadership is not
25 based on price. Rather, it reflects its ability to

1 service Home Depot and Lowe's, national mass
2 merchandisers, with 3,700 stores, who demand just-in-
3 time delivery throughout the United States.

4 Finally, and most recently, Mr. Ved decided
5 to move his nail-making machines to the United States
6 before this case was filed, and he is here to stay.
7 If you agree with us and vote no injury, Mr. Ved is
8 likely -- I'm going to quote from Petitioner's brief
9 " -- to simply turn these machines off or ship them
10 back to the UAE to continue production there," closed
11 quote, as the new owners of Mid Con are likely to give
12 that company back to the Libla family, without
13 receiving a penny in return.

14 These events will not take place. And why
15 should they? The U.S. nails industry has survived the
16 great recession and the end of the housing bubble. It
17 is in much better financial condition in 2012 than it
18 was in 2009, the beginning of the POI. It has not
19 suffered any new injury by reason of UAE imports. And
20 remember, lingering injury from the past case doesn't
21 count. And this industry is ready to take off.

22 The alleged villains in this case, Dubai
23 Wire and Itochu, are now producing nails in Dallas,
24 Texas. And the Libla family has sold its business to
25 a large and wealthy Mexican-owned producer of wire.

1 These are positive developments. The future is
2 promising. Market forces have worked and will
3 continue to work to create a larger and more
4 profitable U.S. industry.

5 The last thing this industry now needs is a
6 counter-productive, unnecessary restraint of trade.

7 Thank you.

8 CHAIRMAN OKUN: Thank you.

9 MR. BISHOP: Will the first panel, those in
10 support of the imposition of antidumping duty orders,
11 please come forward and be seated. Madame Chairman,
12 all witnesses have been sworn.

13 (Pause)

14 CHAIRMAN OKUN: As soon as your panel is
15 ready, you may proceed, Mr. Gordon.

16 MR. GORDON: Thank you very much. Again,
17 it's Adam Gordon from Wiley Rein. Joining us today
18 are, to my left, David Libla, the president of Mid
19 Continent Nail Corporation; to my right, George
20 Skarich, Mid Continent's executive vice president of
21 sales; behind me to my left, Bruce Yost, Tree Island's
22 director of global procurement; and two of my
23 colleagues from Wiley Rein, Mr. Robert DeFrancesco and
24 Ms. Laura El-Sabaawi.

25 Before moving to our industry witnesses, I

1 would like to address first a set of claims we have
2 heard repeatedly from the Respondents, and hopefully
3 dispense with once and for all. In both the
4 preliminary investigation and in the briefs that were
5 filed last week, Respondents have claimed that the
6 U.S. industry -- well, they've claimed several things,
7 that the U.S. industry does not compete in the so-
8 called big box stores, such as Lowe's, Home Depot, and
9 Menard's; that the industry does not produce one- and
10 five-pound boxes of nails; that it does not produce
11 nails for private label; and that the industry does
12 not produce a whole laundry list of particular nails,
13 so-called specialty nails.

14 On the table before you and by me here is
15 physical proof to the contrary. All of the nails on
16 this table were produced in the United States, and all
17 of them were purchased by me at such exotic locations
18 as the Home Depot on Route 50 in Falls Church, Lowe's
19 in Rockville, Maryland, and at Cherry Hill Hardware
20 and Bill's True Value Hardware on Lee Highway in
21 Arlington, Virginia.

22 These samples include one- and five-pound
23 boxes of nails, and in fact include one-pound private
24 label boxes of nails that the Respondents have
25 specifically claimed the U.S. industry doesn't

1 produce, namely, bright common nails, vinyl-coated
2 sinkers -- bright common nails here, the vinyl-coated
3 sinkers, and masonry nails.

4 On the table is another type of nail they
5 claim we don't produce, flooring nails. I would
6 invite you to examine the samples and would direct
7 your attention to the brochures that we have
8 circulated which include product brochures from both
9 Mid Continent Nail and Tree Island.

10 Now, as you can see, these companies, which
11 are representative of the industry generally, do in
12 fact offer a full range of nails in all package sizes,
13 and do produce to private label, as your staff have
14 already observed.

15 So with that, I would like to turn the
16 microphone over to our first witness, Mr. David Libla.

17 MR. LIBLA: Good morning. I'm happy to be
18 here this morning. My name is David Libla. I'm the
19 president of Mid County Nail Corporation. And with me
20 this morning are George Skarich, our executive vice
21 president of sales, and Bruce Yost, the director of
22 global procurement for Tree Island.

23 On behalf of Mid Continent and our workers,
24 I want to start by thanking the Commission and its
25 staff for their hard work on this case. I know that

1 the Commission has been very busy recently with
2 multiple new trade cases, including ours, and yet the
3 Commission and its staff made time to come out to see
4 our facility and see the Mid Continent family
5 firsthand.

6 Your visit and your hard work is appreciated
7 by everyone at our company. During the visit, the
8 staff saw the world's most efficient nail production
9 facility firsthand. Over the years, my family and I
10 have made considerable investments in the facility to
11 ring ever last efficiency out of our production
12 process, to reduce our costs, and to make Mid
13 Continent the most efficient nail production facility
14 in the world.

15 As the staff saw, our production process is
16 highly automated. By significantly reducing the
17 number of times a worker must handle either the wire
18 or the nail, we have been able to significantly
19 increase our efficiencies and reduce controllable
20 costs to compete more effectively.

21 Despite all of our investments and our costs
22 savings, however, we cannot profitably compete with
23 unfairly priced imports. First, it was China, and now
24 it is the UAE. Each time, the foreign producers used
25 unfair pricing to take market share and sales from us,

1 ultimately damaging our company, our industry, and our
2 workers.

3 I testified before you less than four years
4 ago regarding the impact of unfairly priced imports on
5 our business. We found that case against both China
6 and the UAE because imports from both countries were
7 injuring us. In your preliminary determination, you
8 agreed. However, because Commerce concluded that UAE
9 was not dumping, they were not part of your final
10 determination.

11 Since the filing of the earlier case in
12 2007, the steel mill industry, like our economy, has
13 experienced some serious difficulties. Demand for
14 steel mills is driven by housing construction and
15 shipping-related needs such as pallets and crating.
16 Both of these areas were hit hard from 2007 to 2009.
17 As nail demand was declining during the housing
18 crisis, however, because of the China case, our
19 performance stabilized.

20 Unfortunately, this improvement was short-
21 lived. Following the original case, instead of seeing
22 our prices and volumes increase over time,
23 distributors like Prime Source simply looked for
24 another source of dumped nails and found willing
25 suppliers in the UAE.

1 In the 2007-2008 investigation, there was
2 only one significant producer of dumped nails in the
3 UAE. Now there are at least two and possibly three
4 significant producers of dumped nails there. In mid
5 to late 2008, Millennium Steel and Wire became the
6 second major exporter of steel nails from the UAE.

7 At the same time, a third company,
8 Precision, also began producing and exporting steel
9 nails. At the time of the earlier case, we had no way
10 of know that in just one year's time the UAE would
11 more than double its total nail capacity. Precision
12 is now nearly the same size as Dubai Wire. Both
13 companies are essentially export platforms whose
14 volume is directed almost entirely at the United
15 States.

16 As the capacity doubled in the UAE, it was
17 not surprising to see pricing from the UAE decline
18 significantly as they aggressively reentered the U.S.
19 market, repeatedly reducing their prices to
20 increasingly lower levels. As a result, the volume of
21 steel nails from the UAE surged into the U.S. market,
22 increasing over 130 percent.

23 By the end of 2011, in a depressed market,
24 the UAE market share surpassed the domestic industry's
25 share. Their pricing is often so significantly lower

1 than ours that we simply cannot profitably compete.
2 More often than not, we simply lose a sale. As our
3 data indicate, as the imports from the UAE surged into
4 the market, we lost larger and larger sales volumes to
5 them. These lost sales were significant and could
6 have allowed us to add another shift. But even though
7 the market is beginning to show signs of limited, slow
8 recovery, we have not been able to fully utilize our
9 capacity, expand into new product lines, or
10 significantly grow our customer base.

11 Many other U.S. producers simply could no
12 longer withstand the onslaught of dumped imports and
13 were forced to shut their doors. Since the earlier
14 case ended, our industry has lost another seven
15 producers, and with them hundreds of good paying jobs
16 across the country. Those of us who remain have seen
17 our capacity, our shipments, prices, and profitability
18 decline. Workers are let go, and hours and wages
19 reduced.

20 The only thing preventing the UAE producers
21 from continuing to saturate the market and drive
22 other U.S. producers out of business was the filing of
23 this case. In fact, filing the public announcement of
24 the preliminary duties in this case, Dubai Wire and
25 Prime Source announced plans to form a joint venture

1 and move some nail production back to the United
2 States.

3 We would welcome the return of the domestic
4 nail manufacturing and competition on that basis. But
5 make no mistake. These jobs and this production would
6 have never come back to the U.S. if it were not for
7 the filing of this case. And without an affirmative
8 final determination, those jobs and production will
9 just as quickly return to Dubai.

10 Even if Dubai Wire and Prime Source follow
11 through on their plans to return some production to
12 the U.S., there remains an enormous amount of excess
13 nail capacity among the two major producers in the
14 UAE. There is simply no need for this capacity. It
15 bears no relationship to demand in the UAE or
16 globally. Its only purpose is to push significant
17 volumes of unfairly traded nails into the United
18 States.

19 Where there are signs that the housing
20 market had begun to slowly recover, even relatively
21 small amounts of dumped nails from the UAE will snuff
22 out any chance the domestic industry has of taking
23 advantage of the recovery.

24 In our testimony at the staff conference,
25 Ms. Zinman stated that when she switched to Dubai

1 Wire, she was forced to work with Dubai Wire to get
2 them to produce all the various SKUs and packages she
3 claimed that she needed. Apparently, Prime Source is
4 willing to work with its suppliers so long as that
5 supplier is willing to provide nails at dumped prices.

6 We stand ready, willing, and able to supply
7 any item to any customer at a fair price. The relief
8 provided by this case will allow us to do just that.
9 Four years ago, our industry was being injured by
10 unfair imports, and we are again being injured by them
11 today. That much hasn't changed. What has changed is
12 the fact that capacity in the UAE targeting the U.S.
13 market has doubled, with a second major exporter
14 exploiting the market.

15 Without an order to prevent them, these
16 producers will continue shipping increasing volumes of
17 nails to the U.S. market where they have seemingly
18 taken it upon themselves to make sales at almost any
19 cost.

20 As the Commission considers this case, I
21 would like to leave you with this in mind. Over 25
22 years ago, my family and I started Mid Continent with
23 just six nail-making machines and only a few workers
24 making nails. We worked long and we worked hard to
25 grow this company to the point where we now employ

1 over 350 people. Many of these employees have been
2 with us since we started, and are more like our
3 extended family.

4 Poplar Bluff is a small rural community
5 where these jobs matter. And I'm sure you know that
6 my family recently made the very difficult decision to
7 sell our business. We did this after years of
8 fighting unfair imports. We were fortunate to find a
9 partner that shares our values and as committed to
10 manufacturing in Poplar Bluff as we are.

11 Going forward, with relief provided from
12 this case, we will be able to keep our commitment to
13 our community and our workers. If we do not get
14 relief in this investigation, we will again face the
15 difficult choices that much of the domestic industry
16 has faced in recent years.

17 On behalf of Mid Continent and its over 350
18 workers who could not be here today, I urge the
19 Commission to find that imports from the UAE have
20 injured our industry and threaten us with further
21 injury. Thank you for your time this morning.

22 MR. GORDON: Our next industry witness is
23 Bruce Yost from Tree Island.

24 MR. YOST: Good morning, and thank you very
25 much for the opportunity to appear here today. My

1 name is Bruce Yost. I'm the director of global
2 procurement for Tree Island. I have 35 years of
3 experience in --

4 CHAIRMAN OKUN: Mr. Yost, can you just bring
5 your microphone a little closer so we can hear you
6 better?

7 MR. YOST: I have been with Tree Island
8 since 2001. Before joining Tree Island, I was with
9 Industrial Wire Products and Golden State Nail. Tree
10 Island is a long-time member of the U.S. industry.
11 Our company is ready, willing, and able to produce
12 steel nails of nearly all types in any package under
13 both our Hall Steel and Tree Island brands, as well as
14 private labels.

15 As you can see from our questionnaire
16 response, we have significant available capacity that
17 we want very much to use again if the market allows us
18 a fair return on our investments. Over the last three
19 years, since the duty order on Chinese nails went into
20 effect, I watched our industry and my company suffer
21 even more damage as UAE imports rushed into the market
22 at prices that were low or lower than the Chinese
23 pricing had been.

24 The behavior of the UAE industry has been
25 completely at odds with the reality of the market.

1 For Tree Island, since the 2007-2008 investigation,
2 our performance has struggled. For the last four
3 years, our sales, profitability, and production have
4 been harmed by unfairly traded imports from the UAE,
5 just as they had been previously by imports from China
6 and the UAE.

7 The surge of dumped imports from the UAE
8 after the order against China has had a dramatic
9 impact on our business. We saw some initial
10 improvement in the market as the China order took
11 effect, but that was quickly erased as the UAE
12 producers doubled their country's capacity and rushed
13 into the market.

14 With their low prices, UAE producers have
15 taken a lot of business that we would have had,
16 forcing us to decrease production. This has caused
17 significant injury to Tree Island and our workers,
18 especially given the current demand climate. At one
19 point, we employed over 100 production workers making
20 nails. In 2009, we were forced to close our Ferndale,
21 Washington facility.

22 During that period, we had less than 12
23 production workers, and we were running one shift. If
24 we were running at a healthy level of capacity, we
25 would employ up to 90 workers. Of course, the

1 economic recession played a role in the overall
2 demand. But UAE imports acted like the recession and
3 the housing slump did not exist.

4 The recession obviously did not stop nail
5 producers in the UAE. They increased their shipments
6 and U.S. market share, despite the worst recession in
7 80 years. Since then, demand has begun to recover
8 slightly. We should have been able to increase our
9 sales and production. The persistent levels of
10 significant volumes of dumped nails, however, have
11 kept us from enjoying any of the recovery.

12 Prior to the surge in unfairly traded
13 imports, Tree Island was a high-volume nail producer.
14 If we can once again compete on a level playing
15 field, I believe that profitable orders will be
16 available, and Tree Island will again hire more
17 workers and substantially increase our production
18 quickly.

19 In fact, after the filing of this case and
20 imposition of preliminary duties, we have seen our
21 sales and production volumes increase, and have begun
22 to hire more workers as a result, at a time when
23 actual demand remains flat.

24 If we get relief from the unfair pricing
25 practice, we will be able to continue increasing our

1 production and the amount and variety of nail products
2 we offer to the market. With the nail machines we
3 own, we can produce 1,000 different SKUs of nails.
4 Any suggestion that our industry is not capable of
5 producing a full range of nails is simply wrong. If
6 there were profitable orders available, we could once
7 again produce and sell a full range of products.

8 Tree Island is eager to produce more nails
9 and more variety of nails, but we have been prevented
10 from doing so due to market conditions that dumped
11 imports have created. Tree Island does still produce
12 and sell nails to private label. We have done so more
13 significantly in the past when we had a larger market
14 for such nails, and we will do so today.

15 We would definitely be open to producing
16 more private label nails in the future. For the most
17 part, the nails produced for private label are
18 physically no different than other nails. The only
19 difference is the packaging.

20 I have heard that Dubai Wire and Prime
21 Source have formed a joint venture to produce nails in
22 Texas, and they claim that they are moving equipment
23 from UAE to Texas. If true, it is good news that they
24 are investing in U.S. manufacturing and jobs instead
25 of betting their future on more dumped products.

1 I have my doubts, however, about this new-
2 found commitment to American manufacturing. In my
3 opinion, it is very likely that the outcome of this
4 case will decide the future of that plan. If the
5 Commission agrees that our industry has been injured,
6 and a dumping order goes into place, then you will
7 probably see real production in Texas. In fact, we
8 would welcome that, since it would mean competition on
9 equal footing.

10 However, if no order is imposed, I believe
11 that any machines that have been moved to Texas will
12 be underutilized, shut down, and maybe even shipped
13 back to Dubai. Ultimately, my company, like David's
14 company and all of the domestic manufacturers, are
15 ready, willing, and able to compete with any
16 manufacturer from anywhere in the world, so long as
17 the competition is fair.

18 The actions of the UAE producers has not
19 been fair, and they have badly injured my company, its
20 workers, and our industry over a period of several
21 years. We had been able to survive so far, but if
22 things do not change, it will become more and more
23 difficult to justify continuing our operations.

24 On behalf of Tree Island, our current and
25 former workers, and my current and former domestic

1 competitors, I urge the Commission to find nails from
2 the UAE are injuring the domestic industry and
3 threaten the domestic industry with further injury.

4 Thank you for your time this morning. I am
5 happy to answer any questions you may have.

6 MR. GORDON: Thank you. Our next industry
7 witness is Mr. George Skarich, from Mid Continent
8 Nail.

9 MR. SKARICH: Good morning. My name is
10 George Skarich. I'm the executive vice president of
11 sales for Mid Continent Nail Corporation. I have over
12 20 years of experience in the steel nail and finished
13 wire goods industries and have been with Mid Continent
14 since 2007.

15 Before joining Mid Continent, I was with
16 Tree Island Industries for 16 years. Nails are in my
17 DNA. My grandfather and father were both in the nail
18 industry, and I have been exposed to the nail industry
19 since before I can remember. As you just heard, Mid
20 Continent and the rest of the domestic steel nail
21 industry are being injured by low priced imports from
22 the UAE. Dumped steel nails from the UAE have flooded
23 into the United States, stealing an increasingly
24 larger share of the market at our expense and driving
25 down prices.

1 You have just heard about the effects these
2 imports are having on Mid Continent and other
3 producers like Tree Island. As I did at the staff
4 conference last year, I would like to discuss how
5 these imports are affecting Mid Continent's ability to
6 continue to sell steel nails.

7 Steel nails are commodity products. We all
8 produce the same nails, in bulk and collated, to the
9 same industry standards and specifications. The nails
10 usually are made from steel wire, produced on similar
11 types of equipment, and have the same use, to fasten
12 two pieces of material together, typically wood or
13 other solid building materials.

14 Once a nail meets the necessary
15 specifications, the only thing that differentiates an
16 imported nail from a U.S. produced nail is the price.
17 Any two nails that are produced to the same standards
18 and that have the same dimensions are physically
19 interchangeable, regardless of the country of origin.

20 For example, our boxes indicate that Mid
21 Continent's nails will fit any brand of nail guns.
22 The nail packaging itself often explains that the
23 nails will fit nail guns made by Hitachi, Senco, or a
24 number of other manufacturers.

25 Both the domestic producers and the UAE

1 producers produce and sell the full spectrum of steel
2 nails through all distribution channels. We produce
3 and sell private label nails for multiple customers,
4 and other U.S. producers sell private label nails as
5 well. We sell nails directly to industrial users and
6 distributors. Distributors compete with each other,
7 with importers, with us, and other domestic producers
8 to sell to retailers, construction, and industrial
9 users throughout the country.

10 Our nails and the rest of the domestic
11 industry's nails compete in all channels of
12 distribution with all types of nails sold by UAE
13 producers in the U.S. market. In short, there is an
14 enormous amount of direct competition between U.S.
15 produced nails and imported nails from the UAE. Any
16 suggestion to the contrary is simply untrue.

17 As low-priced imports from the UAE surged,
18 we like other domestic producers lost an increasing
19 amount of sales and had to reduce prices to keep other
20 sales. Had we been able to win this business, we
21 could have significantly increased our employment,
22 production, and profits. Quite simply, importers of
23 steel nails from the UAE have used unfair prices to
24 take a significant volume of orders that we would have
25 otherwise received.

1 Shortly after the first case ended, the
2 UAE's capacity doubled. Exports exploded, and prices
3 on nails from the UAE declined significantly. From
4 2008 to 2009, UAE nail prices declined by 40 percent
5 and continued declining through 2009. These price
6 reductions signaled the beginning of the price-based
7 surge in nail imports from the UAE. Since then, their
8 prices have consistently undersold us and the rest of
9 the industry by significant margins.

10 Having used low prices to grow their share
11 of the market, UAE imports continue to surge into the
12 market in large and persistent volumes. UAE producers
13 use these prices to take U.S. market share from
14 domestic producers. Because UAE prices were so much
15 lower, we lost significant sales, even to customers we
16 have traditionally supplied. Those customers didn't
17 even bother contacting us because the price
18 differential was so large. They figured we could
19 never match or beat that price.

20 Distributors stocked a large number of SKUs
21 from different suppliers. However, because these
22 distributors often do not know the country of origin
23 of the nails, the extremely low prices from the UAE
24 can and do affect pricing for all products throughout
25 the supply chain.

1 Wholesale distributors like Hitachi and
2 Prime Source are extremely cost sensitive. Their
3 ability to supply retailers and industrial users and
4 ultimately their profitability is extremely dependent
5 upon their ability to purchase low-priced steel nails.
6 After losing China as a source of dumped nails, these
7 distributors use the dumped UAE nails to maintain
8 their profit margins and are doing so at the expense
9 of U.S. workers and U.S. companies.

10 While we have attempted to squeeze every
11 last efficiency out of our production process to
12 reduce costs, our raw material costs have increased
13 consistently over the period since 2008. The increase
14 in imports from the UAE at below-market prices put
15 significant pressure on our prices and makes it
16 difficult to recover increases in costs. Because UAE
17 producers had become the price leaders in the market,
18 as costs have increased, we have been forced to delay
19 price increases until the UAE producers react to
20 changes in raw material costs.

21 If we react too quickly, UAE producers
22 simply use the difference in prices to steal
23 additional volume beyond what they are already taking.
24 After the filing of this case, in the Commerce
25 Department's preliminary duty announcement, we have

1 seen our sales and production volumes increase, even
2 while demand has remained relatively flat. We have
3 also seen prices begin to recover. As a result, we
4 have begun hiring more workers and are in the process
5 of adding another shift.

6 Looking forward, all these gains are in
7 jeopardy without a final affirmative determination.
8 Left unchecked, UAE underselling will resume and
9 continue to increase, likely forcing even our most
10 loyal customers to switch to UAE nails altogether. It
11 will be difficult for the domestic industry to
12 maintain even the modest gains it has enjoyed since
13 the preliminary duties went into effect. Without
14 relief, I fully expect to see additional U.S.
15 producers close their doors and more workers lose
16 their jobs.

17 Thank you for your time this morning. I am
18 happy to answer any questions to the best of my
19 ability.

20 MR. GORDON: Our panel's final witness will
21 be my colleague, Robert DeFrancesco.

22 MR. DeFRANCESCO: Thank you. Good morning,
23 members of the Commission. I'm Robert DeFrancesco of
24 Wiley Rein, counsel to Mid Continent Nail Corporation.

25 To round out our affirmative presentation

1 today, I'd like to quickly summarize some important
2 points to keep in mind as you listen to testimony.
3 The parties are in agreement on several fundamental
4 points, many of which remain largely unchanged since
5 the previous investigation, and certainly since the
6 preliminary determination.

7 The parties agree that the domestic like
8 product remains co-extensive with the scope. They
9 agree that the steel mills are commodity products with
10 the same physical characteristics. They agree that
11 steel mills are packaged and sold either in bulk or
12 collated form. They agree that steel mills are
13 produced to common industry specifications and
14 standards. They agree that within particular sizes,
15 types, and finishes, steel nails are interchangeable.
16 They agree that there are no direct substitutes for
17 steel nails.

18 They agree that housing construction is the
19 single largest driver of steel nail demand. They
20 agree that the price of steel nails has no effect on
21 whether more homes or pallets are produced. They
22 agree that demand for steel nails has followed the
23 decline in housing construction, and has begun to
24 recover as the housing market has shown signs of
25 recovery.

1 They agree that the U.S. industry has
2 consolidated significantly over the period. And
3 finally, the Respondent's briefs primarily argue that
4 the data collected should be adjusted in numerous
5 ways, effectively admitting that on the basis of the
6 evidence presented in the staff report, the domestic
7 industry is materially injured and threatened with
8 further material injury.

9 Let's examine these facts in the staff
10 report. The facts in the staff report are
11 instructive. The staff report shows that subject
12 nails increased by 130 percent from 2008 to 2011, a
13 fact that's not in dispute. Likewise, the Respondents
14 do not disagree that the data show that the subject
15 imports undersold the domestic like product in over 76
16 percent of comparisons.

17 As was the case at the time of the
18 preliminary determination, significant underselling
19 resulted in a substantial number of lost sales and
20 increased market share, or decreased market share for
21 the domestic industry. The underselling and lost
22 sales had significant negative effects on the domestic
23 industry. As this chart shows, the domestic industry
24 saw significant declines in shipments, average unit
25 values, profits, wages, workers, and hours.

1 Beyond the indicators in the staff report,
2 since the preliminary determination the staff, at the
3 request of the Respondents, sought additional
4 information regarding the degree to which the domestic
5 industry sold specialty nails, small packages, and the
6 types of products shipped.

7 This additional information only serves to
8 confirm what the Commission already knew at the
9 preliminary phase and from the previous investigation.
10 The domestic industry and the subject imports compete
11 in virtually all channels of distribution, in all
12 products, at all levels of trade. In fact, even
13 though the Respondents asked the STAFDA collect data
14 on four additional pricing products, they made no
15 mention of it in their briefs, and now want to ignore
16 the results because these new products only further
17 confirm the underselling in all products at all levels
18 of trade to all customers.

19 We would also note that the purchaser data
20 confirms the significant overlap in competition
21 between customers. As this chart shows, the
22 overwhelming majority of purchasers purchase from both
23 domestic industry and subject imports. These facts
24 show that the conditions of competition in this
25 investigation are no different than those observed in

1 the '07-'08 investigation.

2 Steel nails are still sold to the same
3 customers, are imported by the same importers, sold in
4 the same channels of distribution, and sold at the
5 same levels of trade. In addition, price is still the
6 single largest factor affecting the choice of
7 supplier. As this chart shows, when considering other
8 purchasing factors like physical characteristics and
9 product range, the domestic like product is comparable
10 or superior to the subject imports, except on the
11 basis of price.

12 Many purchasers admit that they cannot
13 distinguish the country of origin of the steel. As a
14 result, the only distinguishing factor between the
15 nails is the price. Thus, as was the case in the '07-
16 '08 investigation, the distributors and industrial
17 users are still extremely price sensitive.

18 Well, what has changed since the previous
19 investigation is the behavior of the subject imports
20 and the foreign producers. Additional UAE nail
21 producers have come online during the period and
22 substantially increased available nail capacity. UAE
23 producers have pushed ever increasing volumes into the
24 U.S. market, regardless of relatively low levels of
25 demand. UAE producers are now the low-priced leaders

1 in the market. UAE producers have used these lower
2 prices to increase their sales volumes at the expense
3 of the domestic industry.

4 Once they were found not to be dumping the
5 '07-'08 investigation, the UAE producers saw an
6 opportunity to gain share by using dumped prices, and
7 they took it. They have pushed massive volumes of all
8 types of nails to all types of customers, despite
9 adverse market conditions.

10 Notwithstanding the production, one of them
11 claims to be moving to the United States. Their
12 projections of future shipments in the current market
13 indicate that they are committed to maintaining and
14 increasing the share they have already taken from the
15 domestic industry.

16 By any measure, UAE producers' actions are
17 injuring the domestic industry, and threaten the
18 industry with further injury. The Commission
19 recognized this in its preliminary determination when
20 it concluded that the underselling and lost sales were
21 significant and prevented the domestic industry from
22 benefitting from the increases in demand.

23 The final phase of this investigation and
24 the additional facts collected by the staff confirm
25 the Commission's preliminary conclusions. The

1 Respondents have done nothing to refute these facts.
2 Instead, they ask the Commission to depart from its
3 traditional analysis and merely offer a host of
4 speculative and unsupported theories regarding market
5 segmentation that plainly did not exist.

6 Thank you for your time today.

7 MR. GORDON: Thank you. That concludes our
8 affirmative testimony. We'll be happy to answer any
9 questions you have.

10 CHAIRMAN OKUN: Thank you. Before we begin
11 our questions this morning, I want to take this
12 opportunity to thank all the witnesses for being here.
13 We very much appreciate you taking the time from your
14 business to be in Washington today to answer our
15 questions, and for your continued cooperation as we
16 complete the investigation.

17 Vice Chairman Williamson will begin the
18 questions this morning.

19 VICE CHAIRMAN WILLIAMSON: Thank you, Madame
20 Chairman. And I express my appreciation to the
21 witnesses for coming today to present their testimony.

22 First off, if you would give me additional
23 clarification about the small quantities, the one- and
24 five-pound boxes. And you've indicated clearly that
25 the domestic producers sell those. I was wondering if

1 you can either now or post-hearing give us an idea of
2 the share of your total shipments that are accounted
3 for by the one- to five-pound boxes during each year
4 of the POI. That may be something you want to give
5 us --

6 MR. GORDON: We'll be happy to supply that.
7 That would be proprietary to the companies, but we'll be
8 happy to supply that in a post-hearing brief.

9 VICE CHAIRMAN WILLIAMSON: Okay, good. And
10 also an indication of what do you estimate the market
11 demand for those sizes, if we don't have that already.

12 MR. GORDON: Do you want to speak to that?

13 MR. SKARICH: Skarich. The market demand
14 for small one- and five-pound packaged nails as a
15 percentage of the overall consumption of nails in the
16 United States is very, very small.

17 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
18 Okay. So you're saying that both for a foreign
19 supplier and a domestic supplier, that's going to be a
20 very small part of their sales.

21 MR. SKARICH: Skarich. That's correct.
22 Yes, sir.

23 VICE CHAIRMAN WILLIAMSON: Okay. Now, does
24 that fluctuate very much? I mean, the small packages.
25 I mean, it doesn't follow the same trends as the

1 large?

2 MR. SKARICH: Yes, exactly. I would say
3 that it does. The key is that you'll see, depending
4 on where you go, what looks like a large volume, but
5 you have to pay attention to the fact that it's just a
6 percentage of the overall consumption of nails in the
7 United States, and it's just a small percentage of
8 that overall consumption.

9 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
10 And do large, mass merchandisers such as Home Depot
11 or Lowe's typically require that their nail suppliers
12 provide the full range of nails that they sell? In
13 other words, are they going to look to a supplier and
14 say I want you to give me everything, everything
15 that --

16 MR. SKARICH: I would say the answer to that
17 is yes. They require their distributors and suppliers
18 to provide as comprehensive a program as they can.

19 VICE CHAIRMAN WILLIAMSON: Good, thank you.
20 Mr. Libla, I can't help but asking, since I grew up
21 in St. Louis, why Poplar Bluff for the company?

22 MR. LIBLA: I was born there.

23 VICE CHAIRMAN WILLIAMSON: Okay.

24 MR. LIBLA: Well, within 30 miles of there.

25 VICE CHAIRMAN WILLIAMSON: Okay, okay, good.

1 I was just wondering since I've never been there.

2 MR. LIBLA: That's okay. It's a beautiful
3 town. You should come and visit.

4 VICE CHAIRMAN WILLIAMSON: Okay, thank you.
5 Okay. According to table 3-7 of the staff report,
6 most of the nails sold in the U.S. market by both U.S.
7 producers and subject imports are collated. And I was
8 wondering, are most collated nails sold through
9 distributors to builders, or is a substantial share
10 sold to the mass merchandise market?

11 MR. SKARICH: Mr. Skarich. The majority is
12 sold through the construction markets, not through
13 mass merchandisers.

14 VICE CHAIRMAN WILLIAMSON: Okay, good.
15 Either now or in post-hearing, would you estimate the
16 approximate share of collated nails that are sold to
17 mass merchandisers such as Home Depot and Lowe's?
18 Either now or --

19 MALE VOICE: I'm sorry. I don't hear that,
20 Mr. Vice Chairman.

21 VICE CHAIRMAN WILLIAMSON: Either now or
22 post-hearing, could you give me an estimate of the
23 approximate share of the collated nails that are sold
24 to the mass merchandisers such as Home Depot or
25 Lowe's?

1 MALE VOICE: I think that will have to go to
2 post-hearing. I don't personally know that.

3 VICE CHAIRMAN WILLIAMSON: That's fine. I
4 guess one of the questions -- because I know at Home
5 Depot and all, when they first really got into the
6 market, they talked about even the builders went to
7 them. Is that kind of an over-exaggeration, or is
8 that --

9 MALE VOICE: That's exactly what I believe
10 that to be the case. I think that was a market
11 strategy that they tried to do, but it has turned out
12 to not be the case. I think their percentage of
13 overall contractors that use those distribution
14 facilities is very small compared to the standard
15 contractors that go through other distribution
16 channels other than mass merchandisers.

17 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
18 And that's for all of the -- I guess all of the mass
19 -- the Menard's, the Lowe's, too.

20 MALE VOICE: Yes, sir.

21 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
22 What additional costs are associated with packaging
23 nails in one- and five-pound boxes? And the economy,
24 for example, do you maintain specialized equipment and
25 keep it in operational status, even if you sell low,

1 small-count packages for periods of time? So this is
2 for both Mid Continent and Tree Island. What kind of
3 special equipment do you have to have to do this?

4 MR. YOST: This is Bruce Yost. We have the
5 equipment up in our Canadian operations in addition to
6 the U.S. facilities. We produce nails in Canada, and
7 we make one- and five-pound boxes for the home
8 improvement industry. And I don't have the exact
9 costs, but I can get that in the post-hearing brief.

10 VICE CHAIRMAN WILLIAMSON: Okay, thank you.

11 MR. LIBLA: And the packaging equipment
12 required for packing one- and five-pound is not
13 significantly different than packing a 25- or a 50-
14 pound. So -- and currently Mid Continent does not
15 sell one- and five-pound packs. We could.

16 VICE CHAIRMAN WILLIAMSON: Okay. Do you
17 have that equipment already -- would you be doing that
18 in Poplar Bluff, and do you have that equipment
19 around?

20 MR. LIBLA: Yes, we would. And we have a --
21 this is a schematic of Mid Continent's one- and five-
22 pound program that we did in previous times package
23 and sell into the home improvement markets. In fact,
24 we had some packaging that just hasn't arrived here
25 yet that we're going to lay on the table this morning.

1 So --

2 VICE CHAIRMAN WILLIAMSON: Yes.

3 MR. LIBLA: We discontinued this product due
4 to pricing.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
6 Go ahead.

7 MR. GORDON: For the record, this is inside
8 the front cover of the Mid Continent product brochure
9 that was distributed this morning.

10 VICE CHAIRMAN WILLIAMSON: Good, okay.
11 Thank you. Mr. Yost, you said that -- I think it's
12 prior the UAE really coming in a big way that Tree
13 Island was a high volume producer. And I was kind of
14 wondering, what did you mean by that? Do you mean
15 you're not longer that or --

16 MR. YOST: Yes, basically, it is. At one
17 time, we had four manufacturing facilities in the
18 United States. Now we have one. And our total
19 production is off by more than 80 percent from its
20 peak in the mid 2000s.

21 VICE CHAIRMAN WILLIAMSON: Okay. In
22 addition to that sort of, you know, large drop in
23 volume, does that mean you also are producing
24 different kinds of nails or a different marketing
25 strategy for the nails you do produce?

1 MR. YOST: We are -- we have reduced the
2 number of SKUs that we're currently running. But we
3 have the equipment to produce a wide array of
4 products, and we can also move equipment down from
5 Canada. We have enormous capacity and capability up
6 there. And if the U.S. market would accept it, we'd
7 be delighted to relocate it into California
8 operations.

9 VICE CHAIRMAN WILLIAMSON: Okay. Let me get
10 you both to describe, what does it take to, say,
11 switch from one type of nail to another? I know it
12 depends on the nail, but just to give us a general
13 idea of what do you have to go through to do that.

14 MR. YOST: You know, there are so many
15 varieties of nails.

16 VICE CHAIRMAN WILLIAMSON: Yes.

17 MR. YOST: Some are very easy to change
18 over. It could take a matter of minutes to convert
19 over to a different type of nail. And some may take,
20 you know, four or five hours to convert over.

21 VICE CHAIRMAN WILLIAMSON: Okay, okay. Does
22 that mean that there are some -- I assume you have a
23 number of different lines in the factory. Some might
24 be focused on certain types of categories that you
25 could switch within that. Is that the case?

1 MR. YOST: That would be the case. We have
2 many pieces of equipment that are installed, and we
3 can -- and each has its own capability.

4 VICE CHAIRMAN WILLIAMSON: Okay, thanks.
5 Any comment that you want to --

6 MR. LIBLA: Yeah. We have actually a number
7 of just dedicated lines that rarely change over at
8 all. And then we have others that we do change for
9 smaller runs and so forth. So yes.

10 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
11 So Respondents have argued that subject imports from
12 Precision should not be included in the Commission's
13 price comparison because they are not at the same
14 level of trade of imports from IBP and are most likely
15 sales for exportation to the U.S. rather than first
16 level to the United States.

17 How do you respond to this argument?

18 MR. SKARICH: My response would be to just
19 compare the huge lost sales and lost revenues that
20 have been submitted in regards to how much we compete
21 against them in the marketplace.

22 VICE CHAIRMAN WILLIAMSON: Okay.

23 MR. GORDON: From a more legal point of
24 view, I would start by saying it's interesting to note
25 that this level of trade argument did not in fact come

1 up until after the data for the final phase were
2 gathered and analyzed. In fact, when comments were
3 solicited on the draft final questionnaire, the
4 Respondents said nothing about level of trade, even
5 though we did. We flagged this issue. We flagged the
6 issue and requested that data be gathered in a
7 different way.

8 The Respondents were silent on it until the
9 data came in and they realized that they weren't
10 helpful to them. The data have been collected
11 appropriately, consistent with the Commission's
12 practice, and we think the data are entirely reliable
13 and should be used.

14 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
15 I've run out of time, and I'm sure others will
16 probably have questions on this particular point.
17 Thank you.

18 CHAIRMAN OKUN: Commissioner Pearson.

19 COMMISSIONER PEARSON: Thank you, Madame
20 Chairman. I also would like to welcome this panel.
21 It's not very often that we get to celebrate the first
22 day of spring and the cherry blossoms in full bloom at
23 the same time. It's really rather unusual, and we're
24 celebrating it further with this hearing.

25 I'm not sure whether you have thought of it

1 in those terms, but --

2 MR. LIBLA: I'm sorry that we bring that to
3 you. I would love to see those cherry blossoms, and I
4 haven't seen one yet, and I've been here since
5 yesterday, so --

6 COMMISSIONER PEARSON: I hope that you have
7 an opportunity before going back to Missouri to get
8 out and enjoy them. It's a glorious opportunity.

9 Apparent consumption has arisen each year of
10 the POI. Should we expect that trend to continue?
11 This is the total consumption in the United States of
12 nails.

13 MR. SKARICH: Right. I think that what
14 you'll find is it will track with the projections that
15 you'll see in the marketplace regarding housing
16 construction as well as our economic climate, meaning
17 that there will be flat to very small incremental
18 changes over the coming years. Don't see anything in
19 the projections in the marketplace that would say that
20 there is any big bubble on its way.

21 COMMISSIONER PEARSON: But growth as we've
22 seen during these past three years may well continue.
23 I mean, there is not something that you're seeing
24 that is likely to turn it around?

25 MR. SKARICH: No, just flat to small

1 incremental levels.

2 COMMISSIONER PEARSON: Okay. And we are
3 unlikely to get back to the type of growth we had
4 prior to 2008 anytime soon.

5 MR. SKARICH: Maybe many, many years.

6 COMMISSIONER PEARSON: Okay, thank you.
7 Between 2010 and 2011, the market share of subject
8 imports declined, and the actual quantity of nails
9 imported from the UAE also declined. How should we
10 interpret that development in light of the surge of
11 imports that you have discussed? Did that surge end
12 in 2010?

13 MR. DeFRANCESCO: Commissioner Pearson,
14 Robert DeFrancesco. In our brief, you'll notice we
15 discussed some post-petition effects that we believe
16 explain some of the decline, although we also believe
17 that the subject imports from '10 to '11 have remained
18 in the market in significant and persistent volumes.

19 But as the case was filed -- and you can
20 also see from pricing product data at the time of the
21 preliminary determination and then again at the time
22 of the Commerce Department's preliminary
23 determination, you see the step-down effects in the
24 import volumes and in the underselling. So I think
25 there is some post-petition effects going on there.

1 COMMISSIONER PEARSON: Okay. So does the
2 reduction in imports for 2011 then have -- of subject
3 imports, does that have implications for our analysis
4 of threat, or are you asserting that the only reason
5 that we saw the decline in 2011 is because of the
6 petition?

7 MR. DeFRANCESCO: We assert that part of the
8 decline is because of the filing of the case and the
9 petition. And you do see that in the data. Now so
10 far as threat goes, obviously we have talked about
11 prime source moving that facility to the United
12 States, and obviously we think that's another indicia
13 of the post-petition effects that had the case not
14 been filed, had the case not gone forward, that
15 facility would have never moved here. And that volume
16 is just as likely to go back, or be under-utilized
17 going forward.

18 COMMISSIONER PEARSON: I hear you see that.
19 How do you respond to the information that the
20 Respondents have put on the record that would seem to
21 take a different view, indicating that the decision to
22 put the facility in Texas was made prior to when this
23 case was filed?

24 MR. DeFRANCESCO: Certainly. A lot of that
25 is proprietary, and we'd be happy to respond to that

1 in our brief. However, I would note that a lot of
2 that documentation is undated, and some of the
3 documentation clearly indicates that the final
4 decision to move that facility did not come about
5 until after the Department of Commerce's preliminary
6 dumping determination.

7 COMMISSIONER PEARSON: Okay, thank you. We
8 probably will hear more about that from the second
9 panel.

10 Nonsubject nails account for a large
11 majority of nails sold in the U.S. marketplace. How
12 should we understand the role of nonsubjects?

13 MR. SKARICH: The market in the United
14 States, no matter what its size, whether it's 1.1
15 million, or 540,000 tons this year, nails from all
16 over the world are coming into our market place for
17 many different reasons. The difference being that
18 basically what you've seen since the crash in
19 construction and the changes in our economic climate,
20 nail sales around the world during the period of
21 investigation remained consistent with what you saw in
22 our economy. And in UAE, that's not the case.
23 They're the only country that basically in this case
24 doubled their capacity into the United States, while
25 many around the -- most around the world basically

1 contracted along with our market.

2 COMMISSIONER PEARSON: Okay. So if an order
3 would go into effect, an antidumping duty order would
4 go into effect regarding the imports from the UAE,
5 would any reduction in imports from the UAE be made up
6 by additional production of nails in the United
7 States, or would it be more likely made up by an
8 increase in nonsubject imports?

9 MR. SKARICH: We believe firmly that it
10 would be made up by domestic manufacturers who could
11 compete at a level of not having to face dumped nails
12 out of the UAE.

13 COMMISSIONER PEARSON: And what reasoning
14 supports that assertion?

15 MR. SKARICH: Strictly based on all of the
16 data that our company turned in in lost sales and
17 revenues in terms of what it took for us over the last
18 few years to compete against them, and what it took
19 for us to retain the amount of sales that we did
20 within our company during that period of time. And if
21 there is no order placed, we believe that it will just
22 go back to being that same game.

23 COMMISSIONER PEARSON: Of course. But when
24 the majority of nails sold in the U.S. market are
25 already from nonsubject sources, if there was a

1 reduction in nails from the UAE, wouldn't we expect
2 that the nonsubjects would get their current
3 proportional share of any -- you know, of that amount,
4 Mr. Libla?

5 MR. LIBLA: Thank you, sir. The nonsubject
6 imports average unit values are more competitive
7 pricewise recently. And we are already seeing a
8 benefit from the petition here as a result of filing
9 the case. So pricing drives a lot of the -- you know,
10 drives a lot of who is going to get the business.

11 COMMISSIONER PEARSON: When did you start to
12 see this benefit?

13 MR. LIBLA: After this petition was filed.

14 COMMISSIONER PEARSON: Okay. But in our
15 data, I don't see it clearly in the 2011 results for
16 the domestic industry. Is it something that has
17 occurred more in 2012? I mean, I hear you say that
18 there has been an improvement, and that may well be
19 correct. But I'm looking at the aggregate industry
20 data and, you know, I'm not really seeing a benefit.
21 Mr. Skarich.

22 MR. SKARICH: Commissioner Pearson, if we go
23 back to the time frame of when the original -- we were
24 here what, March or April of last year. And even
25 though Commerce came up with some numbers, there still

1 wasn't a final until what, October 27th, and then it
2 went into public November 12th or something. So that
3 basically gave the UAE mills pretty much an entire
4 year to continue what they have been doing. And what
5 we're seeing is the benefit of what has happened from
6 that time point when it went public in early November.
7 And I think what you'll see in the coming data of
8 shipments out of the UAE since then, they'll be
9 significantly down.

10 And in fact, I believe that the 2 percent
11 reduction in 2011 over previous years was strictly
12 just that little bit that they weren't shipping out in
13 November and December after those, you know, numbers
14 came out.

15 MR. DeFRANCESCO: And just to follow up,
16 Commissioner Pearson, in both Mr. Skarich's testimony
17 and Mr. Yost's testimony, they noted that they have
18 since added additional shifts and hired more workers.
19 And I think if you compare the number of workers in
20 the testimony to what they have reported in their
21 queue, you can see the benefits.

22 COMMISSIONER PEARSON: Okay. Madame
23 Secretary, can you clarify, is the time on the clock
24 correct or is the light correct?

25 MS. BELLAMY: The time and the light is

1 correct.

2 CHAIRMAN OKUN: Something is off because our
3 time shows that he used just eight minutes. So there
4 shouldn't be a yellow light.

5 MS. BELLAMY: Because I adjusted it because
6 the clock was wrong.

7 COMMISSIONER PEARSON: So the clock is not
8 correct, what we're seeing here.

9 MS. BELLAMY: Right.

10 COMMISSIONER PEARSON: The light is correct.

11 MS. BELLAMY: The light is --

12 COMMISSIONER PEARSON: And my time has just
13 expired.

14 MS. BELLAMY: Yes.

15 COMMISSIONER PEARSON: Fine. That's what I
16 was wanting to clarify. If I may, Madame Chairman,
17 let me direct this more to counsel. We have the
18 Bratsk, the attribution issue to deal with regarding
19 nonsubjects. Better help us understand that, either
20 now or in the post-hearing.

21 MR. GORDON: We will be happy to do both.
22 At this time, I would simply state that we have never
23 taken the position that nonsubject imports or that
24 imports have no place in this market. It's a very
25 large market. There is a place for fairly traded

1 imports.

2 The imports over the period followed demand
3 down, in contrast to what the UAE imports did, the
4 nonsubject imports. The pricing data that has been
5 collected show that imports consistently over --
6 nonsubject imports oversold both the domestic
7 producers and the subject imports. To the extent
8 there is a concern about the Respondents shifting to
9 another source of supply and getting any benefit of
10 the order, I think their own actions taken at face
11 value speak directly to that issue in their
12 announcement of moving manufacturing back to the
13 United States, in contrast to the testimony we heard
14 at the staff conference, where Ms. Zinman said she
15 would simply go seek another source of dumped imports.

16 They have done a pretty significant about-
17 face and are now touting the benefits of U.S.
18 manufacturing. We're very pleased to hear that. And,
19 you know, I think -- and I also think that, you know,
20 with respect to the idea that nonsubject imports may
21 pick up part of the share, they may well. And that is
22 because the UAE imports not only took share from the
23 domestic industry, but they also took share from
24 nonsubject imports as well in the market.

25 COMMISSIONER PEARSON: Okay. Thank you very

1 much.

2 CHAIRMAN OKUN: Commissioner Aranoff.

3 COMMISSIONER ARANOFF: Thank you, Madame
4 Chairman. I want to join my colleagues in welcoming
5 you all here this morning. In your testimony earlier,
6 Mr. Skarich, you mentioned a 40 percent decline in
7 prices between 2008 and 2009. And I just wanted to
8 ask you, because I know you're not privy to our
9 confidential record, where did that number come from?

10 MR. SKARICH: That came from analysis of
11 information that we pull in through our sales force.
12 Their job is to basically canvass the domestic
13 marketplace and bring back information to us to show
14 us exactly where nails are being sold in this country
15 from any given source, other than our own, even other
16 domestic competitors. And I basically keep
17 spreadsheets that show pricing on subject nails that
18 are most used in the United States, and track on a
19 consistent basis exactly where everyone is. Whether
20 it's coming out of Korea, whether it's coming out of
21 one of Bruce's plants, it doesn't matter to me. It's
22 important that I understand that.

23 So it came basically with delivered nail
24 pricing converting into tonnage numbers and laid out
25 in what you saw in the lost revenues and sales figures

1 that I turned in.

2 COMMISSIONER ARANOFF: Okay. Is there any
3 public data from this industry, or you need to rely on
4 market intelligence that your sales force brings back?

5 MR. SKARICH: There is a combination of
6 both. I mean, there is printed information. It's
7 just that as the market has become more and more
8 difficult to compete in due to construction and due to
9 the economy, those usually are inflated, and there is
10 discounts in negotiations off of that at every level.
11 So it gives you a starting point, though, yes.

12 COMMISSIONER ARANOFF: So printed
13 information, you mean, that would be somebody's price
14 list.

15 MR. SKARICH: Yes, correct.

16 COMMISSIONER ARANOFF: Okay, okay. So this
17 is at industry level -- there is like a newsletter or
18 somebody out there who is collecting daily or monthly
19 or weekly --

20 MR. SKARICH: No.

21 COMMISSIONER ARANOFF: -- prices and putting
22 it -- okay, okay. Thanks. I wanted to ask for
23 clarity because reading the briefs, U.S. parties have
24 described the different categories of customers in
25 this industry in various different ways, and not

1 always using the same titles or categories that the
2 Commission used when we're collecting data in the
3 questionnaires.

4 For example, the Respondents refer in some
5 places to OEMs. But my suspicion is those were not
6 OEMs the way the Commission usually uses that term.
7 There was a reference to two-step distributors. Can
8 you explain to me what those two categories are, and
9 also what customers in the market fall into the
10 category of mass retailers?

11 MR. SKARICH: On the differentiation between
12 a one-step and two-step distributor, it's just the
13 number of levels between a manufacturer and a
14 contractor, whether that be -- two-step distribution
15 would be through a wholesaler that would then sell
16 through, say, a lumber yard. So it touches two
17 different hands before the contractor buys it, versus
18 one-step distribution, where it goes through a
19 distributor that basically goes straight to the
20 contractor. So it's only touched one time.

21 And then what was the --

22 COMMISSIONER ARANOFF: So just to clarify,
23 so when referring to one-step and two-step
24 distributors, we're only talking about sales to
25 contractors.

1 MR. SKARICH: No, no. And end user. We'll
2 use the term end user. It's just the number of times
3 that the nail is margined up from its original
4 manufacturing base.

5 COMMISSIONER ARANOFF: Okay, okay. And so
6 the next question was about OEMs. What is an OEM?
7 What does that mean in this industry?

8 MR. LIBLA: I'll take that, ma'am, if it's
9 okay. An OEM is an original equipment manufacturer,
10 to my understanding. So if someone was producing
11 nails as an OEM, for an OEM customer, it would need to
12 be a nail manufacturer they're producing them for. If
13 they're producing for a tool company that sells tools,
14 that really would not be classified as an OEM in my
15 mind.

16 COMMISSIONER ARANOFF: Okay. I think that
17 is how the Respondents are referring to them. Now,
18 when you sell nails to a tool company that they're
19 going to sell along with their tools, is the tool OEM
20 doing nothing to the nails?

21 MR. LIBLA: No. A tool manufacturer, in my
22 mind, that's sourcing nails is a two-step distributor
23 or a wholesaler selling to a distributor, who then
24 takes it on down to a consumer, whether it's a lumber
25 yard or whether it's a construction operation, or what

1 have you.

2 COMMISSIONER ARANOFF: Okay. And so my last
3 question about the various customer categories was
4 what customers are considered mass retailers? Is that
5 just the couple of large big box chains? Or do you
6 include, you know, other chains of hardware stores?
7 Or what else would fall in that category?

8 MR. LIBLA: Well, I think your Home Depots,
9 your Lowes, your Menards, but organizations like Tru
10 Serv or True Value, Ace Hardware, those people are
11 also -- you know, they sell a lot of nails. In fact,
12 they probably sell more nails around the country than
13 the Home Depots and Lowes do, in my opinion.

14 COMMISSIONER ARANOFF: Okay. That's
15 helpful. Thanks. To what extent are domestic
16 producers now or were domestic producers in the past
17 the principal suppliers of nails to these large
18 retailers?

19 MR. LIBLA: Your ITW Paslode, Senco, Stanley
20 Bostitch, those companies have predominantly -- are
21 now multinational companies, but they manufactured
22 here in the U.S., still do, and sell to the big box
23 organizations.

24 MR. GORDON: If I could add to that, on the
25 table in front of us, the ITW nails were all purchased

1 from Home Depot and Lowe's, these nails under the
2 Sterling brand. It's a private label production, I
3 believe produced by Fox Valley in Wisconsin. These
4 are from True Value Hardware.

5 I have some other examples. I just couldn't
6 carry them all over. And if you look at the
7 proprietary data, you can see very clearly the
8 significant footprint of domestic producers in this
9 type of a market.

10 COMMISSIONER ARANOFF: Well, our record
11 shows that some of these large retail purchasers tend
12 to have five or six different large suppliers. Why,
13 if you know, why do they have five or six different
14 suppliers providing nails?

15 MR. SKARICH: Based on mostly price and
16 ability to source based on logistics and timing of
17 where they're getting it. But it's usually based, you
18 know, strictly on the best price.

19 COMMISSIONER ARANOFF: So you're saying that
20 like for each SKU they're awarding the business based
21 on price?

22 MR. SKARICH: Many times, unfortunately.

23 COMMISSIONER ARANOFF: Okay. Because that's
24 what I'm trying to understand, is if you have five or
25 six suppliers, are you dividing your sales on a

1 different supplier by an SKU, a different supplier
2 based on region of the country?

3 MR. SKARICH: In many cases, it's by product
4 group. So there is differentiation in the nail
5 categories of groups of things for different style
6 tools. But in many cases, it goes down to an
7 individual SKU.

8 MR. LIBLA: And I would think it's wise to
9 not put all your eggs in one basket, so to speak.

10 COMMISSIONER ARANOFF: Okay. Now, I know,
11 you know, if you're talking about that mass retail
12 channel of trade -- and, you know, for a lot of
13 products in those stores, they'll give you sort of a
14 good, better, best. So they'll give you a couple of
15 different options at a couple of different price
16 points. Does that go for nails, or are nails
17 sufficiently commoditized that you really -- that kind
18 of marketing isn't going to work?

19 MR. SKARICH: It doesn't work anymore.
20 There used to be some differentiation, but no longer.
21 A nail is a nail is a nail.

22 COMMISSIONER ARANOFF: Okay. In your direct
23 testimony, you tried to start out by going at this
24 argument that the Respondents have made about domestic
25 producers not offering a full line of products. And I

1 just wanted to go back to that and say what does it
2 really mean to offer a full line of products. Do you
3 have to offer, you know, every SKU ever invented to be
4 a full-line supplier?

5 MR. SKARICH: In most cases, as you just
6 mentioned, because buyers at ever level are looking
7 for the best deal and quality, they're not buying from
8 one specific source. It's rare anymore that a
9 customer is buying 100 percent from one source, or
10 even, for that matter, one country. So they're
11 sharing wherever they can, you know, bring that in and
12 keep that flow.

13 COMMISSIONER ARANOFF: It's interesting. It
14 seems contradictory to what we see in a lot of other
15 cases, this idea that purchasers don't see value in
16 having one principal supplier and instead are willing
17 to sort of pick and choose and deal with the logistics
18 of that.

19 MR. SKARICH: It has become such a commodity
20 over the last few years, especially in sight of the
21 economy and construction that that has become more
22 difficult. So in past years, there was definitely
23 opportunity there. But it has gone away, as everyone
24 is starting to save a dollar wherever they can.

25 COMMISSIONER ARANOFF: So this is final one.

1 I could see in our data for the big box retail sort
2 of part of the market. Is it also true with respect
3 to the distribution part of the market that ends up on
4 the contractor market, that these distributors, the
5 larger ones and then the smaller, second-step ones are
6 dealing with multiple suppliers for all different
7 types of nails?

8 MR. SKARICH: Yes. In fact, they may have a
9 significant partner where the majority of their volume
10 is coming from. But they supply -- or they buy from
11 multiple sources at all levels.

12 COMMISSIONER ARANOFF: Okay. Thank you very
13 much for those answers. Thank you, Madame Chairman.

14 CHAIRMAN OKUN: Commissioner Pinkert.

15 COMMISSIONER PINKERT: Thank you, Madame
16 Chairman. And I join my colleagues in thanking you
17 all for being here today and helping us to understand
18 this industry. In your brief, you talked about
19 companies that had ceased production in the United
20 States during the period. And I want to ask you
21 whether we have specific information about why those
22 companies ceased production.

23 MR. LIBLA: I can't speak for each one of
24 them because I wouldn't have the knowledge, you know,
25 the inside knowledge, if you will, on exactly what

1 happened. But most of these companies were just
2 unable to compete with the onslaught of imports, and
3 eventually they maybe became undercapitalized and
4 ultimately failed. That's generally why they would
5 leave.

6 If it was a -- if the business was doing
7 well, then I would think they would keep the doors
8 open.

9 MR. GORDON: There is some information on
10 the record, the confidential record, concerning at
11 least one company. And we can address that further in
12 our brief.

13 COMMISSIONER PINKERT: I think it would be
14 helpful if you looked at each one of those companies
15 and indicated in the post-hearing what specifically we
16 have that goes to the reason for ceasing production.
17 I understand that there is a marketplace perception
18 about why they may or may not have ceased production.
19 But if you can beef that up with information, that
20 would be very helpful.

21 MR. GORDON: Yes, certainly.

22 COMMISSIONER PINKERT: Now, turning to the
23 issue of industry standards, you talked in your
24 testimony about how this is a product that is produced
25 to an industry standard. And I'm wondering whether

1 the industry standard is different in the United
2 States than in other significant markets for this
3 product.

4 For example, is the industry standard the
5 same in the European Union as it is here? And if it
6 isn't, does that make it difficult for a country that
7 is exporting to the United State to divert exports
8 into other markets?

9 MR. SKARICH: I can't speak to the markets
10 outside the U.S. If you're producing nails to be
11 brought to the United States and sold in the United
12 States, you make them to ASTM standard specifications.
13 And then on top of that, you make them to print
14 specifications to basically fit within tools or for
15 specific applications. And if you don't do those
16 things, then you either -- it won't work in a tool.
17 You don't meet code specifications in hurricane or in
18 earthquake zones.

19 So if you're going to sell a nail here, no
20 matter where you produce it, you're required to make
21 it to, you know, our country's standard
22 specifications.

23 The ICC is trying to make that a global
24 thing. But in terms of their success around the
25 world, I don't know, you know, any other countries.

1 MR. YOST: This is Bruce Yost. I can
2 comment on Canada, as we make the same products in the
3 U.S. as we do in Canada, and they utilize virtually
4 the same specifications. There are some Canadian CSA
5 standards, but they're all tailored after ASTM.

6 COMMISSIONER PINKERT: Again for the post-
7 hearing, if you could look at other markets, for
8 example, the European Union, and indicate whether the
9 standards are the same, similar, or substantially
10 different, that would be helpful.

11 Now, turning to some of what we have heard
12 and are likely to hear from Respondents, is it true
13 that one importer accounts for the increase in subject
14 imports that is observed during the period under
15 examination? And if so, did the diversity of product
16 types available from the exporter have anything to do
17 with the decision by this company to increase its
18 subject imports?

19 MR. SKARICH: My answer to that would be it
20 is not just one. We were going after all nails coming
21 out of country. It wasn't specific to any
22 distributor. And the two mills both significantly
23 doubled their capacity. It wasn't just one mill, one
24 distributor.

25 MR. GORDON: I would also refer back to the

1 testimony that was given during the staff conference
2 with respect to your question of whether part of the
3 appeal was the variety of types of nails that could be
4 produced by that one producer. Ms. Zinman testified
5 that -- and I think -- or maybe it was Mr. Ved, that
6 when they first hooked up, as it were, they -- Dubai
7 Wire could not produce the full range of SKUs that
8 Prime Source wants or needs, and that Prime Source had
9 to work with Dubai Wire to get them to be able to
10 produce the full range of nails that were desired.

11 And to follow up on Mr. Skarich's point,
12 clearly it is not simply one producer. Setting aside
13 the comments about floods and all that that happened
14 earlier in the case, but, you know, this was at least
15 -- there were two -- one or two additional producers
16 came online, and Hitachi left Dubai Wire and went to
17 Precision or Millennium. And then Prime Source having
18 lost its access to dumped imports out of China, looked
19 for another source and connected up with the UAE
20 producer, Dubai Wire, who had lost their biggest
21 customer. And that's actually publicly in their brief
22 that they lost that customer.

23 MR. SKARICH: As well, Mr. Pinkert, you
24 know, maybe there is a relationship between one
25 distributor and one mill, but the other mill was also

1 selling seven or eight other customers. So it wasn't
2 just specifically one distributor.

3 COMMISSIONER PINKERT: Thank you. Now, this
4 is perhaps a more technical question, but just looking
5 at the underselling that you've talked about in this
6 case, is the impact of underselling limited to loss of
7 market share? Now, without any comment on my part
8 about whether that would be legally sufficient to
9 warrant an affirmative determination in this case on
10 the price effects issue, but leaving that aside, is
11 the impact of underselling limited to the loss of
12 market share, or do we see price depression or price
13 suppression in addition to loss of market share?

14 MR. DeFRANCESCO: Commissioner Pinkert,
15 Robert DeFrancesco. I think in our brief we detail
16 that you see both. You see price suppression as far
17 as a cost-price squeeze. And I think Mr. Skarich
18 talked about it in his testimony. And I think that's
19 also borne out in the confidential staff report, and
20 was also addressed in the preliminary determination.

21 COMMISSIONER PINKERT: Thank you. Of
22 course, in a final determination, sometimes we're able
23 to do a more elaborate analysis of, for example, price
24 suppression, than we can do in a preliminary
25 determination. I'm wondering if you look specifically

1 at the 2011 data, do we have an indication, or do we
2 have a demonstration of price suppression in 2011,
3 which is a period when unit costs were increasing?

4 MR. DeFRANCESCO: Sure. Again, going back
5 to our post-petition effects discussion, since the
6 filing of the case in 2011, the degree of
7 underselling, as we discussed in our brief, does
8 decline somewhat, and you can actually see the effects
9 of both the preliminary determination and the Commerce
10 Department's preliminary duties. And that does affect
11 the degree of underselling and has allowed the
12 domestic industry to recover pricing to some degree.

13 MR. GORDON: Let me follow up on that. You
14 do, however, still see underselling, even if the
15 margins of underselling are narrowing, and you see
16 some instances of overselling. But you still do see
17 widespread underselling across 2011. And clearly,
18 that has a price suppressing and depressing effect on
19 the domestic industry's ability to sell product into
20 the market and to gain market share.

21 COMMISSIONER PINKERT: Perhaps this followup
22 is more of a business-oriented angle on the same set
23 of issues. But let me ask the question this way. Is
24 the predominant impact of the underselling in this
25 case on market share, loss of market share? Or is the

1 impact more divided between pricing and market share?

2 MR. SKARICH: Mr. Pinkert, I'm not sure I
3 understand the market share portion of your question.

4 COMMISSIONER PINKERT: Well, what I'm
5 getting at is let's just take what you said about the
6 underselling and what is in the staff report about the
7 underselling. Given that degree of underselling, is
8 that felt by the domestic industry more in terms of
9 losing a share of the market, or is it felt more in
10 terms of an effect on your pricing, or is it a sort of
11 a balanced mix of those two things?

12 MR. SKARICH: I think it's a combination of
13 both. There is no question even throughout 2011, if
14 you look at the data that I supplied, that we were
15 still finding ourselves having to compete against
16 suppressed pricing if we were to retain a market share
17 that we expected to retain. But I think it's a
18 combination of both.

19 COMMISSIONER PINKERT: Thank you. Thank
20 you, Madame Chairman.

21 CHAIRMAN OKUN: Commissioner Johanson.

22 COMMISSIONER JOHANSON: Thank you, Madame
23 Chairman. And also I would like to thank the
24 witnesses for appearing here today. The staff report
25 shows that the domestic industry was profitable in

1 each year during 2009 to 2011. Similarly, the staff
2 report states that six of the eight firms that
3 operated continuously during 2009 to 2011 reported
4 higher net sales quantities and values in 2011 as
5 compared to 2009.

6 In assessing material injury, how should the
7 Commission view the fact that the industry managed to
8 stay profitable despite the recession, and that most
9 firms showed improvements over the period of
10 investigation?

11 MR. GORDON: I think it's important to first
12 start by looking at the levels of profitability. And
13 then, you know, they're extremely low, below, for
14 example, the level of industry profit that was found
15 to be consistent with present material injury in the
16 2008 determination by this Commission.

17 I think that profitability alone does not
18 tell the story. Bear in mind that the Commission does
19 not have data on the record from the seven producers
20 who run a business or left the market, for the reasons
21 that they chose to do. So there is certainly I think
22 a survivorship bias in the data to some degree.

23 You also need to look at other indicia of
24 injury, the number of workers who lost their jobs, the
25 depressed wages paid to the workers who left, the

1 reductions in productive capacity, the inability to
2 make the necessary capital investments, the whole
3 variety of other indicators as we put up on the table
4 on the screen earlier that demonstrate the injury that
5 was experienced, never mind the fact that we have
6 massive lost sales and lost revenue on the record.

7 COMMISSIONER JOHANSON: Do you happen to
8 have any anecdotal information as to why those
9 producers left the United States or shut down their
10 operations? I know you don't represent them, but --

11 MR. GORDON: You know, as Mr. Libla said,
12 you know, having not been privy to their thought
13 process, it's difficult to say. However, the record
14 does contain direct -- you know, there is a submission
15 on the record from one of the companies, and that has
16 very probative statements from that company. You
17 know, we -- when you speak with the companies, you
18 know, you hear about the impact of imports. What they
19 say publicly may be something different for their own
20 business reasons, for example.

21 So, you know, we will look for more
22 information and see if we can obtain more.

23 COMMISSIONER JOHANSON: All right. Thank
24 you, Mr. Gordon. And this is a question for Mr. Yost.
25 And this is following up on something that

1 Commissioner Williamson asked a few minutes ago.
2 According to your brochure, Tree Island is one of the
3 largest domestic nail producers, and the brochure also
4 mentions the company's facility in Richmond, British
5 Columbia.

6 Is most of your nail production in Canada,
7 and can you provide a full line of nails at your U.S.
8 facility, or do you need to supplement those with
9 imports from Canada or elsewhere? Thank you.

10 MR. YOST: Well, we do have the capacity in
11 the United States to produce a wide variety of nails.
12 But as I mentioned earlier, we have shuttered many
13 facilities, and we've had to cut back on our
14 operations. We do produce bulk nails in our Canadian
15 operation and collated nails. But those are
16 interchangeable. We could easily move back before the
17 other.

18 We have about equal capacity in the United
19 States, as we do in Canada, even though the current
20 production of the products are slightly different.
21 But we can interchange the two if necessary.

22 COMMISSIONER JOHANSON: And I don't know if
23 you've already answered this, but has some of your
24 production capacity been moved to Canada over the past
25 several years?

1 MR. YOST: No.

2 COMMISSIONER JOHANSON: Okay.

3 MR. YOST: No.

4 COMMISSIONER JOHANSON: Okay. Thank you. I
5 appreciate it. And this might be a better question
6 for this afternoon's panel, but I'll ask you all as
7 well. Are there natural advantages to producing nails
8 in the United States to sell in the U.S. market? For
9 example, I know that steel is your largest input. I
10 would assume that with a large steel industry in the
11 United States, you all would be at an advantage that
12 way as opposed to, let's say, in other countries like
13 perhaps UAE. And once again, I'll ask this of the UAE
14 panel or the Respondent panel this afternoon. Thank
15 you.

16 MR. LIBLA: I'm sorry, sir. I have a little
17 bit of a hearing problem, and I missed the first part
18 of your question.

19 COMMISSIONER JOHANSON: Are there natural
20 advantages to producing nails in the United States as
21 opposed to your competitors if you're selling in the
22 U.S. market?

23 MR. LIBLA: I think it would depend on which
24 side of the ledger you're looking at for natural
25 advantage, if you will. I mean, if you're from a cost

1 standpoint to produce the nail, excluding freight and
2 logistics and things of that nature, depending on
3 where you're in the United States, it should be
4 beneficial to you. In our case, we're in the middle
5 of the country, and it has been beneficial to our
6 company to be in the middle of the country.

7 As far as access to steel or price of steel,
8 I mean, steel is pretty much priced comparably around
9 the world now, which makes up the largest part of our
10 cost.

11 COMMISSIONER JOHANSON: Even with the
12 shipping cost?

13 MR. LIBLA: Yeah. I mean, steel -- well,
14 steel in China or the Middle East or Taiwan or
15 wherever as related to and compared to the United
16 States, it's really comparable priced now. So, and
17 that being the largest single cost factor in producing
18 nails, that end of it is not an advantage. I'm just
19 talking about an outbound standpoint, as we
20 manufacture it in the center of the country here,
21 we're able to logistically sell into numerous --
22 throughout the country more cost effectively from an
23 outbound freight standpoint.

24 Hopefully I answered that question. I'm not
25 sure.

1 COMMISSIONER JOHANSON: Yes, you did. I
2 appreciate it.

3 MR. LIBLA: Okay.

4 COMMISSIONER JOHANSON: Respondents argue
5 that branding is an important condition of
6 competition. And why is branding important or not
7 important?

8 MR. SKARICH: In the case of Mid Continent
9 as a manufacturer, it's important to establish a brand
10 for the longevity of your company. In the case of
11 others, whether they be distributors or even in some
12 cases whether they be one-step or two-step, it has
13 become over the last 15 years a way of basically
14 providing them the opportunity to bring a nail in from
15 anywhere in the world at the best cost that they can,
16 and hide it within their brand and not have to
17 basically establish with the buying public where it's
18 from or what it is.

19 So it's really -- it's just marketing. The
20 nail that we all produce, in effect, once it's
21 produced to the correct specification, is the same.

22 COMMISSIONER JOHANSON: And my next question
23 kind of follows up on that, and that is the whole
24 issue of nails being commodity products. And I know
25 that you stated they're commodity products, and that

1 the primary determinant in purchase, I believe, would
2 be price, if that is true. But what characteristics
3 other than price distinguish the nails that you
4 produce, your companies produce, as opposed to those
5 produced by other companies, including those in the
6 UAE?

7 MR. SKARICH: The last part of that?

8 COMMISSIONER JOHANSON: What characteristics
9 other than price distinguish the nails that you
10 produce, our companies produce, as opposed to those of
11 other companies, including those in the United Arab
12 Emirates?

13 MR. SKARICH: Well, with the information
14 that you see on the screen up there right now, you can
15 see that most of the characteristics are similar,
16 other than price, and that basically the purchasers
17 around the country have said that they can survive on
18 either, but price is always -- is the biggest issue.

19 COMMISSIONER JOHANSON: Okay. Thank you.
20 And this is getting back to the branding issue. And I
21 was wondering, do any of you know what percentage of
22 nails in the U.S. market are sold under private
23 labels?

24 MR. SKARICH: I do not. I know that we at
25 Mid Continent, 23.6 percent of our volume is in

1 private labels.

2 COMMISSIONER JOHANSON: Okay, just 26
3 percent?

4 MR. SKARICH: 23.6.

5 COMMISSIONER JOHANSON: Oh, 23, okay. Thank
6 you. And you all touched on this before, but I wanted
7 to come back to this issue, and this is specifically
8 for Mid Continent. And without going into proprietary
9 data, how burdensome is it to keep assets that Mid
10 Continent purchased from other U.S. producers idle,
11 and how difficult would it be to bring them back into
12 line? Or bring them back online.

13 MR. LIBLA: The time to bring them back
14 online is three to four months, depending on what you
15 do to those assets. And we typically take assets that
16 has been in storage and completely rebuild it before
17 we put it online. So that would be the determinant
18 factor in how long it takes to bring them back on
19 production, those assets.

20 COMMISSIONER JOHANSON: Okay. Thank you.
21 Yes. I don't know much about the nail business, but
22 that does seem like a long time.

23 MR. LIBLA: Well, you know, if you want --
24 well, first off, we want to make quality nails. And,
25 you know, if we want -- the machines are capable of

1 running. Go out and plug them in today, and they'd be
2 running nails tomorrow. But to meet our standards, we
3 want to be able to make sure the machines are upgraded
4 and updated to the latest of technologies for our own
5 purpose. So that would be the primary reason it would
6 take that long.

7 COMMISSIONER JOHANSON: All right. Well,
8 thank you for your responses. My time has expired.

9 CHAIRMAN OKUN: Thank you. Mr. Libla, let
10 me start with you. And maybe you can help me better
11 understand what the company's thinking is with respect
12 to the decision to -- well, the investments with
13 Progressive Steel and what your company is going to
14 look like in the future. Why make those changes, and
15 how will it change your operations in the future? I
16 know you've -- I heard your testimony that's
17 important. And again, make sure there is nothing
18 proprietary in what you say. Mr. Gordon?

19 MR. GORDON: Sorry, Chairman. Can I just
20 clarify? Did you mean Progressive?

21 CHAIRMAN OKUN: I did say -- yes, I'm sorry.
22 I did. Didn't I say that? I'm sorry. With Mid
23 Continent's. I'm sorry. I'm doing two different
24 questions here. But just talk about what your
25 operations are going to look like going forward, given

1 the changes in the industry.

2 MR. LIBLA: Changes in the industry or
3 changes in --

4 CHAIRMAN OKUN: Changes for Mid Continent.

5 MR. LIBLA: Okay. Changes as relate to the
6 industry or changes that relates to ownership?

7 CHAIRMAN OKUN: Ownership.

8 MR. LIBLA: Okay. Well, we would certainly
9 hope that the change in ownership gives us a stronger
10 future, hopefully, and that shares our family's ideals
11 and the sense of family that we've created in our
12 company in Poplar Bluff. We believe that our new
13 owners share that philosophy, and their wherewithal
14 will be beneficial to our company going forward.

15 The last five or six years, my family has
16 fought or struggled as hard as we can to grow our
17 business, to keep it alive, and we have been fortunate
18 enough to be a successor, if you will, in the
19 marketplace, as there was numerous companies failing.
20 We have been able to have the benefit from that in
21 the last couple of years from a stability standpoint.

22 I'm not getting any younger, so it was a
23 natural thing for my family to be thinking about who
24 would be a good partner for our company going forward
25 and how they could help us.

1 CHAIRMAN OKUN: Okay. And then I have a
2 question for Mr. Skarich, which is will it change who
3 you market your products to, the types of products you
4 market?

5 MR. LIBLA: Absolutely nothing. Nothing
6 changes whatsoever. Same management staff is there.
7 I'm there until I die, hopefully. So nothing changes
8 whatsoever.

9 MR. SKARICH: And, Ms. Okun --

10 CHAIRMAN OKUN: Yes.

11 MR. SKARICH: One of the other issues is
12 that there is still eight other domestic producers
13 involved in this as well, not just Mid Continent now.

14 CHAIRMAN OKUN: Right. And I know you had
15 the chance to respond to some of the questions about
16 the importance of branding in this market. And I
17 guess I wanted to understand what -- a little more --
18 and this, I think, would be for you, Mr. Skarich. How
19 does that play a role when you're looking at contract
20 negotiations? You responded earlier to why in this
21 industry you see so many multiple suppliers. How does
22 branding play into that?

23 MR. SKARICH: First of all, we do not enter
24 into contract negotiations on any of our sales. We
25 believe it's in the best interests of our company to

1 continue to propagate its future based on our brand.
2 Sure, there is a share of the marketplace that
3 requires something other than our brand, and we
4 acknowledge that by choosing other partners that we
5 believe, you know, we can have a commingled
6 relationship with.

7 CHAIRMAN OKUN: Okay. And you've responded
8 some in your testimony to other questions about just
9 the different parts of the market or the different
10 types of customers, whether it's an OEM, whether it's
11 a big box, whether it's construction. Any difference
12 there when we're looking at where the competition is
13 with subject imports?

14 MR. SKARICH: Not talking brands now, just
15 talking nails in general. But there is many different
16 segments of the market that require different things,
17 whether it's small producers of pallets and crating
18 that just buy nothing but wire coil to larger
19 producers in the industrial side that use bulk and
20 coil to framing contractors that buy, you know, in
21 some portions of the country plastic strip nails, in
22 other portions of the country, for their choice, paper
23 tape nails.

24 So there is segments of the market that buy
25 different SKUs and different product groups for their

1 marketplaces. But each of those, it doesn't matter
2 what it is. All the domestic industry is capable of
3 making all of those because they're just specifically
4 based on building them to the specifications that come
5 from ASTM, S1667, and other specifications that if
6 you're going to make a nail, many times they are
7 special enough that they require print. And we make
8 print nails every day.

9 CHAIRMAN OKUN: Mr. Gordon, I know you
10 started to -- or were able to respond to the question
11 with respect to nonsubjects, and that you'll do so
12 more thoroughly post-hearing. I also wanted to ask
13 you a question about, either now or for that post-
14 hearing response, when we're looking at the
15 nonsubjects in our analysis, how should we consider
16 that portion of nonsubjects controlled by domestic
17 industry companies, companies in the domestic
18 industry?

19 MR. GORDON: When you say that, that brings
20 to mind sources like ITW, sourcing out of China, for
21 example. Those are fairly traded imports. They were
22 found to be fairly traded. And I leave it to Mr.
23 Libla or Mr. Skarich to speak to their -- ITW's sort
24 of, you know, behavior in the market, in the United
25 States market, regardless of the origin of the nails

1 that it sells.

2 I mean, as we had said before, the market is
3 large here. No one has ever said there is not a place
4 for imports. Our producers clearly have the capacity
5 to supply a much greater share of the market, and
6 they're willing to compete with imports, so long as
7 they're fairly traded. And that's what brings us here
8 today.

9 CHAIRMAN OKUN: Mr. Libla?

10 MR. LIBLA: Well, I would support that very
11 statement. ITW has been an exemplary multinational
12 company that manufactures here in the United States,
13 as well as in China, and bringing nails into this
14 country and selling them fairly priced. And competing
15 with them is fair.

16 CHAIRMAN OKUN: What about the role of
17 Stanley?

18 MR. LIBLA: Stanley a little less so, but
19 they're a multinational company and they have
20 investments on the ground here, too. And I think
21 their goal is to be as close to their customer as they
22 can, and being in the United States probably helps
23 them be there now.

24 Stanley is a little more challenging in the
25 market from time to time, but I don't want to go into

1 why that is. It wouldn't be proper right now, I don't
2 think. But in any event, hopefully I've answered your
3 question well enough.

4 CHAIRMAN OKUN: Okay. And I'll ask Mr.
5 Gordon on a related party issue on that. But, Mr.
6 Libla, if the information in the record that is
7 discussed a little bit about Dubai Wire's investments
8 in the United States, would you see them differently
9 than Stanley if this investment -- you know, are they
10 doing the same thing that you've seen Stanley do?

11 MR. LIBLA: I think it's a great testament
12 to what this Commission can do to assist American
13 manufacturing by assisting the subject imports to
14 trade fairly. I think the decision that Prime Source
15 and Mr. Rupak made to manufacture in Dallas, Texas is
16 a great thing for our industry, and hopefully it will
17 be a great thing for them. It will certainly many
18 competitive matters a lot more favorable for both
19 sides. We look forward to competing with them on U.S.
20 soil.

21 CHAIRMAN OKUN: And this might be for
22 counsel as well, or for counsel, which is to the
23 extent -- and obviously we'll have a chance to talk
24 with the Respondent's panel, and there is information
25 on the record on the extent of these investments. But

1 I think it's unusual to see a case where investments
2 are made to produce in the United States on the basis
3 of a preliminary. I mean, I do think that if there is
4 something in the record that indicates that it's truly
5 based on that versus other investment -- looking at a
6 market and trying to make investments.

7 MR. GORDON: With the caveat that a lot of
8 the information is proprietary, if you -- I think the
9 Commission should pay careful attention to the
10 chronology of the documents that are presented to it,
11 been presented to it. The Commission should carefully
12 distinguish between original documentation that has
13 been submitted and documents that have been prepared
14 to be submitted with the brief, and then look
15 carefully at what dates appear where and, you know, it
16 supports our position that this is purely driven --
17 the decision to open a nail facility or to say a nail
18 mill will be opened is definitely a function of the
19 filing of the case and the preliminary determination.

20 CHAIRMAN OKUN: Thank you. My time has
21 expired. I'll come back. Commissioner Williamson.

22 VICE CHAIRMAN WILLIAMSON: Thank you, Madame
23 Chairman. You may already have addressed this
24 question, but how is the recent sale of Mid Continent
25 relevant to our material injury analysis, and if so,

1 how is it?

2 MR. GORDON: Starting from a legal point of
3 view, it is certainly -- it's something to be
4 considered as a condition of competition. However,
5 you have to bear in mind, this case is about the U.S.
6 industry as a whole, not one company. You need to
7 look at the experience of the U.S. industry as a whole
8 over the period, appropriately. And I think, you
9 know, as Mr. Libla has described, there are different
10 sort of motivations or different reasons behind the
11 very difficult decision to sell the company.

12 It didn't change their commitment to U.S.
13 manufacturing. It came after years of commitment to
14 trying to fend off unfairly traded imports for its own
15 sake and the sake of the industry as a whole. And I'm
16 sure that the Respondents are going to make as much
17 hay out of this as they can. But at the end of the
18 day, I think it's a bit of a red herring.

19 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
20 Do you consider the U.S. industry to be vulnerable?

21 MR. GORDON: Yes. As we've briefed, we
22 think that the U.S. industry is clearly vulnerable,
23 for a variety of reasons, and that there is both
24 present material injury as well as the threat of
25 material injury.

1 VICE CHAIRMAN WILLIAMSON: Okay. And in
2 that context, how do we take into account -- you know,
3 because Mid Continent has made some acquisitions in
4 the U.S. market in recent years, as well as the sale.
5 What does that say about that?

6 MR. GORDON: Well, I can leave it to Mr.
7 Libla to speak more directly to that dynamic. But I
8 think what the record evidence shows clearly is that
9 the acquisitions were distressed acquisitions made at
10 a time when those assets were on the block. And they
11 may have been somewhat opportunistic, but then again,
12 Mid Continent ended up being essentially the last man
13 standing.

14 So this gets back to the whole idea of a
15 survivorship bias in the data. I'm not trying to hide
16 behind that, but I think it's something that's
17 important to acknowledge. You had many companies
18 exiting the industry. Their data almost without
19 exception are not before you. And so it's interesting
20 because this brings up in mind some of the arguments
21 that the Respondents have made about excluding this
22 company or that company. Well, you don't have data
23 from these companies who have left the industry. That
24 is the ultimate expression of material injury, when a
25 company fails because of the subject imports, or by

1 reason of the subject imports, as I think is clearly
2 the case here. So I'll leave it at that.

3 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
4 I think Commissioner Johanson had asked about
5 bringing back online the assets from some of the
6 companies that Mid Continent had acquired. And I know
7 Mr. Libla addressed that. I guess I don't know
8 whether you addressed the cost. You may want to do it
9 post-hearing, the cost of holding those assets now, if
10 it's that significant.

11 MR. LIBLA: I'm not sure I could address the
12 cost of holding those assets in an open forum.

13 VICE CHAIRMAN WILLIAMSON: No. I understand
14 that. So post-hearing is fine.

15 MR. LIBLA: I'd be happy to provide
16 information for that.

17 VICE CHAIRMAN WILLIAMSON: That's fine.
18 Thank you. You mentioned Mid Continent does not
19 currently produce one- and five-pound boxes of nails.
20 When did you last produce nails in these quantities?
21 Do you recall?

22 MR. LIBLA: Not exactly what year, but
23 probably in the mid 2000s.

24 VICE CHAIRMAN WILLIAMSON: Okay, thank you.

25 MR. LIBLA: I'm sorry. I didn't have the

1 mike on. Sorry.

2 VICE CHAIRMAN WILLIAMSON: Okay. No, okay.

3 MR. LIBLA: Did you get the answer?

4 VICE CHAIRMAN WILLIAMSON: Yes, I got the
5 answer, in the mid 2000s.

6 MR. LIBLA: Okay, yeah, probably.

7 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

8 Mr. Gordon, I was wondering, are most nails from
9 China subject to the antidumping duty order?

10 MR. GORDON: Right, yes. There is only one
11 producer who is not covered by the order. That's ITW,
12 who is excluded at the end of 2007-2008 investigation.
13 All other producers from China are subject to the
14 order at rates ranging from, well, 3.8 percent for
15 Stanley. Others are up -- and that's the very lowest.
16 But it jumps up significantly after Stanley to 20 --
17 38 percent, 78 percent, and then 113 percent for the
18 overwhelming majority of Chinese exporters.

19 VICE CHAIRMAN WILLIAMSON: Okay. I don't
20 know. Do we have data about the volume of those
21 Chinese imports that are subject to the order? Or how
22 would you characterize it now?

23 MR. GORDON: Well, I think two points. It's
24 important to understand, some of the HTS categories
25 are basket categories, and they include other types of

1 nails. So what might look like an enormous volume of
2 imports from China, or even from other nonsubject
3 sources is actually fairly somewhat overstated. I
4 don't think the record contains data that's as
5 particularly parsed as narrowly as you'd like.

6 VICE CHAIRMAN WILLIAMSON: By overstated,
7 you mean that a lot of it is not subject, or --

8 MR. GORDON: I could not give an estimate
9 because I would not be able --

10 VICE CHAIRMAN WILLIAMSON: Okay. I was just
11 trying to figure out how significant, how should we
12 assess this.

13 MR. GORDON: I have no idea. And I don't
14 mean to -- actually, I may have misspoken there. I
15 wouldn't want to characterize it any way, just simply
16 to say that it's important to recognize that there are
17 some basket categories, and so it will not all be
18 subject. But, you know, it's fairly -- you know,
19 there are HTS numbers that are fairly defined for a
20 lot of --

21 VICE CHAIRMAN WILLIAMSON: Okay, yes. And
22 if you think about it, if there is anything relevant
23 to our analysis that we should take into account
24 regarding those imports that are subject to the order,
25 you can maybe address it post-hearing. Okay. Thank

1 you.

2 Let's see. In thinking about the -- I think
3 Mr. Libla mentioned that the True Value, places like
4 this, you know, these chains are actually maybe more
5 significant purchasers of nails than, say, the big box
6 stores. And I was just wondering, is there -- how do
7 they buy? I mean, I guess the purchases are on the
8 spot market. Are these -- are there like buying
9 groups? Or how does --

10 MR. SKARICH: In some cases, that is
11 correct. Ace Hardware, Tru Serv, True Value are
12 buying groups of locations around the country, and
13 they buy that way, and then the Lowes and Home Depot
14 organizations basically from a corporate standpoint,
15 negotiate with the providers.

16 VICE CHAIRMAN WILLIAMSON: Okay. So is that
17 -- so both groups, are they mostly like short-term
18 contracts or spot market purchase? Or how can you
19 describe them?

20 MR. SKARICH: In the case of merchandisers,
21 I don't believe it's spot purchase at all. It's
22 contractual pricing. I don't know for what period of
23 time.

24 VICE CHAIRMAN WILLIAMSON: Okay. And for
25 these other buying groups, how would you characterize

1 that?

2 MR. SKARICH: I think the biggest thing to
3 remember is that within that classification of
4 merchandising, what the overall percentage of subject
5 nails are and that, you know, it is a small category
6 within the overall percentage of consumption in the
7 United States.

8 VICE CHAIRMAN WILLIAMSON: By subject nails,
9 you mean both from UAE and --

10 MR. SKARICH: Yes, correct. I'm sorry. Not
11 respective to the country, but to subject nails that
12 are in both cases.

13 VICE CHAIRMAN WILLIAMSON: Okay. I think I
14 got that. So in other words, you're saying these
15 group purchases are not a significant share of the
16 market.

17 MR. SKARICH: Exactly.

18 VICE CHAIRMAN WILLIAMSON: Okay.

19 MR. SKARICH: Whether the nails are coming
20 from China or UAE, it doesn't matter.

21 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

22 MR. LIBLA: Mr. Williamson?

23 VICE CHAIRMAN WILLIAMSON: Sure.

24 MR. LIBLA: I'd like to offer, just for the
25 benefit of the Commission, many of these Ace Hardware

1 and True Value type of coop stores are privately owned
2 family businesses. In fact, most. The Ace name, if
3 you will, is a coop that provides sourcing
4 opportunities for those independents. But as far as
5 many parts like nails, an independent owner or his
6 staff in a given store many times will buy the nails
7 themselves rather than through their coop.

8 VICE CHAIRMAN WILLIAMSON: Oh, okay. So are
9 they going to like a local distributor for that region
10 or --

11 MR. LIBLA: That's correct. That's exactly
12 correct.

13 VICE CHAIRMAN WILLIAMSON: Okay. Thank you
14 for that clarification.

15 MR. LIBLA: Okay.

16 VICE CHAIRMAN WILLIAMSON: Thank you. And
17 since my time is about to expire, I think that's all
18 for this round. Thank you.

19 CHAIRMAN OKUN: Commissioner Pearson.

20 COMMISSIONER PEARSON: Thank you, Madame
21 Chairman. In the staff report, we can see the average
22 unit values for the U.S. industry for nonsubject
23 imports and for the subject imports. And not
24 surprisingly, the U.S. AUVs are the highest. Then
25 there is a considerable difference down to the level

1 of the nonsubject AUVs. And then at a slightly lower
2 level, we see the subject import AUVs.

3 If an order was to go into effect on the
4 subject imports, wouldn't there still be some
5 considerable price pressure from the nonsubject
6 imports? You know, just as you sell product in the
7 domestic market. Am I interpreting the average unit
8 values correctly or am I seeing them wrong?

9 MR. SKARICH: For us to compete in the U.S.
10 market, it's always going to be competitive and
11 difficult, just because of the percentage of product
12 coming in from somewhere other than -- you know,
13 manufactured here in this country. So there is no
14 question that there will still be competition. It's
15 just to which level does the pricing go to try and set
16 who manufacturers our business.

17 COMMISSIONER PEARSON: Mr. Gordon.

18 MR. GORDON: I would also just tag along
19 here for the ride. What you're describing also
20 reflects the fact that the subject imports have harmed
21 the domestic industry. They've taken market share
22 away from both the domestic industry and from non-
23 subject imports.

24 The same dynamic with respect to pricing is
25 going to be at issue across the market. It's not only

1 U.S. pricing that's being harmed by the imports and
2 their underselling.

3 COMMISSIONER PEARSON: Okay. Following up
4 an earlier question by Commissioner Johanson, does the
5 U.S. industry obtain its steel wire rod or its steel
6 wire, whichever firm is purchasing, primarily from
7 domestic producers, or is it coming mostly from
8 imports?

9 MR. LIBLA: No, sir. We source the majority
10 of our rods domestically, from domestic manufacturers.

11 COMMISSIONER PEARSON: Mr. Yost, is that the
12 same for your firm?

13 MR. YOST: That would be true. We do import
14 some occasionally, but the vast majority is coming
15 from domestic steel mills.

16 COMMISSIONER PEARSON: And use of imports
17 might be feasible if a mill, a nail mill, was located
18 close to an import location and relatively further
19 from a domestic producer of steel wire rod?

20 MR. YOST: That would be correct in our
21 case. We're located in the City of Los Angeles which
22 is the largest port in the United States, so we have
23 access to international markets and we will take
24 advantage of that if the opportunity presents itself.

25 MR. LIBLA: I would say I would speak to the

1 fact that over the last few years, and I mean few
2 years, the trade and rod around the world has gotten
3 closer in pricing, so the advantage of buying import
4 rods for our company has not been beneficial to us in
5 the last while.

6 COMMISSIONER PEARSON: Okay. I can ask this
7 this afternoon too, but do you have any knowledge of
8 where the producers in the United Arab Emirates obtain
9 their rod? If a large new rod mill is located right
10 next to their facility, I would be interested to know
11 that.

12 MR. LIBLA: It would only be speculation on
13 my part, and I'd rather not speculate.

14 COMMISSIONER PEARSON: Okay, so you don't
15 have any knowledge of whether there's any particular
16 advantage that the UAE producers have in regard to
17 obtaining steel wire rod?

18 MR. LIBLA: We have steel mills close to us
19 too, sir, and I don't know how to address that.

20 COMMISSIONER PEARSON: Okay. Fine.

21 Mr. Gordon, could I ask you to Clarify
22 Petitioner's position regarding related parties? Are
23 there any members of the domestic industry that you
24 would recommend excluding from consideration?

25 MR. GORDON: No, there are not. We think

1 the preliminary determination on this was correct.
2 Recognizing that we had originally argued for some
3 members of the industry to be excluded, that was sort
4 of based on a different kind of understanding that's
5 been changed as the record has developed. And as we
6 examine the data on the record now, it is apparent and
7 clear to us that there are no members that should be
8 excluded.

9 COMMISSIONER PEARSON: Okay. Thank you.

10 Now, one U.S. producer did change
11 substantially the nature of its domestic production
12 operations during the period of investigation. To
13 what extent does that influence the results we observe
14 for the industry as a whole in the staff report?

15 MR. GORDON: With respect to that producer,
16 their changes reflect, in our opinion, very direct
17 indicia of injury consistent with the losses of
18 employment and capacity that the whole industry
19 experienced.

20 In reflecting on arguments about how they
21 should be treated, it's interesting to consider the
22 seven producers who have left the industry and whose
23 data you don't have.

24 Clearly, whether the same argument would be
25 raised with respect to data from those companies if

1 they were put on the record that, you know, their
2 experience should be disregarded because it was so
3 dramatic. I think not.

4 This investigation needs to consider the
5 industry as a whole, and I think that what you see
6 reflects the injury from the U.A. imports. Producers
7 make decisions based on the market they're in and
8 their ability to participate viably in that market.

9 We can address that in more detail in the
10 post-hearing brief.

11 MR. DeFRANCESCO: Mr. DeFrancesco -- Mr.
12 Pearson, rather.

13 COMMISSIONER PEARSON: Yes.

14 MR. DeFRANCESCO: Just a follow-up on that,
15 we would point out that there are multiple domestic
16 producers that are operating at a loss beyond the one
17 company that we're talking about and that other
18 domestic producers are experiencing injury in the
19 market as well.

20 COMMISSIONER PEARSON: Yes, I know, that's
21 why I'm trying to understand the industry as a whole
22 in the context of this one firm that seems to -- for
23 which circumstances seem to be different and I don't
24 know exactly what to make of it.

25 Is there anything on the record, Mr. Gordon,

1 that would link clearly the reorganization decisions
2 of the one firm to two subject imports? I mean, are
3 you seeing a causation there?

4 MR. GORDON: I would say yes, and I would
5 report to responses provided by another producer who
6 faced analogous -- who made analogous decisions, and I
7 would address -- I'll address that in more detail, but
8 I think there is a very strong record evidence which
9 is very probative of this.

10 COMMISSIONER PEARSON: Okay. Well, I will
11 look forward to seeing it in the post-hearing then.

12 Madam Chairman, I think that may end my
13 questions at least for now, so thank you.

14 CHAIRMAN OKUN: Commissioner Aranoff?

15 COMMISSIONER ARANOFF: Thank you, Madam
16 Chairman.

17 In Precisions' brief on page 18 to be
18 specific, it says, and this is a quote, "The reported
19 U.S. producer prices reflect more selling activities
20 and services provided to the customer such as
21 inventory, logistical support, warranty, technical
22 support, customer assistance, and after-sales service,
23 expenses that are not reflected in Precision's prices
24 to it's OM or distributor-level customers".

25 Can you respond to that? Do the two

1 domestic companies that are represented here today, do
2 you offer all those kinds of services to your
3 customers and are you offering something that
4 Precision or another importer or someone who purchases
5 from an importer would not be offering?

6 MR. SKARICH: In my estimation, no. That's
7 just the standard MO of trying to buy and sell
8 products.

9 COMMISSIONER ARANOFF: So you do provide all
10 those different kinds of services?

11 MR. SKARICH: It's what it takes everyday to
12 make a sale.

13 COMMISSIONER ARANOFF: And you would say
14 that anyone who's competing with you has to be
15 providing those same services?

16 MR. SKARICH: You're either providing those
17 things or you're not making a sale.

18 COMMISSIONER ARANOFF: Okay.

19 MR. DeFRANCESCO: And Commissioner Aranoff,
20 just to follow-up on that, we saw that and thought it
21 was a little unusual as well. One Respondent claims
22 that we don't do those things and don't offer enough
23 service, and another Respondent claims that we do.

24 As Mr. Skarich said, you know, we do offer
25 those services just like everyone else does to make

1 the sale.

2 COMMISSIONER ARANOFF: Okay.

3 MR. LIBLA: I think anyone in the
4 manufacturing and distribution of sales are going to
5 do what it takes to sell the customer. I mean, that's
6 the bottom line. If they want an order, they're going
7 to provide services to the customer.

8 COMMISSIONER ARANOFF: But there was a
9 conversation that a number of you were having in front
10 of my colleagues earlier, and I wrote down in my notes
11 that I wasn't entirely following what was going on in
12 the conversation, so I'm going to be, pardon me if I'm
13 asking you repeat something.

14 But when you make a sale of a product to a
15 particular customer, is there a negotiation process or
16 does the customer just call and say give me a quote
17 for this product and then they either buy it or they
18 never call you back because they got a better deal
19 from somebody else?

20 MR. SKARICH: In the case of Mid Continent
21 Nail, the majority of the transactions that we make
22 are based on the relationships that we've developed
23 over time with customers.

24 And even though we have a price list
25 established, as the market has become more and more

1 competitive over the last five or six years for many
2 different reasons, the majority, if not all, are
3 basically spot-price negotiations whether it's a large
4 customer or a small customer.

5 COMMISSIONER ARANOFF: Okay, so describe to
6 me what you mean by negotiation. The customer calls
7 you and says we need these different nail products in
8 these different quantities. You quote them a price
9 which is perhaps some discount off your list, and then
10 what happens?

11 MR. SKARICH: And then the reaction from
12 that purchaser is to basically have a discussion with
13 us wrapped around where they can buy products from
14 other sources and whether or not our price is
15 competitive enough for us to make that sale.

16 And then we basically banter back and forth
17 as we try to determine what we believe our value to be
18 versus what they can get from some other option and
19 end up negotiating down to whatever we feel we have to
20 to basically make the sale.

21 COMMISSIONER ARANOFF: Okay, and in the
22 course of that conversation, the information that you
23 have about the prices that your customer is being
24 offered is whatever they've told you plus whatever
25 marketing talents you've developed about where prices

1 are going?

2 MR. SKARICH: That's correct.

3 COMMISSIONER ARANOFF: Okay. Just switching
4 topics a little bit, there's a lot of discussion in
5 the briefs about the ability to offer just-in-time
6 delivery.

7 Can you describe to me what does just-in-
8 time delivery mean in this market?

9 MR. SKARICH: Pretty simple, I mean, and
10 from the standpoint of in this day and age as
11 inventories have been reduced to go along with the
12 demand, there's just many times where the customer
13 literally for whatever reason on his part from an
14 inventory standpoint has decided that he's out of
15 something and he needs something.

16 So just-in-time inventory is just a way of
17 basically saying you know, shoot, I need these
18 tomorrow, and that's being provided by -- in the case
19 of manufacturers in the U.S. out of their
20 manufacturing facilities in the case of imports
21 through distribution facilities around the country not
22 through those manufacturing plants somewhere else in
23 the world.

24 COMMISSIONER ARANOFF: So then maybe our
25 U.S. inventories are in your manufacturing location in

1 order to meet customers' just-in-time delivery needs?

2 MR. SKARICH: We basically produce to order,
3 and we do carry inventory. We have to to be able to
4 react to the orders coming in on a daily basis. So we
5 have a combination of orders that are being produced
6 based on whatever our order file may be, one day, one
7 week.

8 But we do ship out of inventory as well
9 especially on the main movers where, David said
10 earlier, we'll have equipment that just strictly
11 makes, you know, the one, or two, or three items that
12 just you sell truckloads and truckloads everyday.

13 You're going to have those sitting in stock.
14 You won't have as much as you need for your entire
15 order file, but you'll be pulling some of that from
16 inventory and replacing that later.

17 COMMISSIONER ARANOFF: So customer needs
18 something tomorrow and you have to give it to them,
19 that's not going out on a full truckload, right?

20 MR. SKARICH: Well, in some cases yes.
21 Yeah. Very often it is. Yeah.

22 COMMISSIONER ARANOFF: We need a truckload
23 by tomorrow?

24 MR. SKARICH: It's amazing.

25 COMMISSIONER ARANOFF: Okay.

1 MR. LIBLA: What George didn't tell you, we
2 have -- at our company, we have a warehouse on the
3 west coast that specifically provides that just-in-
4 time inventory for customers in that marketplace.

5 In fact, they'll call in the morning and
6 want to send their truck by to pick up an order by
7 10:00, and we provide that delivery for them. We have
8 it available for them.

9 COMMISSIONER ARANOFF: Okay.

10 MR. YOST: This is Bruce Yost, and I concur
11 with what they're saying. We carry very large
12 inventories, and 80 percent of our sales --

13 COMMISSIONER ARANOFF: Have you got your
14 microphone on?

15 MR. YOST: Oh, sorry. We have a similar
16 selling approach. We carry very large inventories,
17 and 80 percent of our sales come from our finish goods
18 inventory, so typically we're able to deliver in a day
19 or two.

20 COMMISSIONER ARANOFF: Okay. For both of
21 the producers represented here, do you produce lines
22 to specifications that are provided by customers or
23 just your own specifications if a customer came to you
24 and say that want this particular nail moved to a
25 particular specification that -- would you do that for

1 them?

2 MR. SKARICH: We produce our standard
3 specifications which are to the standards provided by
4 the U.S., the STM standards, and we also produce on a
5 consistent basis specific print specifications from
6 customers who have a specific need wrapped around a
7 specialty nail that requires something different than
8 the standard spec requires for nails. So we do both
9 on a consistent basis.

10 COMMISSIONER ARANOFF: How about if you're
11 building a nail and you're producing some kind of
12 specialty nail that the customer has requested, does
13 that go out under a private logo or under your name?

14 MR. SKARICH: Both. We do it both. It
15 depends on the relationship that we've created in
16 terms of where we see that going, but we do it in both
17 fashions.

18 COMMISSIONER ARANOFF: Okay. Is that
19 typical in the domestic industry that producers would
20 be able to produce some kind of proprietary
21 specification?

22 MR. SKARICH: Oh, yeah. All the nail
23 machines can make all kinds of varieties of special
24 things. It's time-consuming and it's no fun, but it
25 can be done.

1 COMMISSIONER ARANOFF: Okay.

2 MR. YOST: And once again, I concur with
3 George. We produce -- the vast majority of our nails
4 are produced ASTM standards, however, we will custom
5 make a product for anyone who desires it.

6 COMMISSIONER ARANOFF: Okay. So my last
7 question, and this is for purposes of the post-hearing
8 brief, we had a kind of broad discussion about private
9 label products and the domestic industry's ability and
10 willingness to sell them. There's a specific instance
11 that's discussed on page 12 of Precision's pre-hearing
12 brief, some of which is backed.

13 To the extent that we're able, Mr. Gordon, I
14 was going to ask you to respond to that in the post-
15 hearing brief.

16 MR. GORDON: Yeah. I will be happy to do
17 so.

18 COMMISSIONER ARANOFF: Okay. With that, I
19 don't think I have any further questions. I do want
20 to thank all the panelists for their answers.

21 CHAIRMAN OKUN: All right. Commissioner
22 Pinkert.

23 COMMISSIONER PINKERT: I just have a couple
24 of follow-ups. Just to clarify your answer to
25 Commissioner Aranoff's question, are you saying that

1 there's no limitation, that you can custom make any
2 nail that is requested by a customer or are there some
3 limitations because of the machinery that you have
4 that would make it difficult to produce certain kinds
5 of custom-made product?

6 MR. SKARICH: From a domestic industry
7 standpoint, there's no nail that I know of that cannot
8 be made by the current equipment that sits within our
9 borders.

10 COMMISSIONER PINKERT: Mr. Libla, I heard
11 you shaking your head in the affirmative.

12 MR. LIBLA: I have to confer with my AVP, so
13 yeah, absolutely. Yeah, we have the ability to
14 manufacture anything I think.

15 COMMISSIONER PINKERT: Thank you. Now, you
16 talked a little bit about this argument on page 32/33
17 of Dubai IBP's brief that we exclude data of a certain
18 domestic producer.

19 Of course, I can't get into the details of
20 that issue, but I want to ask you whether the
21 importation of non-subject merchandise would be a
22 reason in your view for excluding a domestic producer.

23 MR. GORDON: Under the circumstances of this
24 investigation based on the record that's been
25 developed, no, we do not believe that's the case. We

1 don't believe that would be a reason to exclude them.

2 COMMISSIONER PINKERT: Well, I realize that
3 you spoke earlier about the circumstances of that
4 particular producer, but as a more general matter, is
5 there any relevance to imports that are from a non-
6 subject source to the question of whether to exclude a
7 domestic producer?

8 MR. DeFRANCESCO: Commissioner Pinkert,
9 Robert DeFrancesco. The Commission's practice has
10 been to focus the analysis on whether that producer is
11 importing from subject sources and the degree to which
12 that domestic producer benefits from the subject
13 imports, and so we will address that further, of
14 course, in the post-conference brief.

15 COMMISSIONER PINKERT: Thank you. And with
16 that, I have no further questions at this time and I
17 appreciate the answers that you've given today.

18 CHAIRMAN OKUN: Commissioner Johanson?

19 COMMISSIONER JOHANSON: Thank you, Madam
20 Chairman.

21 This is a follow-up question to something
22 that Commissioner Pearson asked a few minutes ago on
23 AUV's. I was wondering, is there a product mix
24 difference that explains why domestic AUV's are higher
25 than non-subject import AUV's?

1 MR. DeFRANCESCO: Commissioner Johanson,
2 looking at the pricing product data to answer your
3 question. When you compare the value of the relative
4 pricing products that the Commission has collected, it
5 actually accounts for a substantial portion of the
6 subject import value. It also accounts for a
7 substantial portion of domestic value.

8 So we believe there's quite a bit of overlap
9 both in the products offered and that the AUV
10 generally roughly reflects similar products offered at
11 similar times to similar customers and similar
12 channels of distribution.

13 COMMISSIONER JOHANSON: All right. Thank
14 you.

15 Has there been any different of demand
16 growth for nails used in new construction compared to
17 nails sold for other end uses such as home repair and
18 pallets during the POI?

19 MR. SKARICH: I would say that, no, I think
20 they've been -- during the period of investigation,
21 they've all tracked relatively flat just strictly
22 based on the crash in construction and the economic
23 climate.

24 So what we've seen in our business is that
25 the crating and pallet industrial side of our business

1 has been just the same as our construction side in
2 terms of being competitive and trying to go after what
3 market share we can get.

4 COMMISSIONER JOHANSON: Have there been any
5 segments of the market which have been somewhat stable
6 over the past several years --

7 MR. SKARICH: Well, I think --

8 COMMISSIONER JOHANSON: -- or has everything
9 just gone in tandem basically?

10 MR. SKARICH: -- No, I think the industrial
11 side has been very stable compared to the construction
12 side. There just hasn't been a lot of growth in it.
13 But the industrial side around the country has still
14 remained stable.

15 COMMISSIONER JOHANSON: Why would that be
16 the case?

17 MR. SKARICH: Just the amount of products
18 that move, you know, inner-state, moving products to
19 Costco, and Home Depot, and everywhere else in our
20 country. That pallet stream and the crating stream
21 that has to be provided for that, even though it's
22 down, it has stayed relatively consistent compared to
23 construction.

24 MR. LIBLA: People are still eating, Mr.
25 Johanson, people are still eating, and it requires

1 shipments that wooden pallets which uses nails,
2 substantial bottom nails, actually.

3 As long as people are eating and having to
4 buy clothes, and to buy school supplies, and so on,
5 and so on, there's going to be a certain amount of
6 industrial demand. That's what we're referring to
7 here. So that has been more stable in spite of the
8 housing dilemma.

9 COMMISSIONER JOHANSON: And just out of
10 curiosity, it's my impression there's a movement to
11 plastic pallets; is that the case and, if so, has that
12 impacted your business?

13 MR. LIBLA: Plastic pallets may be three to
14 four percent of the entire U.S. market demand for
15 pallets. So that would not be -- that would not be a
16 factor at all.

17 And they're very expensive. They've been
18 trying to come into the U.S. pallet market for 30
19 years and never have got past three to four percent of
20 the market probably.

21 COMMISSIONER JOHANSON: Okay. Well, thank
22 you. Believe it or not, in my past life, I actually
23 worked quite a bit on issues involving pallets.

24 MR. LIBLA: Well, I spent a little bit of my
25 career there too.

1 COMMISSIONER JOHANSON: I assume you have.
2 This is specifically an issue of an invasive species
3 coming in through pallets, and so I kind of have an
4 interest in pallets, believe it or not.

5 So anyway, but I'll look --

6 MR. LIBLA: What --

7 COMMISSIONER JOHANSON: Well, it's quite
8 interesting, actually.

9 MR. LIBLA: -- it's a lot more -- it needs
10 more respect than it gets in the world.

11 COMMISSIONER JOHANSON: Okay. I just know
12 that it's expensive to fumigate. That's all I know.
13 So anyway --

14 MR. LIBLA: Yeah, that's the way they are.

15 COMMISSIONER JOHANSON: Yeah. I'm going to
16 now touch on something that was mentioned in the
17 Respondent's brief, and that is that the Respondent's
18 brief categorizes domestic producers into three
19 categories, and those are large multinationals, niche
20 producers, and other producers.

21 Do you all agree with these categories and
22 does any segmentation of the domestic industry
23 appropriate in this investigation?

24 MR. GORDON: Commissioner, that foray into
25 slicing and dicing by the Respondents is consistent

1 with what else they were doing in their brief, and the
2 short answer is no.

3 There is no basis, no legitimate basis, to
4 try to segment the domestic industry. It reflects an
5 attempt by the Respondents to ignore the weight of the
6 data and sort of try to argue to the commission, well,
7 if you take this away, and this for that, and they're
8 not injured because of this reason and that reason,
9 and eventually, oh, we get down to no injury. We're
10 fine. We all go home now. And that's simply not the
11 case.

12 So we don't agree with those
13 characterizations. In fact, sitting here today with
14 Mr. Yost, you have a company whose production is
15 actually very small but whose capacity is extremely
16 large and whose history is one of being a very, very
17 major producer in the United States market with four
18 production facilities.

19 But that has been reduced significantly in
20 stature because of the subject imports over the last
21 -- over the period. So we think their argument on
22 that is off base.

23 COMMISSIONER JOHANSON: Thank you. Your
24 answer was very clear.

25 MR. GORDON: There's a time for everything.

1 COMMISSIONER JOHANSON: Okay. That's great.

2 And this is kind of -- this question is
3 almost a follow-up to that one and that is the way the
4 market is broken down as contended by the Respondents,
5 and specifically, in Dubai Wire's pre-hearing brief,
6 it stated that Dubai Wire believes that Mid-Continent
7 and Mays can be characterized as mis-producers and
8 specifically Mid-Continent of pallet nails and Mays of
9 double hot-dipped galvanized nails.

10 Do you know if imported nails from the UAE
11 compete in these areas or do you know if those are
12 accurate depictions of those two companies of Mid-
13 Continent and Mays?

14 MR. GORDON: Let me speak first to the Mays
15 issue, and I'll let Mr. Libla and Mr. Skarich defend
16 their own company. I would invite -- in a directly
17 responsive exercise, I would invite the Commission to
18 go to Maze's website and take a look at their product
19 catalog and look at the extraordinary variety and
20 range, the full range, of nails that are available
21 through Maze, not just double-hot dipped galvanized,
22 but a full range of additional finish nails.

23 In fact, here I have Mays masonry nails. We
24 have Maze finish nails sitting around somewhere. They
25 produce a full range of nails, and they always have

1 done and they hold themselves out with that capability
2 on a daily basis.

3 MR. LIBLA: Mid-Continent began its foray
4 into the nail manufacturing industry making pallet
5 nails, and as we grew, we grew into construction
6 product as well. We've been making construction
7 product for many years now.

8 But pallets happen to be an original product
9 that we became real good at and we became known to be
10 good at it in the industry and just like Mays has
11 become known to produce a real high quality double-
12 dipped hot-dipped galvanized nail, but that doesn't
13 limit that that's all they make or all we make. You
14 just -- you get known for something like it or not.

15 MR. SKARICH: As well, Mr. Johanson, you've
16 got a scenario where on the pallet nail side of our
17 business the skew selection is very limited, and the
18 differentiation between our industrial and our what we
19 would call construction is about 50/50 in terms of
20 total volume, and yet we produce 462 SKU's, so, today.

21 MR. LIBLA: And we produce galvanized nails
22 as well, so it's not like Mays does Galvanized and
23 that's all they do and Mid-Continent only does
24 pallets. Far from it.

25 COMMISSIONER JOHANSON: All right, well,

1 thank you for your answers, and that concludes my
2 questions.

3 CHAIRMAN OKUN: Just a follow-up question
4 with respect to the nails you produce to standard
5 specs versus made to order, the idea discussed with
6 Commissioner Aranoff.

7 If it's not proprietary, can the two
8 companies tell me what the breakdown is of standard
9 versus made-to-order?

10 MR. SKARICH: You know, Ms. Okun, I don't
11 have the numbers, but the percentage of true specialty
12 nails is a very small percentage of the overall
13 volume. Very small.

14 MR. YOST: I would agree with that. For
15 truly specialty nails, it's probably less than five
16 percent of what we produce. Like I said, the vast
17 majority of it to ASTM standards.

18 CHAIRMAN OKUN: And this might be in the
19 staff report, and if it is, direct it to me. In terms
20 of the market itself, does that reflect the market in
21 terms of, you know, who's purchasing.

22 Like if you're -- we talked about, well, I
23 know there are a lot of different nails out there, a
24 lot of different types, but if you're looking at a big
25 box versus a construction, would there break beyond

1 what is considered just a standard spec versus a
2 proprietary nail or a made-to-order nail. It might be
3 in the staff report, but if you have a sense of the
4 market?

5 MR. SKARICH: In essence, it's the same.
6 The difference is usually just in the packaging. But
7 in terms of manufacturing the nails, every distributor
8 in the country is carrying a multitude of different
9 SKU's for whatever they happen to be, whatever segment
10 of the market they happen to be competing in, whether
11 it's strictly home construction or whether it's
12 remodeling, or whether it's pallet and crating or any
13 form of that.

14 So all the distributors that I know of at
15 every level carry an amazing amount of SKU's that we
16 all produce.

17 CHAIRMAN OKUN: Okay. In terms of, you
18 talked about binding. I can't remember if I asked you
19 this question. In terms of for big box, percentage of
20 brand that in a big box -- is that higher than in
21 other parts of the market?

22 MR. SKARICH: I would say yes, it is.

23 CHAIRMAN OKUN: For you, Mr. Gordon, what
24 about the 2008 data? We always, you know, as we move
25 through these, we often have a different period when

1 we get to the final versus a preliminary. Is this a
2 case where the commission should be looking at 2008
3 data?

4 MR. GORDON: Our position would be that
5 whether you include 2008 or do not include 2008, the
6 record supports a determination in our favor. It's
7 instructive to look to 2008 in some respects when you
8 consider the surge in imports, for example.

9 You know, from 2008 to 2010, import volume
10 from the UAE went up 145 percent. From 2009 to --
11 2008 to 2011, it's 130 percent. So I mean, it shows
12 you where they started from a little more clearly, but
13 even without 2008 data, you know, this record is very
14 strong.

15 CHAIRMAN OKUN: And then, I guess a follow-
16 up question about what the domestic industry looks
17 like, and Commissioner Johanson had asked about the
18 Respondents' argument that if you look at the industry
19 you have multi-nationals, you have different breakouts
20 within the industry. And I heard your response to
21 that.

22 But I guess I was curious in light of Mr.
23 Libla's comments about Stanley and ITW, you know,
24 these are big multi-national companies and so maybe
25 they're behaving slightly differently.

1 Help me understand that. I mean, again, I'm
2 just trying to understand how the different players
3 will react if an order is imposed.

4 MR. LIBLA: I certainly wouldn't want
5 someone from Stanley to call me up this afternoon and
6 tell me that I said something I shouldn't have said in
7 an open forum, but I would like to put this as short
8 as I can.

9 It's my opinion that Stanley's trying to
10 determine if the nail business is something they
11 should still do in the future, and they are reacting
12 strangely in the marketplace, have been reacting
13 strangely in the marketplace.

14 So besides that, I don't know if I want to
15 comment any more on what I think.

16 CHAIRMAN OKUN: I appreciate that. Again,
17 I'm not asking you to speak for them.

18 MR. LIBLA: Okay.

19 CHAIRMAN OKUN: But I was just -- just in
20 terms of your comments of what you said earlier about
21 their behavior versus --

22 MR. LIBLA: Making a commitment is different
23 than what I'd have you pass what it is to the
24 industry.

25 CHAIRMAN OKUN: Okay. And then you may have

1 put this on the record, but in the very beginning of
2 the hearing we had talked about the small packets, and
3 I think I had written down that you had said you had
4 not -- while you can produce some, you currently do
5 not; is that right? Is that with respect to the small
6 count?

7 MR. LIBLA: That's correct.

8 CHAIRMAN OKUN: And is it on the record when
9 you last sold those?

10 MR. LIBLA: I didn't give an exact year, but
11 we can provide it in the post brief.

12 CHAIRMAN OKUN: Okay. I just wasn't sure if
13 you did and I didn't hear it. Okay. If you can do
14 that, that would be great.

15 MR. LIBLA: Okay.

16 CHAIRMAN OKUN: And with that I don't think
17 I have any other questions. But I want to thank you
18 very much for all those responses. I appreciate that.

19 I'll see if there's -- Vice Chairman
20 Williamson?

21 VICE CHAIRMAN WILLIAMSON: Just one question
22 for post-hearing. Can we take a look at the staff
23 report at Table 3-5? There's a change in U.S. exports
24 in 2011, and I was wondering if you were aware of the
25 reason for that, and if you do know the reason, you

1 can address it in post-hearing. This is all
2 confidential data, that's why.

3 MR. LIBLA: Yes, we'll respond in the post-
4 hearing brief.

5 VICE CHAIRMAN WILLIAMSON: Good. Thank you.
6 And with that, I have no further questions. I want
7 to thank the witnesses for their testimony.

8 CHAIRMAN OKUN: I don't think there are any
9 other questions for the commissioners. Let me turn to
10 staff to see if they have questions for this panel.

11 MR. CORKRAN: Douglas Corkran, Office of
12 Investigations. Thank you, Madam Chairman. Staff has
13 no additional questions.

14 CHAIRMAN OKUN: Thank you. Do those in
15 opposition to the position of the order have questions
16 for this panel?

17 I know you don't have a microphone, but for
18 the court reporter's benefit, Mr. Marshak has
19 indicated there are no questions for this panel.

20 So before we take a break for lunch, I just
21 want to take again this opportunity to thank all of
22 you for being here and for responding to our
23 questions. We very much appreciate your
24 participation.

25 And also to remind the parties that the room

1 is not secure, so please take any confidential
2 business information with you.

3 And with that, we will take a break until
4 1:15.

5 (Whereupon, a luncheon break was taken at
6 12:10 p.m.)

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1 be heard.

2 Just look at the number of times some of the
3 contestants on American Idol auditioned and were told
4 no, within a year later got three S's. In this case,
5 I'm looking to you for six no's, no affirmatives.

6 And second, there have been several
7 significant events during these past few months that
8 so impact the landscape of the U.S.A. nail industry
9 that an injury determination just doesn't fit any
10 scenario that the Petitioner may try to twist.

11 We're looking at an American industry that
12 is in better shape today than it has been for many
13 years. This industry has withstood the great
14 recession and come out the other side.

15 Look at what we have. We have growth. We
16 have job creation. We have new investment. My
17 company, Prime Source Building Products has joined
18 together with Dubai Wire to create Progressive Steel
19 and Wire, a new domestic nail manufacturer producing
20 nails in Dallas, Texas with plans to expand to
21 Pennsylvania and California during 2012.

22 And we have Petitioner themselves being
23 bought by Deasario, a Mexican company with more than
24 \$2 Billion in sales and 7,000 employees announcing
25 plans to increase production capacity by 40 percent

1 with at least a 20-30 percent increase in employment.

2 Injury? Really?

3 We look forward to competing with our
4 friends at Deasario. For years we have bought wire
5 rod, rebar, and galvanized wire from their plant in
6 Mexico. And now we both will be manufacturing nails
7 in the United States. This is good news for our
8 industry and for our American workers.

9 Before I discuss the reasons why I believe
10 you should reach a negative determination in this
11 case, let me give you some background on Itochu, Prime
12 Source, and Progressive Steel along with my own role
13 in the nail industry.

14 Itochu imports nails from around the world
15 which it sells to its sister company, Prime Source,
16 the largest distributor of nails in the United States.
17 Prime Source maintains 36 contribution centers in 28
18 states.

19 We continue to grow, and in the past year we
20 have added two new locations, one in Portland, Oregon
21 and one in Fresno, California. We currently employ
22 over 1,100 American workers, an increase of
23 approximately 50 since I testified a year ago.

24 Prime Source sells a wide range of building,
25 home improvement, and related products through the

1 United States not limited to nails. We also sell
2 screws, power tools, fencing, insulation,
3 weatherproofing, etcetera.

4 We sell under our proprietary Grip-Rite
5 brand, our Pro-Twist brand, as well as distributing
6 other well-known brands such as Owens-Corning, LGAF,
7 USP, and Armstrong, to name a few.

8 Our diverse customer base includes lumber
9 yards, staff to dealers, drywall supply yards,
10 concrete and construction supply yards, roofing
11 wholesalers, and home improvement centers. We ship to
12 more than 20,000 customers on our own fleet of more
13 than 300 trucks making daily deliveries with multiple
14 stops.

15 Our largest customers for nails and many of
16 our other products are Home Depot and Lowes, the two
17 largest, big-boxed retailers in the United States.
18 Our nationwide distribution system allows us to meet
19 their requirements to provide just-in-time delivery of
20 literally thousands of different SKU's to their
21 combined 3,700 stores.

22 We have 120 full-time merchandiser employees
23 whose sole responsibility is visiting every Home Depot
24 store every week to make sure our displays are fully
25 stocked and properly arranged at all times.

1 Our primary sources of supply for nails are
2 nails in Taiwan, the UAE, and China. We also source
3 nails for Malaysia, Korea, Mexico, Bulgaria, Viet Nam,
4 and the United States. We stock literally thousands
5 of SKU's of all types and sizes of nails.

6 When you go into a Home Depot or Lowes, you
7 will see our Gripe-Rite brand of hand-drive nails and
8 collated nails prominently displayed in retail boxes
9 as small as one and five pounds along with larger
10 buckets, 50 pound cartons, and thousand-piece plastic
11 tubs. We sell more of our Grip-Rite nails to Home
12 Depot and Lowes than any other fastener brand.

13 Some background about me. I've been
14 involved in the U.S. nail business since I was 15
15 years old, and I have no idea where the past 45 years
16 have gone.

17 If you had told me my entire life was going
18 to be spent working in nails, I would have thought you
19 were mad. But as they say, man plans and God laughs,
20 but that's a story for another day.

21 I began working when Japan was the main
22 company supplying nails to the United States. I have
23 seen nail production move from Japan to South Korea,
24 and Taiwan, and into China, and into the UAE. Today
25 nails are manufactured around the world with mills in

1 Malaysia, Viet Nam, and Mexico also shipping nails to
2 the United States.

3 At the same time as I've seen production
4 shift from one country to another, I have seen a
5 fundamental change in which the way nails are sold in
6 the United States in the retail channels which is the
7 majority of our business.

8 When I started in this business, there was
9 no Home Depot. Nail manufacturers did not need to
10 have sophisticated nation-wide distribution center --
11 distribution networks. There was no such thing as
12 marketing.

13 Nails were received in large wooden kegs,
14 dumped into an open bin. The customer scooped up the
15 quantity they wanted to buy. It was put in a brown
16 bag, weighed, and sold by the pound.

17 The vast majority of nails were hand-driven,
18 product differentiation was just beginning, and nails
19 were sold by regional manufacturers to local and
20 regional customers throughout the United States.

21 Today, it's a different world. Whether we
22 like it or not, times have changed. To compete in the
23 new market, vendors must also change with the times.
24 Diversification, packaging, private branding are all
25 required.

1 Pack the nails in a plastic box, in a
2 bucket, color-code the lids, reduce the pack unit so
3 inventory turns increase. Make weekly deliveries so
4 the customers can maintain just-in-time inventory
5 levels.

6 Just-in-time. Just-in-time is not a
7 truckload of product being picked up at the plant from
8 one of 37 SKU's that they may produce. Just-in-time
9 is our typical order delivered once a week which is
10 under \$1,000, has more than 20 different items -- two
11 boxes of this, three boxes of that -- delivered just
12 before they run out of inventory.

13 I sincerely believe that if Mid-Continent
14 and other American nail manufacturers had devoted the
15 same time and energy to improving customer relations,
16 investing in R&D and quality control, and developing a
17 strong distribution system as they had in filing
18 petitions with the Government to curtail competition,
19 they would have had a much larger presence in the
20 market then they have today.

21 Just as every single petition which American
22 mills have filed in the past, and there have been
23 many, the petition which the industry lead by Mid-
24 Continent filed in 2007 did not result in a
25 significant increase in domestic producer's share of

1 the U.S. market.

2 It did not result in Prime Source deciding
3 to source nails from Mid-Continent or other mills in
4 the United States, and if a dumping duty order is
5 placed on nails from the UAE, I will repeat today what
6 I stated to the Commission last April, and I quote, I
7 can tell you categorically with 100 percent certainty
8 that it will not result in even one penny of
9 additional business from us to Mid-Continent or any
10 other U.S. nail producer, close quote.

11 Our business is not in play. We are
12 committed to our joint venture, Progressive Steel and
13 Wire, a brand new nail factory formed by the
14 partnership of Prime Source and Dubai Wire with our
15 first location in Dallas, Texas which has already
16 started producing nails.

17 Let me explain the background and time line
18 for this project. In August 2010, I became co-CEO of
19 another Itochu-owned company called Master Halco.

20 Master Halco is a distributor and U.S.A.
21 manufacturer of chain-link fence. We have chain-link
22 factories in Dallas, Texas, Scranton, Pennsylvania,
23 Fontana, California, and Olney, Illinois.

24 Chain link and nails have a lot in common.
25 Chain link is made from wire rod, exactly the same as

1 nails. The wire rod is then drawn down using wire
2 drawing machines, exactly the same as nails. The wire
3 is then galvanized, the same as many nails.

4 In 2010, Master Halco was struggling. Sales
5 were way off from the peak years. They had
6 underutilized equipment. They had lots of extra space
7 in their factories, but they had the infrastructure in
8 place and the idea was born. A perfect marriage.

9 Dubai Wire has the nail equipment and the
10 technical known-how to produce top-quality nails.
11 Prime Source has the sales force, the distribution
12 network, and the customers, Master Halco has the space
13 and the existing manufacturing facilities.

14 We can now leverage the buying of rod, zinc,
15 etcetera. Master Halco becomes more competitive, and
16 the synergies of combining their manufacturing with
17 ours becomes a win-win.

18 The reduction and shift of production from
19 Dubai to PSW was planned without any single
20 consideration of dumping duty and before any filing
21 was made public.

22 Please don't misunderstand. This is still a
23 nail plant starting from ground zero. We have
24 invested millions of dollars to bring this plant up.
25 You don't just plug in a nail machine like you would a

1 hair dryer. You need extensive power and electrical
2 work. You need plumbing. The existing factory had to
3 be expanded and retrofitted to accommodate nail
4 machines and coating lines.

5 Any suggestion that a negative determination
6 would result in these machines going back to Dubai
7 like this is some disposable and movable tinker toy is
8 ridiculous.

9 To be crystal clear, the filing of this
10 petition was done way after our plans were in motion
11 and was never a consideration. It took more than 18
12 months of planning and preparation to get to where we
13 are today, producing nails in Dallas, Texas.

14 But Mr. Libla knows that because this plan
15 was industry news long ago, and he would know better
16 than anyone else that a factory doesn't just appear.
17 And in fact, when he heard that these plans were
18 moving forward, he personally called our VP of
19 manufacturing for Master Halco and asked him to
20 deliver a message to me.

21 He said tell Mona if she wants to produce
22 nails in the United States, why doesn't she buy my
23 company instead of opening a new one. I can only
24 surmise that the prospect of competing against a
25 domestic manufacturer who gets it and facing the

1 prospect of not being able to file a Government action
2 against the U.S.A manufacturer was so worrisome that
3 he got out while he could still cash out.

4 I need to address some of the other
5 inaccuracies put forth by Mid-Continent. First, in
6 its pre-hearing brief to the Commission, Mid-Continent
7 stated at 24, and I'll quote, during the staff
8 conference, the co-president of Itochu Prime Source,
9 Ms. Zinman, admitted that her company purchases nail
10 base solely on price, end quote.

11 This statement is not true. I did not say
12 that last year, and this allegation statement is as
13 inaccurate today as it was then. Here's what I said
14 which I believe is worth repeating, and I quote, the
15 increase in tonnage from the UAE was the direct result
16 of my decision to source nails from Dubai Wire instead
17 of China. If Itochu had not made this move, UAE
18 imports would not have surged in 2010 and Mid-
19 Continent would not have the ammunition it believed it
20 needed to once again petition the Government's relief.

21 Our decision to begin purchasing nails from
22 the UAE was not related to price. We were looking for
23 an alternative source of supply because of the
24 uncertainty in the market resulting from the dumping-
25 duty order on nails from china.

1 And let me repeat that because I believe it
2 is a very important point. Our reduction of purchases
3 from China and increase in purchases from Dubai was
4 not because Dubai was cheaper because they weren't.

5 The dumping duty order on Chinese nails
6 means that you have no idea what your final cost will
7 be until as much as three years later. And exactly
8 what I talked about happened with the recent published
9 results of POR-2 in the ongoing China case.

10 So we needed to find a new source of supply
11 to replace the nails we had been sourcing from Chinese
12 mills. We moved to Dubai Wire for reasons which Mr.
13 Ved will discuss a little later.

14 But just to summarize quickly, Dubai Wire
15 produces more than 1,400 different types and sizes of
16 nails in its facilities in the UAE. Dubai Wire is
17 willing to able to fill any order we place no matter
18 how complicated for shipment to all major ports or
19 required in-land destination.

20 And third, Dubai Wire has been in the
21 business of producing nails for 30 years. It has a
22 reputation for quality and reliability. We had done
23 business with Dubai Wire in the past and we knew what
24 they could do. We had visited their facility many
25 times.

1 Remember, Home Depot and Lowes demand just-
2 in-time delivery of hundreds of different SKU's at
3 3,700 stores located throughout the United States.
4 Our business model is built on 100 percent fill rates
5 and on-time delivery.

6 Dubai Wire is exactly the source of supply
7 which Itochu needs to service our customers in the
8 United States and to maintain our position as the
9 country's number one distributor of nails, and that is
10 why we decided to buy from Dubai Wire not price.

11 If the anti-dumping duty order on Chinese
12 nails could have helped the U.S. industry, you would
13 have expected that once an order was in place on
14 Chinese nails, domestic mills would have immediately
15 contacted Prime Source to take advantage of this
16 restraint on trade. This did not happen.

17 No U.S. mill came to Prime Source and
18 offered itself as a viable alternative despite the
19 fact that Chinese nails no longer had a cost
20 advantage. I am not aware of any nail mill in the
21 United States which has the capability to become a
22 Prime Source vendor in the same manner as Dubai Wire.

23 Mid-Continent may claim that it has the
24 capacity and ability to make any and all types of
25 nails. We've heard that basically all morning,

1 capacity and ability. I have a right arm. That means
2 I have the capacity and ability to throw a ball, but
3 it doesn't mean that the Yankees are going to call me
4 to replace Mariano Rivera when he retires.

5 If Mid-Continent is able to make all types
6 of nails, you would expect that their website would
7 look like Dubai Wire's catalog specifying over 1,000
8 SKU's. Why keep it a secret. Why not try to promote
9 and sell everything you can make. But it doesn't
10 because Mid-Continent has never produced the vast
11 majority of nails sold by Dubai Wire in commercial
12 quantities, nor are they interested in doing so.

13 We cannot expect Mid-Continent to begin
14 production tomorrow when it had the chance to fill a
15 void in 2008 but then didn't. And even if Mid-
16 Continent had the capacity, it does not have the
17 distribution system.

18 It took us more than 40 years to build our
19 system, 36 warehouses in 28 states. This is not a
20 simple task. It takes time, commitment, and a wide-
21 range of products, not just nails, to make it work.

22 An additional point for the Commission to
23 consider is the fact that the vast majority of our
24 customers do not specify the country of origin of
25 nails which we deliver to fill an order. They buy

1 from us because of our ability to meet their needs.
2 Our customers are not concerned with origin country as
3 long as they are receiving Prime Source quality
4 products in a timely manner.

5 We charge the identical price for identical
6 products regardless of whether our Grip-Rite nails are
7 made in the UAE, China, Taiwan, the United States, or
8 any combination of countries.

9 In this mix, Dubai Wire is not the lowest
10 cost supplier. Its prices are competitive, but they
11 are no lower than the prices we pay for nails from
12 other mills located throughout the world.

13 In other words, the fact that a sale has
14 been lost to Prime Source does not mean that a sale
15 has been lost to the UAE. A Grip-Rite nail just as
16 readily could have been made in Taiwan for which there
17 have been no allegations of unfair pricing, or it
18 could have been imported from China whose nails are
19 being imported under an anti-dumping duty order and,
20 therefore, by definition are fairly priced. This
21 being the case, the increase in Prime Source's market
22 share cannot be attributable to allegedly unfair
23 priced UAE nails.

24 Before I finish, I'd just like to briefly
25 discuss the pallet nail market. This market is

1 dominated by Mid-Continent. If you look at their web
2 site, you can see that Mid-Continent was founded in
3 1987 by Libla Industries which Mid-Con describes as
4 one of the largest pallet manufacturers in the
5 Midwest.

6 Mid-Continent then states that Libla created
7 Mid-Continent to meet its need for machine quality
8 pallet nails made necessary when pallet manufacturing
9 progressed from manual to automated machine assembly.

10 Mid-Continent boasts that it is now the
11 largest supplier of fasteners to the wooden pallet and
12 crating industry with customers throughout the United
13 States, and I believe Mid-Continent is correct.

14 We sell a relatively small quantity of nails
15 in this market, but Mid-Continent remains the major
16 force, and if you listened as I did to the Mid-
17 Continent Deasario press conference in February, it
18 appears that this business has been very successful in
19 2011 and should remain successful in the future.

20 And we applaud Mid-Continent's success. We
21 applaud the fact that it has expanded its business in
22 the United States by purchasing other companies and
23 that its employees were working overtime in 2011. And
24 we applaud the success of any other American
25 manufacturer who has found a profitable market niche.

1 We also believe that we would be as
2 successful an American manufacturer as Mid-Continent
3 with our nails made in Dallas, Texas. Our optimism
4 reflects our confidence in Dubai Wire's manufacturing
5 knowhow and the strong national distribution system
6 and reputation for reliability and quality which Prime
7 Source has developed over the past 20 years.

8 Now, here's the part that sounds counter-
9 intuitive, and I'm almost done. For us to succeed as
10 an American manufacturer, we will need to continue to
11 import nails from the UAE. Our business plan calls
12 for a continuous reduction in quantities as our U.S.A.
13 factories take over a majority of the product line.

14 However, we will still need to supplement
15 our domestic production with imports, hopefully,
16 without having to pay an unnecessary tax to the U.S.
17 Government which will only serve to hurt the American
18 consumer through higher prices.

19 Assessing anti-dumping duty on Dubai Wire
20 exports will not help any other American mill
21 including us. It will not lead us to purchase
22 increased quantities of nails from other American
23 producers. It will only hurt Progressive Steel and
24 Wire and its partners.

25 We recognize that our success as an American

1 manufacturer may further erode the ability of certain
2 small American domestic manufacturers to compete in
3 this market, but whether we like it or not, national
4 customers require strong brand name national
5 distributors to service their needs.

6 And national distributors like Prime Source
7 need to obtain nails from those capable of producing
8 significant quantities of multiple SKU's for shipment
9 to warehouses located throughout the United States.

10 Once a company has the ability to sell
11 nationally to Home Depot and Lowes, it is able to use
12 that same distribution system to sell to STAFTA and
13 other customers. These are the reasons for our
14 success not low prices.

15 To summarize, the American industry has
16 survived the great recession. It has been
17 strengthened by Deasario's purchase of Mid-Continent
18 and our decision to produce nails in the United
19 States.

20 The industry has not been materially injured
21 by UAE imports and with Dubai Wire's moving its
22 production machinery to the United States, threat is
23 not an issue.

24 Thank you for listening to my testimony. As
25 I said when I started, while I have enjoyed coming to

1 Washington in the Spring to testify at the Commission,
2 this is really the last time. I have no more words to
3 make our case any clearer.

4 I'm available for questions. Thank you.

5 MR. HOUSE: Good afternoon, Madam Chairman
6 and members of the Commission. I'm Michael House,
7 counsel to Precision Fasteners. I'm joined today by
8 three major purchasers and distributors of nails from
9 Precision Fasteners.

10 And I might point out that I think it's
11 relatively unusual that the Commission has before it
12 today with the participation of those on the panel
13 alongside me and Prime Source in front of me, and with
14 a submission from another customer on the confidential
15 record, I believe -- and you can check the
16 confidential percentages -- the Commission has before
17 it with the testimony today and that other input,
18 input from virtually all of the market participants
19 that are involved in the sale of the subject steel
20 nails from the UAE.

21 I'd like to turn this over first to Joe
22 Leffler to my left. He is Vice President Sales and
23 Marketing with Hitachi Power Tools.

24 MR. LEFFLER: Good afternoon, Madam Chairman
25 and members of the Commission. My name is Joe

1 Leffler, and I'm Vice President of Sales and Marketing
2 of Hitachi Power Tools. I have been in the tool
3 fastener business for over 20 years, starting as a
4 service technician on job sites in 1991 and later
5 joining Hitachi in 1994 as an account executive.

6 I've had the unique experience of
7 understanding all aspects of the fastener business
8 from repairing tools on job sites to dealing with
9 executives at the major home centers such as Home
10 Depot and Lowes.

11 Hitachi is a global leader in the
12 manufacture of pneumatic tools. In the U.S., the
13 Hitachi brand is considered a leading brand in terms
14 of quality and service, service being key.

15 Retailers purchase Hitachi products because
16 of our reputation for delivering the highest quality
17 products and service. Our success has nothing to do
18 with the competition on price.

19 We are not the cheapest products in the
20 marketplace. We are competitive, but we are not the
21 cheapest. Customers buy from Hitachi due to our brand
22 not our price. There are many regional low-cost
23 providers. It's not Hitachi.

24 We source a significant portion of our steel
25 nails from Precision Fasteners in the UAE. We

1 switched from Dubai Wire to Precision. We purchase
2 from Precision because they offer us the range of
3 products that we need at the quality levels that we
4 specify -- at the quality levels that we specify.

5 In addition, Precision is willing and able
6 to supply us with the Hitachi brand as well as private
7 label brand of products that we require. We also
8 purchase from suppliers in Germany, Korea, Taiwan, as
9 well as Specialty Fastener in the U.S.

10 However, we have not been able to find a
11 meaningful source of supply from domestic U.S. steel
12 nail producers that meet our requirements of quality
13 product mix and volume for our brand.

14 Over half of our U.S. business is to major
15 national and regional home centers, that well-known
16 big-box store such as Home Depot and Lowes, as well as
17 regional chains such as Menards.

18 These large chains have literally thousands
19 of locations across the United States. 100 percent of
20 the products we sell to these national and regional
21 home centers are Hitachi-branded products.

22 Again, we are not the low price leader in
23 the sales to these customers. Our products are sold
24 based on our brand reputation, the quality of tools,
25 and the availability and variety of products.

1 We also offer a variety of packaging in
2 which collated nails can be sold in much smaller
3 quantity levels more suitable for the end user,
4 various cartons, various sizes, various counts.

5 To serve these major nation-wide customers,
6 we have over 2,000 authorized Hitachi service centers
7 across the country supported by over 70 dedicated
8 Hitachi sales personnel.

9 We maintain more than 25,000 SKU's, unique
10 products in our warehouses across the country. Our
11 salespeople and product specialists participate in
12 over 500 customer events across the country each year.

13 Mid-Continent does not have the brand that
14 Hitachi has as a leading tool manufacturer, nor does
15 it have the availability and variety of other products
16 that we can supply.

17 Furthermore, Mid-Continent does not have the
18 nationwide reach of thousands of service centers and
19 warehouses stocking tens of thousands of SKU's. For
20 the majority of our business, Mid-Continent is simply
21 not our competition.

22 Our major competitors are other brands such
23 as Senco, Paslode, and Stanley Bostitch, not Mid-
24 Continent. The remainder of our business is
25 traditional staff to dealers whose customers, in turn,

1 are professionals that service job sites as well as
2 manufacturing.

3 Again, our sales to STAFDA to dealers are
4 based on our brand, our quality, and our service and a
5 variety of product mix that we can make available from
6 our suppliers like Precision. What is most important
7 to our STAFDA to dealer is we do not compete against
8 them. We do not compete against our customers.

9 We are also willing to provide them with
10 private label products that are customized to their
11 own brands. About half of the products we sell to the
12 staff to dealers are private label steel nails while
13 the remainder are Hitachi brand products.

14 In today's economy, they can mix those
15 products to improve their cash flow which is very,
16 very important to our customers. STAFDA to customers
17 have told us that the Petitioner, Mid-Continent, is
18 unwilling to expand their products on a private label
19 basis. On our panel today, one of my own customers
20 will describe this experience in more detail.

21 It is clear to me that despite the
22 Petitioner's claim about competition from the UAE
23 imports, Mid-Continent is simply not serious in
24 dealing business with our company.

25 I can state categorically that since I took

1 over as head of sales and marketing at Hitachi in late
2 2008, after the China dumping decision, not once at
3 any time, at any time, did any representative from
4 Mid-Continent contact me regarding the possibility of
5 supplying those nails. It was only when I initiated
6 contact late in 2011 did the companies even talk.

7 Hitachi accounts for a substantial portion
8 of the imports from Precision Fasteners and Precision,
9 in turn, is a substantial exporter of steel nails from
10 the UAE.

11 Based on my knowledge of the U.S. market,
12 particularly the role the Hitachi brand plays in the
13 marketplace, it is inconceivable to me that Mid-
14 Continent can make any claim that Precision export of
15 steel nails has caused any harm to their business.

16 I thank you for the opportunity to present
17 my views to this Commission, and I'm happy to answer
18 any questions. Thank you.

19 MR. HOUSE: Thank you, Joe. Next we will
20 hear from Mike Doody of Carlson Systems.

21 MR. DOODY: Good afternoon, Madam Chairman
22 and members of the Commission.

23 CHAIRMAN OKUN: If you could make sure your
24 microphone is on and then pull it just a little closer
25 to you.

1 MR. DOODY: Okay. My name is Mike Doody,
2 and I'm executive Vice President of operations for
3 Carlson Systems Holdings, Inc. We were founded in
4 1947. Carlson Systems is a leading multi-regional
5 distributor of fastening and packaging supplies, tool,
6 and equipment for the construction, industrial
7 faceting, and product assembly industries.

8 I have been with Carlson Systems for 35
9 years, and we have eight distribution centers and 48
10 locations spanning throughout most of the U.S.
11 Carlson sells about 75 percent of its fastening
12 products to end users in the construction industry
13 such as large framing contractors, cabinet
14 manufacturers, and pallet manufacturers.

15 The remaining 25 percent of Carlson sales is
16 a fastening product sold to the dealer channel. This
17 would be your two-step channel, so we cover both sides
18 of the business and that would be such as a lumber
19 chain.

20 Carlson sells many brands of nails including
21 Hitachi, Senco, Bostitch, and Paslo as well as our own
22 private label brand Interchange which is equally as
23 important.

24 We purchase from domestic manufacturers
25 including Senco, Mid-Continent, Tree Island, Stanley,

1 and ITW as well as overseas manufacturers in the UAE,
2 China, Taiwan, and Malaysia. Carlson buys from
3 manufacturers domestically and overseas to ensure a
4 reliable supply chain for a wide variety of products.

5 Carlson started the Interchange brand in
6 1984 to provide its customers with a quality fastening
7 product line that can be used in all different brand-
8 names tools.

9 Carlson strategy is to grow the Interchange
10 brand and to capitalize on the reputation that we've
11 developed for that brand. Thus, Carlson is interested
12 in finding suppliers that will manufacture quality
13 products under the Interchange brand and to our
14 specifications.

15 About a year ago, we started looking to
16 expand our domestic sources for our Interchange brand
17 of nails to ensure ourselves against stock-out
18 situations.

19 We already had been purchasing a couple
20 items from Mid-Continent to the Interchange brand and
21 have done so for quite some time. Late last year, we
22 asked Mid-Continent if they would expand the
23 Interchange product line that had already produced for
24 us by adding about 20 additional items.

25 On January 8th of this year, Mid-Continent

1 responded to our request and told us that they were
2 not interested in expanding our Interchange brand and
3 only offered us their own brand, Magnum, instead. We
4 will submit for the record of this investigation a
5 copy of their correspondence.

6 Carlson purchases nails from the UAE and
7 other overseas manufacturers for many reasons. These
8 manufacturers are able to provide an extensive product
9 mix and within our packaging specifications
10 requirements. Some products are not even produced in
11 the U.S.

12 Also, the domestic producers do not have the
13 ability to mix and match the products into a single
14 container the way our overseas manufacturers can do
15 which helps our overall supply chain.

16 The imposition of anti-dumping duties on
17 imports from the UAE will not cause us to purchase
18 from Mid-Continent. We would purchase more items from
19 Mid-Continent if they would put their products in our
20 own box. But Mid-Continent made the business decision
21 to not do that for us.

22 If duties are imposed on imports from the
23 UAE, Carlson will continue to purchase products from
24 other overseas manufacturers who are willing to supply
25 us the range of nails and packaging that we need.

1 Thank you, Madam Chairman, Commissioner,
2 Commissioners and staff. I'm happy to answer any
3 questions.

4 MR. HOUSE: Thank you, Mike. And finally on
5 our panel this morning for Precision is Peter Fischer
6 of Continental Materials.

7 MR. FISCHER: Good afternoon, Madam Chairman
8 and members of the Commission. My name is Peter
9 Fischer and I am the President of Continental
10 Materials. CMI was founded in 1958 as an importer of
11 fasteners and, accordingly, has over 50 years
12 experience in the fastener industry. Other the course
13 of my 28 years at CMI, I have become very familiar
14 with the ins and outs of the steel nail industry.

15 CMI is an importer and distributor of
16 building products. CMI sells steel nails nation-wide
17 to about 500 distributors. We sell specialty
18 fasteners such as those we purchase from Precision to
19 two types of distributor customers.

20 The first type of distributor customer we
21 classify as two-steppers who in turn resell it to
22 STAFDA to dealers and retailers. Our largest two-
23 stepper customer would be Highland Building Products.

24 The second type of distributor customer we
25 sell we classify as STAFDA-to-dealers. These are also

1 referred to as tool supply shops such as Elite Supply
2 in Florida, ProFast in Orlando, DuFast in Carolina,
3 Tri-J in Texas, amongst others.

4 These are generally smaller specialty shops
5 that sell nails and other complementary products to
6 contractors. They also have someone on STAFDA to
7 repair nail guns and are very often mom and pop
8 operations. These tool supply shops, in turn, sell to
9 contractors or other end-users.

10 CDI does not purchase nails from domestic
11 producers because the domestic producers are not
12 willing or able to produce a variety of nails with our
13 customer's own label and to provide them all in one
14 shipment such as our customers require.

15 In addition, domestic producers don't have
16 the product breadth that our customers need. Further,
17 CMI does not purchase from domestic producers because
18 the domestic producers have their own sales force and
19 do not want the distribution services that CMI
20 provides to our customers. As such, the U.S.
21 producers sell to the same channel of distribution
22 that CMI does.

23 In contrast, CMI purchased from Precision as
24 well as from other overseas producers because these
25 producers are willing and able to produce the nails to

1 the requirements of our customers.

2 Our customers want producers who have the
3 ability to get a variety of products, the ability to
4 get it all in one shipment with their own label. As
5 far as we know, no U.S. producer is able to do that.

6 We provide all of our customers with in-
7 house private labeling services helping them to
8 develop and design custom labeling and artwork to
9 promote their own business and also help them with
10 importing it to meet the credit requirements of doing
11 international business.

12 We also arrange for packaging in smaller
13 quantities required by these dealers. Many of our
14 customers require mix containers containing both nails
15 as well as all types of collated nails including wire,
16 plastic, and paper collation. They can't buy all of
17 these mixed items from one U.S. producer because the
18 U.S. producers don't have the product breadth that is
19 needed.

20 By purchasing from CMI, we allow them to get
21 the multiple products they need to compete in one
22 container, packaged the way they want it, and labeled
23 the way they need it.

24 The inability to get branding from U.S.
25 domestic producers is a common complaint and probably

1 the biggest problem on the market for the U.S. nail
2 producers.

3 Domestic producers will not private label
4 for the customers brand nor do they produce all the
5 various products we can buy from Precision mixed in
6 one shipment.

7 This is our customers major requirement to
8 promote their brand loyalty. Without the services we
9 provide them in our suppliers like Precision, they
10 would not be able to compete in this space of the
11 market.

12 Precision, on the other hand, will private
13 label for my customers and will private label in small
14 quantities. Sometimes one order from CMI to Precision
15 may involve 10 different private labels.

16 Precision has the full product breadth and
17 the willingness and ability to custom label in small
18 quantities. Precision, unlike the domestic producers,
19 is willing to do that for CMI and our customers. To
20 our knowledge, this is how Precision differentiated
21 itself from the domestic companies like Mid-Continent.

22 The ability to mix many different items,
23 perform the private labeling aspect, and provide a
24 top-quality product is who Precision is. We have
25 bought these items from China for years as well as

1 Korea and Malaysia, and never have we had the problem
2 for the experience that we have had in dealing with
3 Precision.

4 Precision is not a low-cost provider
5 compared to the U.S. industry. In fact, on basic
6 commodity products like plastic strip, our customers
7 have told us that U.S. producers sell at a lower cost.
8 However, Precision differentiates itself for the
9 reasons described above.

10 It's Precision's custom service detail that
11 supports the business. I have visited the Precision
12 factory. The attention to detail and quality is
13 superior to any other producers we have dealt with.

14 The imposition of anti-dumping duty order on
15 imports from UAE will not cause us to purchase from
16 the domestic industry. The only way we would purchase
17 from a domestic producer would be if they were willing
18 to private label the nails and a variety of products
19 for our customers.

20 The domestic nail producers will not do
21 that, therefore, without imports, we would be unable
22 to meet the demand of our two-steppers and tool supply
23 shop customers.

24 Accordingly, if duties are imposed on
25 imports from the UAE, CMI would simply shift our UAE

1 supply to our other overseas producers we currently
2 have in Malaysia, Korea, and China that are willing to
3 supply the nail products that our customers demand.

4 In fact, we have already shifted some of our
5 supply from the UAE to these other countries as a
6 result of the Department of Commerce preliminary
7 determination last fall.

8 Thank you, Madam Chairman, Commissioners,
9 and staff for your time and your extensive work on
10 this investigation. I'd be more than happy to answer
11 any questions you may have of me.

12 MR. VED: Good afternoon. My name is Rupak
13 Ved. I'm from Dubai Wire. I would like to thank
14 Madam Chairman and the Commissioners for giving me
15 this opportunity to explain a few things.

16 What I'd like to say is, you know, a lot of
17 people make nails, but the fact is that you have to
18 make them and make money at it. We have proven twice
19 now that we make money making money for these nails
20 for over 30 years. Why -- what's the difference?

21 The difference is that a lot of people are
22 trying to upgrade their equipment today. We have been
23 doing this since 30 years. We have more than 200
24 people who are totally geared for automation.

25 They're geared for quality controls with

1 automation. And people are trying to do it today, but
2 it's not about buying junk machines and converting
3 them to production. It's buying vending machines, and
4 binding machines, and putting it into production which
5 can give you productivity, and that's how you compete.

6 We build our own machines. A lot of
7 machines, we build them ourselves. We have this in-
8 house technology to keep upgrading them, and that is
9 one of the main reasons that we are successful.

10 I mean, I would like to explain that
11 basically it was said a little bit earlier that
12 there's no difference between packaging a 50 pound box
13 and a one-pound box. Let me explain the difference.

14 A one-pound box, you can pack 40 boxes per
15 minutes, and a 50-pound box, if you use the same
16 machinery, you can produce only six boxes per minute.
17 Yes, you can do it. Yes, you can produce any type of
18 nail, but it's not about the machine being capable of
19 producing a specific type of nail or a different type
20 of nail. The main thing is the tooling. Do you have
21 the tooling to make that nail?

22 How long will it take you to get the
23 tooling? Anybody can make a tooling for it. We make
24 our own tooling. We can turn around and make any type
25 of tooling that is required to make any type of nail

1 within 24 hours.

2 So our competition needs time because most
3 of the competition does not make their own tooling.
4 We make our own spec box, so the main issue now is we
5 want to bring this technology to United States and
6 it's purely a business decision.

7 Why? Logistic is the new part of this
8 business, direct and indirect logistic cost is more
9 than 30 percent. We have had this opportunity because
10 Master Halco, as Ms. Mona has already explained to you
11 earlier so I won't repeat it, but we will have seven
12 plants in the United States, and that way we would be
13 able to supply for the big advantage of freight costs
14 would be much less than having three different or four
15 different plants.

16 In supply, if you can supply overnight
17 versus being just in two locations and instead of that
18 having, you know, 36 locations, it makes a lot of
19 difference because the freight can put on for shipping
20 one pallet versus a truckload for long-distance can
21 cost you 10 to 15 percent higher.

22 So as a partnership with Prime Source, it's
23 going to make a big difference and it has made a big
24 difference. Our business is growing because we've got
25 the best distribution, best manufacturing facility, so

1 that's the main issue.

2 If everybody rests on the technology, this
3 problem would -- they would not have the problem and
4 they would be able to do much better.

5 I'm available for any questions that you
6 might have.

7 CHAIRMAN OKUN: Does that complete the
8 testimony of this panel?

9 MR. HOUSE: Yes, Madam Chairman. That
10 concludes the affirmative presentation of our panel.
11 Thank you.

12 CHAIRMAN OKUN: Thank you. Well, before we
13 begin our questions this afternoon, let me take this
14 opportunity to thank all the witnesses for being here.
15 For those of you have traveled some of those great
16 distances to be here and those who appeared before us
17 before, appeared multiple times, we also appreciate
18 you making the effort to come back to help us have a
19 complete record to make a decision. So again, thank
20 you very much, and thank you for your willingness to
21 take our questions.

22 Commissioner Pearson will start the
23 questioning this afternoon.

24 COMMISSIONER PEARSON: Thank you, Madam
25 Chairman.

1 Welcome to all of you, in particular, those
2 who have traveled long, long distances to be here.
3 But you did come for the cherry blossoms as we
4 mentioned earlier, so not all is lost.

5 How do you see the demand picture for nails
6 in the United States? Our staff report shows slight
7 increases over the period of investigation. What does
8 it look like going forward?

9 MR. LEFFLER: If you were to read the McGraw
10 Hill construction report, they're referencing a
11 roughly 10 percent increase this year in residential
12 construction and roughly a 28 percent increase in
13 multi-family construction, somewhere in that
14 neighborhood.

15 That's on the basis of a lot of people are
16 not necessarily able to qualify to buy homes now, so
17 there's a lot of apartments and condominium complexes
18 and such coming on line. So that's what this year
19 looks like. Certainly it's an estimation, but
20 definitely a positive aspect of where we see the
21 business going.

22 But those are off of some historically low
23 numbers, so those increases are not quite as
24 significant as we've seen in the past. But never --
25 yet, it's a positive direction for us.

1 MR. DOODY: We budgeted 2012 figuring about
2 667,000 units which would have been about a six
3 increase of our overall plan, and we're tracking right
4 now at about nine percent.

5 So, so far this first quarter has been
6 pretty good for us as long as this economy continues.

7 COMMISSIONER PEARSON: Okay, so I would be
8 correct to state that from the point of view of the
9 Respondents, their continued growth and demand is
10 expected for the reasonably foreseeable future? Okay,
11 thanks.

12 Mr. Ved, I asked the panel this morning if
13 they could tell me anything about the source of steel
14 wire or rod that might be used in the UAE, and they
15 preferred to let me ask you. So I would do that.

16 And I'm asking in the context of -- to try
17 and understand whether there might be some advantage
18 in terms of the cost of wire rod in the UAE compared
19 to the cost of wire rod in the United States.

20 MR. VED: No. There is absolutely -- we
21 have one mill in UAE which we can buy from. We also
22 import in Dubai for our manufacturing wire rod
23 depending on whichever is cheaper.

24 Since we've started production in Texas, I
25 have visited several mills in the United States, and

1 we have a mill which is, we only look at it in Dallas,
2 the first plan. We have Oklahoma Steel which is one
3 and-a-half hours away, and we have several
4 opportunities coming from material coming from
5 Houston.

6 So in fact, we have better advantage in
7 U.S.A. where we have multiple mills rather than just
8 depending on one mill. So we have option of at least
9 three or four competing mills in the United States
10 itself plus, of course, the imports if necessary is
11 there.

12 There's more advantage in U.S. than in UAE,
13 and that's one of the reasons we'd rather have our
14 manufacturing here.

15 COMMISSIONER PEARSON: And do you see those
16 advantages in terms of the price of the wire rod or
17 more in terms of the quick availability of the wire
18 rod?

19 MR. VED: Price is -- today in the world,
20 price is very similar, but the main advantage is, you
21 know, the quality, and we get very good quality here
22 because if the wire rod catches rust, then you have
23 additional processes that you have to go through.

24 And if you're just buying -- if it's
25 produced -- if you're using it within 7 to 15 days of

1 production, then you know, obviously you don't have to
2 clean the mills and you can just basically -- it's a
3 big advantage.

4 COMMISSIONER PEARSON: You avoid an acid
5 bath or some sort of thing like that?

6 MR. VED: We don't -- but unless we are
7 doing coating, we don't put it in acid bath. Most of
8 -- I mean, 60 percent of our product requires just
9 bright products, you know, it's very important that
10 the quality of the wire rod is good as compared to
11 buying cheap and then the packaging is spoiled and,
12 you know, so it's better to be domestic rather than
13 being imported.

14 COMMISSIONER PEARSON: Okay. Well, the
15 reason for asking is that for some products, including
16 some steel products, we hear at proceedings like this
17 that the U.S. prices tend to be higher than elsewhere
18 in the world.

19 And I was trying to understand whether that
20 is the case for steel wire rod, but based on both what
21 the Petitioners and what you are saying, I would get
22 the view that the prices in the United States are
23 roughly equivalent with the rest of the world and that
24 there's no, at this time, no real price advantage one
25 place or another.

1 MR. VED: It depends from time to time
2 because the U.S., some industry is based on -- if you
3 are working with industry mill which is scrap biz,
4 then their price of volatility will be based on the
5 scrap, the cost. Some are based on annual basis, so
6 monthly, you know, so they would be different.

7 So there are multiple reasons for different
8 pricing, and overall everybody -- the market demands
9 the supply and demand will dictate the price. And it
10 will even out with all these factors. So there is no
11 major difference in pricing from import or from
12 domestic.

13 COMMISSIONER PEARSON: Okay. Fine. I had
14 written down some time ago a question about why had
15 the decision been made to import machines, nail
16 machines, from the UAE rather than just buy some in
17 the United States because you have firms going out of
18 business.

19 We have testimony that there's a lot of
20 unused capacity machines sitting idle, so I was kind
21 of thinking, well, you know, buy some machines in the
22 U.S. and move them to Dallas.

23 Now, you answered that at least in part
24 indicating that the technology that you have developed
25 in the UAE is maybe superior at least in some respects

1 to the machines that could be purchased here.

2 Could you elaborate on that? Could you have
3 obtained machines in the United States that would have
4 met your standards if you -- if there had been enough
5 lead time to find them?

6 MR. VED: Okay, in our business there are --
7 I would divide it into three different segments. One
8 is new machines. One is quality machines, and one is
9 packaging machines. I mean, just to simplify.

10 There are two major producers of mill
11 machines in the world. One of them is a German
12 company called Rafros, and there's another company out
13 of Denmark called Incotec.

14 There are millions of other ones which
15 produce conventional machines which the speed
16 radiation on each of these -- if you buy a Chinese
17 machine, yes, you can produce about two to 300 pieces
18 per minute.

19 The general issues, you can produce from
20 internal to -- now the new technology has 1,300 nails
21 a minute. The days technology of Incotec, you can
22 produce up to 2,000 -- 1,300 to 2,000 pieces per
23 minute.

24 These machines are expensive, and the
25 machines that we have are the German mills. They're

1 very reliable, you know. You forced and I'm sure even
2 some of our competition also has those machines.

3 So, no, I couldn't have bought those
4 machines in the United States. U.S. -- United States
5 does not produce new machines since maybe 50/60 years.
6 There will be second-hand available. I mean, they're
7 only worth scrap.

8 If you use them, the quality, and
9 consistency, and productivity does not justify the
10 cost, so you need to invest -- most of the mills gave
11 up because they had these machines for a long time.

12 Some of them had the new ones, but anyway,
13 now going to the collating part, the collation
14 technology is relatively new in the world. It must
15 have started about 30, 40 years back.

16 It has matured recently. I mean, in the
17 last 20 years, it's become more disputed which you
18 call it is -- it used to be about 500 to 600 pieces
19 when it started per minute.

20 Now, we collate about 2,500 plus per minute,
21 and you know, a lot of people sell equipment that can
22 even produce at a higher speed, but to make it work,
23 we have to put a lot of -- we have imbued our machines
24 in a way, where we will get very consistent quality
25 and, you know, productivity which results into a much

1 better cost. So that's included.

2 On packaging, I mean as I said in my
3 statement, that we have specific packaging because we
4 -- for one pounders, for five pounders, and we
5 invested in it. You know. We invested in the
6 machines.

7 And we invested before -- we didn't have --
8 like you didn't go to the market and say we can do it.
9 We first enlist and then you go to the market and say
10 I can do it. Here is what we are delivering.

11 So there's a big difference. Yeah, I can
12 make rockets but I, you know, I can either -- so you
13 have to be able to do it, prove it and in view of
14 invested money to do this.

15 COMMISSIONER PEARSON: Okay. Well, thank
16 you very much for your explanation. I have the
17 impression that you are bringing a complete technology
18 package from the UAE to Dallas along with the
19 expertise to make it work, and that's an interesting
20 interface.

21 MR. VED: Yeah, we are bringing a complete
22 technology. We have legal print, all the know-how,
23 the drawings and we will produce many machines as we
24 go forward in here because everything is custom made
25 and to our own requirement. We have more than 50

1 people who design our machines.

2 COMMISSIONER PEARSON: Okay. Thank you very
3 much.

4 CHAIRMAN OKUN: Commissioner Aranoff?

5 COMMISSIONER ARANOFF: Thank you, Madam
6 Chairman and thank you to all the witnesses for being
7 here this afternoon.

8 Mr. Ved, you indicated that your company's
9 been in business for 30 years, was it always founded
10 with the intention of largely survey the U.S. Market?
11 Has that been the business that you've been in for 30
12 years?

13 MR. VED: We started production -- I like to
14 explain. I'm of Indian origin. I'm born in Africa,
15 Mozambique. I have a Portuguese nationality. I live
16 in Middle East, and I do most of my business in the
17 United States.

18 So this was just purely a business -- we
19 were just trying to sell our product and U.S. company
20 called Georgia Pacific approached us and decided to
21 your from us and they ended up buying in 1980 and
22 buying our entire capacity.

23 And it was more profitable for us to sell to
24 U.S. than to sell domestic, so I'm a businessman. I
25 have no other interest but for making money. I made

1 more money selling to U.S., and that's how it turned
2 out.

3 CHAIRMAN ARANOFF: It's just all of us are
4 maybe scratching their heads a little bit in trying to
5 figure out why someone would produce nails in the UAE
6 in the middle of a market that doesn't make very many
7 things with nails.

8 MR. VED: You need passion, and I have
9 passion from this.

10 CHAIRMAN ARANOFF: Okay. You were talking
11 some with Commissioner Pearson about your new
12 production operation in Texas. Are you planning to
13 produce the entire range of products ultimately in
14 Texas that you have been importing from the UAE?

15 MR. VED: Absolutely. That and whatever
16 nails are not listed in -- I mean, some products come
17 out and they're dumping, like roofing nails and, you
18 know, what are the other products? We would produce
19 every product. That's market requires.

20 CHAIRMAN ARANOFF: And you don't have like a
21 particular a brochure or a marketing product list
22 specific to that facility. You're just continuing to
23 use what you've always used and some of the product is
24 now being made here and some is being imported. Is
25 that the case?

1 MR. VED: Every product that Prime Source
2 markets, we will produce in the United States. So you
3 can refer to a prime source catalog if you like, but
4 we have our own catalog, and will expand on it, not
5 specially to any small product range.

6 CHAIRMAN ARANOFF: Okay. I wanted to go
7 back to a discussion that I was having with some of
8 the witnesses this morning about the particular
9 channel of distribution involving big-box retailers
10 and some -- maybe this is a question for Ms. Zinman.

11 Our record shows that a lot of those big
12 boxes just for nails that are within our scope tend to
13 have five or six separate suppliers, and I wanted to
14 get your take on why that's the case particularly
15 since you are representing a business which says it
16 can supply everything to everyone in any package or
17 quantity. Why wouldn't they just buy from you?

18 MS. ZINMAN: In case of -- there's two
19 segments actually to the business. Let's look at the
20 small package, hand-drive nails first. We are the
21 exclusive only supplier to Home Depot and Lowes. They
22 do not have six other suppliers.

23 We are the only supplier they stock Grip-
24 Rite brand hand-drive nails. And they require a
25 complete -- we have to supply every SKU because if you

1 look at their shelf, there's one -- it's All brand and
2 all the slats. Everything matches. It's color coded
3 -- from A to Z is coming from us.

4 Despite what was said they do not shop per
5 SKU. That doesn't happen. They have a nail program
6 and it's all from us. Every item. notwithstanding
7 the high-low whatever.

8 In case of collated nails, there are
9 different markets for different brands, so we market
10 -- they market -- they have I think three or four
11 different brands side by side on the shelf. They have
12 past load. They have Bostitch. They have Grip-Rite.

13 And each brand has each of these brands
14 have, including us. have spent a lot of money
15 advertising, promoting the brand, and just as you go
16 into a supermarket and there are four brands of
17 cereal, it's the same thing in the collated nail
18 business where there is brand recognition certain
19 tools tied to certain brands.

20 So they maybe different price points. They
21 may be different markets where certain brands have a
22 stronger name, and that's why they have multiple
23 brands in their collated nails inventory.

24 MR. CLARK: Commisisoner Aranoff, I'd like
25 to add to that if possible. I think it's a really

1 important thing that you brought up earlier today.
2 Hitachi is one of the brands that Ms. Zinman is
3 referencing, not specifically, but they're one of the
4 brands that are strong in certain parts of the
5 country. Hitachi is a very, very strong brand
6 throughout the United States. We're very strong with
7 the professional contractor. The durability of our
8 tool, the service aspects, the ease of service, the
9 longevity of the tool, and in the service we provide
10 actually going in and training the individual store
11 personnel. It's really important.

12 When you look at the nails that that end
13 user chooses, he chooses the nail, typically, that
14 goes with that brand. And this is a very important
15 point. Paslode has their success story, Bostitch has
16 their success story. Hitachi, we also have ours. The
17 reality that Mid Continent is going to participate in
18 that business when they don't even have that
19 established in any home center that I'm aware of
20 anywhere in the United States. Home Depot or Lowe's.
21 I've never seen a Mid Continent tool. Hitachi,
22 Stanley Bostitch and Paslode. Those are the dominant
23 brands.

24 COMMISSIONER ARANOFF: Do you know in the
25 market about what percentage of people will buy

1 collated nails that are branded the same as the tool
2 that they have?

3 MR. LEFFLER: I would say that -- This is
4 speculation. I don't have anything to back this up
5 but just my experience over the years, I would say 50
6 percent of the market is brand and 50 percent of the
7 market -- The majority of the market all look for
8 consistency and quality, but there are so many people
9 that don't understand, okay, I have this nailer,
10 they're not so sure that this other nail will actually
11 work in it. It just makes sense to them to buy the
12 nail that goes with the tool.

13 The more educated professional contractors,
14 those are the guys that may say you know what, I have
15 a history with Grip-Rite, or I have a history with
16 Paslode or I have a history with Stanley and it's
17 acceptable for me to buy that product and know it
18 works in my tool. But once again, I'll say it, I've
19 never seen a Mid Continent nailer in Home Depot or
20 Lowe's, so I don't know how they could expect to
21 participate in that business the way we do with
22 service centers all throughout the United States.
23 Those tools break. The biggest cost to a contractor is
24 his tool going down, so they don't want to necessarily
25 depend on buying a fastener that's not going to match

1 up with their tool. That's why the consistency in
2 range of product is very very important.

3 COMMISSIONER ARANOFF: Some people do buy
4 one that just says this will fit in the following
5 different brands of tools. They're on the market, so
6 someone's buying them.

7 MR. LEFFLER: Yes.

8 COMMISSIONER ARANOFF: But you don't know
9 about how much of the market that is.

10 MR. LEFFLER: My personal opinion is it's
11 less than half, I would say.

12 COMMISSIONER ARANOFF: Let me turn to a
13 totally unrelated issue and direct a question to Mr.
14 House.

15 In your brief right at the beginning, pages
16 two to four, you urged the Commission to disregard the
17 data of one particular domestic producer, so I just
18 wanted you to clarify. Are you claiming that that
19 producer should be excluded under the related parties
20 provision?

21 MR. HOUSE: No, Commissioner Aranoff, we're
22 not claiming that that producer in those circumstances
23 meet the technical definition for related party
24 exclusion. We're not asking the Commission to exclude
25 that company as a related party. What we're asking

1 the Commission to do is to take into account that
2 particular producer and the data that surrounds that
3 producer in looking at the overall domestic industry
4 data given the circumstances of that producer. And we
5 think that, as we stated in our brief, that for those
6 confidential reasons that we can't get into in the
7 public hearing, that there is reason for the
8 Commission to take out of its analysis in looking at
9 what's going on in the U.S. industry as a whole what
10 is going on with that producer because of those
11 circumstances.

12 COMMISSIONER ARANOFF: I would invite you in
13 post-hearing to offer an explanation as to how the
14 Commission can do what you're suggesting in the
15 context of our obligation to consider the domestic
16 industry as a whole.

17 MR. HOUSE: Yes.

18 COMMISSIONER ARANOFF: Thank you.

19 Thank you, Madame Chairman.

20 CHAIRMAN OKUN: Commissioner Pinkert?

21 COMMISSIONER PINKERT: Thank you, Madame
22 Chairman, and I too thank you, the panel, for being
23 here today to help us understand this industry and
24 what's likely to happen to this industry in the near
25 future.

1 I want to begin with a couple of questions
2 for Ms. Zinman, and it concerns the joint venture plan
3 and the timing of the joint venture plan. I know that
4 you understand that that's an issue here because you
5 did testify about the timing.

6 I wanted to ask you, what was the date of
7 the earliest documentation of the joint venture plan?
8 you said it had been discussed for many months, and
9 had been conceived over a period of many months, but
10 what was the date of the earliest documentation
11 reflecting the plan?

12 MR. MARSHAK: As far as what we put on the
13 record, we have documentation going back to December
14 20, 2010 which was long before we even conceived that
15 a petition would be filed against the UAE.

16 As far as actual discussions between Mr. Ved
17 and Ms. Zinman, I think that goes back for a long,
18 long time before, because they had this idea in their
19 minds. But as far as putting it on paper, we have a
20 report that was commissioned by Mr. Ved in December
21 2010. We have another PowerPoint in December 2010. A
22 restructuring plan that expressly discusses nails in
23 January 2011. That's all before anybody filed the
24 petition. I can tell you that nobody here at this
25 table had any idea a petition was going to be filed

1 against the UAE.

2 As far as the business people thought, once
3 that petition was filed in 2008, 2007, and once they
4 won in 2008, they thought that was going to be the end
5 of it.

6 COMMISSIONER PINKERT: Just to follow up on
7 that. I understand there was a study and I understand
8 there was some documentation that occurred prior to
9 any thought about this antidumping proceeding, but is
10 there documentation from that period that reflects
11 that the decision had been finalized to go forward
12 with this plan.

13 MR. MARSHAK: As far as on the record, the
14 studies were done, there was extensive negotiation.
15 As far as finalizing it, they can tell you better than
16 I can --

17 COMMISSIONER PINKERT: Please do, Ms.
18 Zinman.

19 MS. ZINMAN: Without actually looking at the
20 papers or what actually we put in writing of when the
21 actual approvals were started to be submitted to the
22 Board of Directors of Itochu, I'd have to go back and
23 actually look at the papers.

24 I know when the plan, as I testified, when
25 the plan was put into motion. I can also tell you,

1 and I don't have the documentation on it, that it was
2 at least a year before that, even before Master Houko
3 became, we became involved with it, that Mr. Ved
4 started to say that the future is United States.
5 Manufacturing is going to be coming back to the United
6 States. We belong in the United States. I can only
7 tell you that, I don't have the specific
8 documentation, but at least a year before that. As
9 far as in the papers, once the study was commissioned,
10 we were on board.

11 Now it may have taken some time to actually
12 get sign-offs. We're a big company. We have approval
13 processes involving money being invested. But the
14 plan was set before this investigation came down.

15 Frankly, even when the investigation was
16 started, I never even, we never believed that there
17 would, that the case would have any kind of negative
18 outcome. We never anticipated or took that into
19 account and said oh, wow, there's going to be
20 something -- We better do this. Because we never
21 believed that there was any unfair selling or dumping.
22 So we never took that into consideration in the plan.

23 COMMISSIONER PINKERT: Thank you.

24 Again, this next question is just trying to
25 get at what may be a conflict of perspectives between

1 you and the Petitioner's side in this case. And I'm
2 just trying to nail down some facts that may help us
3 to resolve any conflict of perspectives on this point.

4 But when was that phone call that you
5 testified to from Mr. Libla that talked about how,
6 well why don't you just buy my business instead of
7 establishing this production in the United States?

8 MS. ZINMAN: When was it?

9 COMMISSIONER PINKERT: Yes.

10 MS. ZINMAN: I remember exactly where I was
11 when I got that call, and if I can answer, when I
12 check the calendar --

13 COMMISSIONER PINKERT: Where were you when
14 you got that call?

15 MS. ZINMAN: I was in the bathroom at the
16 airport, a layover in Chicago. I can check my
17 calendar and tell you the exact date of when that was,
18 when that call came in.

19 MR. MARSHAK: We'll put that in the post-
20 hearing brief.

21 COMMISSIONER PINKERT: You may want to limit
22 the amount of information on that topic, but I'm
23 concerned about the timing.

24 If you have any written record that's
25 contemporaneous with the phone call or any notes that

1 were taken about the phone call, that would be very
2 helpful.

3 Mr. Ved, could you, is it possible, as a
4 technical matter is it possible to ship your subject
5 nails to major markets other than the United States?

6 MR. VED: Yes, it is. As long as we can
7 make the tooling for it, the name on any machine can
8 be made. I mean something to some limitation on
9 certain machines, but yes, if a name is used in Europe
10 which you asked earlier.

11 Secondly, we have our own company in
12 Germany. We have 50 percent interest in a company
13 called Holze KM Reich (ph). We ship some product
14 there so we are familiar with shipping to the European
15 market.

16 COMMISSIONER PINKERT: Are the technical
17 standards in the European market different from the
18 technical standards in the United States?

19 MR. VED: Well, in Europe you sell by DIN
20 standards and in the United States you use ASTM. But
21 very similar. There are very minor differences, but
22 coating life, coating thicknesses, and different type
23 of threads, and nothing that equipment cannot make.
24 The same equipment.

25 COMMISSIONER PINKERT: I guess what I'm

1 trying to get at is this issue that was raised in
2 Commissioner Aranoff's questions about the focus on
3 the U.S. market. Is there any particular reason why
4 you would focus for example more on the U.S. market
5 than the European market?

6 MR. VED: Our production has a premium here.
7 People pay a premium for it. And people love us, so
8 we like to be here. We liked to be loved. Really,
9 people want our product. We have competed against
10 China, we have competed against Korea, we competed
11 against Taiwan, Vietnam. So we have a value here. We
12 are selling with value.

13 COMMISSIONER PINKERT: Thank you.

14 As you all know and as is a matter of the
15 record, the Commerce Department made a negative
16 determination on dumping back in the investigation
17 2008. Has anything changed with regard to your
18 pricing practices between that investigation and the
19 current investigation?

20 MR. VED: We have always sold based on the
21 raw material costs and at a profit. So our pricing is
22 based on raw material costs and then whatever is the
23 making charge we add to it and fluctuate that as the
24 price of steel or zinc or plastic fluctuates. So our
25 policy is to make money and to pass on the cost to the

1 buyer as it changes.

2 COMMISSIONER PINKERT: As you know from the
3 testimony earlier, the Petitioners are saying that
4 when the investigation on China went affirmative and
5 on the UAE went negative, that you saw an opportunity
6 to really accelerate the movement of the subject
7 imports from the UAE into the U.S. market. I just
8 want to give you an opportunity to respond to that.

9 MR. VED: We just sold, if you look at our
10 statistics, our own statistics, we sold based on our
11 capability and people wanted to buy from us so we sold
12 at a profit. I don't think there's anything wrong in
13 people giving us preference because they like our
14 product.

15 We didn't increase our capacity, in fact we
16 have not been able to run at full capacity as is in
17 Dubai even when we didn't have dumping. And we have
18 never promoted to sell our entire capacity if it could
19 not be sold. We just limit it to what we can. If
20 people want it and are willing to pay the price for
21 it, we sell it.

22 COMMISSIONER PINKERT: Thank you.

23 Ms. Zinman, did you want to add something
24 quickly? I'm past the end of my round, but you can go
25 ahead.

1 MS. ZINMAN: I wanted to make two quick
2 points. As far as the pricing is concerned the way
3 that we buy from Dubai Wire has remained consistent
4 all the way through, from day one, and it's base don
5 an index. There's an automatic spreadsheet index.
6 You start at the starting point with wire rod, zinc,
7 the price of the box, the price of the ocean freight,
8 the cost factors. As they change, once a month
9 generally because wire rod is generally sourced once a
10 month. When the wire rod price changes, either up or
11 down, the new wire rod cost is put into the matrix,
12 the index, and the prices change. Consistent, 100
13 percent along the way.

14 As far as the quantity is concerned, we have
15 never bought more than we needed. We have never been
16 pushed to buy more than we needed. Some months,
17 winter months, it's slower. The spring is higher.
18 Business is up, business is down. Our purchases are
19 what we need, not to slam additional product in or in
20 any response to any of those other situations.

21 COMMISSIONER PINKERT: Thank you.

22 Thank you, Madame Chairman.

23 CHAIRMAN OKUN: Commissioner Johanson.

24 COMMISSIONER JOHANSON: Thank you, Madame
25 Chairman. Also I'd like to thank you all for

1 appearing her today.

2 The first question is probably for Mr. Ved.

3 Petitioner's assert that absent an
4 antidumping order Dubai Wire would shut down its joint
5 venture in Texas and ship any production equipment
6 back to the UAE. Please comment on this would or
7 would not be the case.

8 MR. VED: Infrastructure cost is a huge cost
9 in setup of a plant. We have spent already millions
10 in upgrading the infrastructure to meet our
11 requirement. Even in Dubai we had taken additional
12 facilities which we have sold back and got rid of it.
13 In Dubai most of the production is made on imported
14 labor because there is no labor in Dubai so we import
15 most of our labor from Dubai. We have already let go
16 the people that we don't need. So to get back the
17 people would take me at least three to six months, and
18 then training is a big process.

19 These are not toys. You can't just bring
20 them one day in and that. Even Mr. Libla said even to
21 put his excess capacity into production, today you
22 heard from him, that it's three to six months.

23 If I'm going to spend \$5 million every six
24 months, today it's better to produce in U.S. so I'm
25 bringing it here; tomorrow I'll take it to Vietnam;

1 and then day after tomorrow back to Dubai. It is not
2 a portable Walkman you know. A lot more. Training
3 people itself it takes six months to get a reasonable
4 output out of something. These are not automatic cars
5 that you just buy and everybody follows those
6 standards. Every machine is different. You have to
7 train people to do it. I wouldn't have the people
8 today.

9 COMMISSIONER JOHANSON: Thank you.

10 I guess I'm going to go back to one issue
11 that a lot of us are interested in, and that is why
12 nails are made in the UAE. I assume you have fairly
13 low energy prices? I'm just curious about --

14 MR. VED: No, energy prices are the same,
15 United States versus Dubai today.

16 COMMISSIONER JOHANSON: Maybe so with
17 natural gas prices here.

18 MR. VED: Gas prices are lower in United
19 States than Dubai. Electricity price is identically,
20 I could give you the exact numbers. I am comparing
21 every day, it's the same. And the gas price is
22 actually half in United States of what we would have
23 to pay in Dubai.

24 Dubai does not have its own oil. Dubai
25 imports oil from neighboring countries like United

1 States. United States has reasonably their own
2 reserves and own production. Dubai does not have its
3 own oil. They buy energy material from outside.

4 COMMISSIONER JOHANSON: The Petitioner's
5 brief, and this is probably for Mr. Ved again. The
6 Petitioner's brief contains an article which states
7 that the Dubai Wire Group has added a new 160,000
8 square foot logistics center in Dubai. How is this
9 consistent with reduced shipments from the UAE?

10 MR. VED: As I said earlier, we did take up
11 this facility because we wanted to pack and we had so
12 may different type of SKUs so we did buy this
13 facility. We have sold it about a month back. We
14 will submit documentation that we have sold it because
15 we have no use for it because we're not going to
16 produce to this quantity anymore in UAE.

17 COMMISSIONER JOHANSON: Thank you.

18 To what extent was a decline in subject
19 import quantity and market share in 2011 a function
20 of the filing of the petition in March of 2011?

21 MS. ZINMAN: What we did in 2011, the
22 quantities that we purchased, were essentially
23 unchanged from what we had bought previously. We were
24 buying under the exact same parameters, running the
25 same exact computer forecasting reports. There was

1 absolutely no change in our purchasing habits in 2011
2 because the petition was filed. And as I said, maybe
3 not that intelligently, but at least intuitively we
4 believed that there was no merit to the case, and how
5 could this case possibly go forward. So we went
6 forward with our plan, with PSW, with purchasing as we
7 needed. Now as the plant is coming on board the
8 quantities from, you'll see if you look at 2012,
9 you'll see the quantities now start to at least our
10 purchases start to come down, but not in 2011.

11 COMMISSIONER JOHANSON: Thank you.

12 Ms. Zinman, this question is for you as
13 well.

14 The Petitioners, actually I believe IBP
15 contends that following the 80 order in Nails From
16 China, IBP chose to source nails from Dubai Wire
17 because of uncertainty and not because of price.

18 What was the nature of this uncertainty if
19 it was not the prices? Was it actually having a
20 supply of nails to purchase?

21 MS. ZINMAN: What I meant by uncertainty was
22 that in the dumping duty investigation when a rate
23 comes in, even though it's called a final rate, it's
24 not really the final rate. You then are subject to
25 the period of review and a year after you've bought

1 the product or a year and a half or even two years
2 after you bought the product, paid for the product,
3 paid whatever deposit duty rate was, priced your goods
4 accordingly, if the rate comes in higher you now
5 retroactively owe a lot of money.

6 So this uncertainty when you're buying large
7 quantities of product it can be devastating. Two
8 years later, two and a half years later on business
9 that's long gone, long sold and paid whatever the
10 price is going to be, now you have a duty bill. you
11 can't run a business that way. It's potentially
12 devastating.

13 So to not have that risk hanging over our
14 head we looked to change the source of supply. Not
15 because of the duty rate, because the duty rate
16 because the duty I think at the time came in at
17 whatever it was, 20 percent or 19 percent or whatever.
18 That could have been factored in to a marketplace if
19 we knew that was what the final rate was going to be.
20 But it wasn't, and exactly the fear that I had then
21 came to pass as the POR2 results came out about two
22 weeks ago when the preliminary rate literally doubled,
23 I mean the final rate literally doubled from the
24 preliminary rate.

25 If the business had continued, there was a

1 huge amount of money that now would have been owed
2 retroactively.

3 COMMISSIONER JOHANSON: I understand. Thank
4 you for detailing that.

5 I was wondering if nails, are nails from
6 non-subject countries marketed in a similar manner to
7 domestic nails and to UAE nails? We haven't heard a
8 lot about the non-subject nails. I'm kind of curious
9 about that.

10 MS. ZINMAN: Identically. We do not
11 inventory by country of origin, we do not sell by
12 country of origin. We sell a Grip-Rite nail. And
13 whether the nail came from the UAE or it came from
14 Taiwan or China or wherever, there is one price for
15 that nail. A customer calls up, he wants a box of 16
16 penney sinkers, he gets shipped a box from inventory.
17 It could be from one of any six or seven countries.
18 Country of origin, we don't maintain records by
19 country of origin, we don't sell by country of origin,
20 we don't price by country of origin. We sell a Grip-
21 Rite nail.

22 COMMISSIONER JOHANSON: Thank you.

23 MR. LEFFLER: Commissioner Johanson, I would
24 just like to confirm that as well and just add one
25 more point. Hitachi does the exact same as Prime

1 Source. WE don't inventory by country of origin.

2 There's another point. Customers look to us
3 because we make sure that we spec our fasteners to the
4 specific standards, ASTM and all of the different
5 codes that are important to the end user.

6 So regardless of where we buy from they have
7 to meet our specs. We QA the product at the facility,
8 have it tested, so they must meet our spec. So the
9 confidence from our customer and the ultimate end user
10 is that it's Hitachi. It says the ASTM standard on
11 the box. That's what we have to, as a global company
12 and with the risk that's out there, we have to stand
13 behind that product. Therefore we have to make sure
14 it meets our specifications.

15 Thank you.

16 COMMISSIONER JOHANSON: Thank you. I have
17 about seven seconds left, so I think I will conclude
18 my questions there.

19 Thank you all.

20 CHAIRMAN OKUN: Thank you again for all your
21 responses thus far.

22 Let me just continue on the subject of non-
23 subject imports. I think I'm going to have to ask
24 this of counsel even though I very much appreciate
25 counsel letting the witnesses give all the answers.

1 But we have to look at the evidence collected in our
2 staff report in making our analysis. When I hear the
3 witnesses talk about that you don't inventory your
4 non-subjects differently and it's all in a package,
5 but our data that we collect on non-subjects shows
6 distinctions in the pricing data for non-subject
7 imports as well as the AUV data.

8 I wanted to have you respond to that in
9 light of the witnesses' testimony of how we look at
10 this record and evaluate the competitiveness of non-
11 subject imports.

12 MR. HOUSE: Thank you, Madame Chairman.

13 I think to some extent we'd like to respond
14 in our post-hearing brief due to the confidential
15 nature of a lot of the data.

16 But I think it is important to reemphasize
17 what we've heard from all of the purchasers and
18 importers today regarding their certainty that their
19 choice of supply if UAE supply is not available is the
20 variety of third country non-subject sources that are
21 out there. We've heard this consistently from all
22 members of the panel, and these are all of the folks
23 involved in the current market for UAE-sourced nails.

24 We think that at a qualitative level, you
25 could say anecdotal level, but since we've got such

1 essentially universal coverage here, it's more than
2 anecdotal. The qualitative situation is that the
3 supply from the non-subject countries is considered by
4 these purchasers, by these importers, to be available,
5 and that will be sought if in the case that UAE nails
6 are not available.

7 MR. MARSHAK: I just want to add one thing
8 on behalf of Prime Source. If you look at their
9 importers questionnaire you're going to see a lot of
10 non-subject imports and you can see the prices and the
11 quantities of non-subject imports are really
12 significant.

13 The prices are going to be the same,
14 subject, the non-subject, the quantities of non-
15 subject are going to be really high. Prime Source has
16 been importing nails from Taiwan, Korea, from all over
17 the world for years and years, and the customers, as
18 Ms. Zinman, just said, don't care. So we think any
19 possible injury is not by reason of the UAE imports,
20 and I think Ms. Zinman also would agree or say that
21 the costs of the UAE imports are the same or higher
22 than imports from any other country, but I'll let you
23 say that.

24 MS. ZINMAN: I think I said it before.

25 CHAIRMAN OKUN: I will look forward to the

1 post-hearing submissions with respect to any other
2 information that you can direct me to in evaluating
3 the competitive non-subjects.

4 But I had wanted to ask Mr. Doody and Mr.
5 Fischer, because they had both in their testimony and
6 responses indicated that at least with respect to Mid
7 Continent, that an order would not force you to go to
8 a domestic supplier. I don't want to put words in
9 your mouth, but what I heard was you wouldn't go to
10 domestic suppliers. You would look to non-subject
11 countries.

12 MR. FISCHER: Ms. Chairman, I think I can
13 answer your question a different way.

14 As an example, if we get an order for a
15 customer for ten truckloads of 3x131 plastic strip
16 which everybody makes, pretty much our cost is pretty
17 similar from Korea, Malaysia and from Dubai. Often on
18 that type of order we'll actually split the order.
19 We'll give each country a piece of it because we want
20 to keep them all working with us. We can't go to
21 Malaysia or Korea and keep inquiring about price and
22 availability and never buy from them. So we might
23 favor Precision because of our relationship and their
24 sales ability and the other things they do for us, but
25 we still might split that order. Maybe they'll get

1 seven of the ten orders and we'll give two to Malaysia
2 and one to Korea and it's all for the same customer
3 and we sell it all at the same price.

4 CHAIRMAN OKUN: What happens if an order is
5 put in place on the UAE? Because again, the
6 contention of Petitioners would be that while there is
7 now non-subject coming in from China in significant
8 quantities, UAE increased its capacity when the orders
9 went into effect and therefore they were able to fill
10 a large void.

11 If an order is placed in effect is there
12 another non-subject country that can easily fill with
13 the type of quality or the SKUs, the product lines
14 that you have discussed, can that be done tomorrow?

15 MR. FISCHER: I don't know if it can be done
16 tomorrow, but one of the things we've noticed in Korea
17 and Malaysia, especially since this current situation
18 we're involved with, they all seem to be increasing
19 their capacity to want to grow their market share.

20 We used to be able to get shipments out of
21 Malaysia as an example pretty quickly, and now we're
22 noticing that it takes longer because other U.S.
23 importers have gone there to shift their buying
24 patterns away and they've kind of locked up supply
25 over there.

1 In my communication with the factories, they
2 claim they have more machines on order, they're going
3 to be growing their capacity, they want to ship more
4 stuff here.

5 One of the other Commissioners had asked the
6 question about why don't you just sell your product in
7 Europe? They don't use all the same products there
8 because they don't have the same wood construction.
9 They're doing a lot more concrete and masonry.
10 There's not as much wood connection. So there are
11 fasteners there, but the U.S. is the market.

12 CHAIRMAN OKUN: Would anyone else on the
13 panel like to comment on the competitiveness of other
14 non-subject country imports?

15 IF you would turn your microphone on, Mr.
16 Doody.

17 MR. DOODY: I would support everything that
18 Pete just said. It's basically the same. You balance
19 your supplier base so that if there are any
20 disruptions, a fire, whatever it may be, you need that
21 insurance. So we've always balanced our supplier
22 bases. We also buy from Malaysia, we buy from Korea.
23 We do all the imports on our own brand from an
24 Interchange standpoint. But we also buy from every
25 one of the domestic manufacturers that have been

1 mentioned.

2 We buy from both the guys in the room here
3 with us. We're a multi-million dollar purchasers of
4 Senco, of Paslode, of Bostitch. We import from the
5 Paslode plant in Shanghai. Paslode brand. We import
6 from the ITW plant that's in Malaysia and we import,
7 they do Interchange brand for us and they also do
8 Paslode brand for us. It gets blurred in the lines of
9 Bostitch, Senco, Paslode, Interchange, Hitachi, blends
10 together kind of on a worldwide market any more these
11 days.

12 Long ago it was dominant Senco, Paslode,
13 Bostitch. DualFast was in there, but those were the
14 three dominants. And those are the three, each one of
15 those manufacturers, back in the day, had their own
16 proprietary nails and staples. That in itself is what
17 evolved to other private label lines, and Hitachi that
18 was able to have one brand of fasteners that would fit
19 in all those different tools. That's what created the
20 whole overall worldwide market.

21 CHAIRMAN OKUN: Mr. Ved, any comments on
22 that? When you look around the world who do you think
23 the strongest competitors are to supply nails?

24 MR. VED: Nails can be made anywhere as we
25 have all established. Wire rod price which is today

1 60 to 70 percent component of the cost. So it really
2 doesn't matter. It can be produced anywhere in the
3 world. You can, pricing will depend upon individual
4 capability of how competitively he can produce it.

5 Whether it is in Taiwan or Vietnam or
6 Malaysia or United States. That's why we made the
7 decision that hey, this is where the market is. Why
8 pay additional freight? Let's do it here.

9 CHAIRMAN OKUN: Our staff attempts to
10 collect as full a record as we can with respect to
11 non-subjects, so if there's any additional information
12 you would have with respect to that data for our post-
13 hearing, that would be appreciated.

14 Mr. Leffler, you had mentioned in terms of
15 forecasts of McGraw Hill, and I'm not sure we have
16 that on the record. Is that something that can be
17 made available in terms of forecasts?

18 MR. LEFFLER: Yes, ma'am. I can make sure
19 counsel provides it to you in the brief afterwards.

20 CHAIRMAN OKUN: I appreciate that. Also with
21 respect to business forecasts for Ms. Zinman and Mr.
22 Ved. I very much appreciate the information that's
23 been placed on the record thus far with respect to the
24 U.S. facility. You've had a number of questions about
25 documentation and timing and I'll look forward to

1 reviewing that in the post-hearing as well.

2 But I also wondered whether included in that
3 or whether you could include your demand forecasts for
4 the U.S. facility. Ms. Zinman, you had talked about
5 that you would still need UAE production, and whether
6 there are any specific forecasts related to that phase
7 out or those products that could be provided for post-
8 hearing.

9 Okay. They're shaking their heads in the
10 affirmative.

11 My time is up, so I will turn to Vice
12 Chairman Williamson.

13 VICE CHAIRMAN WILLIAMSON: Thank you, Madame
14 Chairman. I want to express my appreciation to the
15 witnesses for coming, especially those of you that
16 have come from quite a long way to be here today.

17 Mr. Ved, I can't get it out of my head. I
18 still have some Georgia Pacific nail boxes in my
19 basement from when I was doing renovations back in the
20 '80s. What happened to them? Just briefly.

21 MR. VED: Well, Georgia Pacific was mostly
22 in the bulk business and that's how we started the
23 business with them. We wanted to get into the value-
24 added Business because it meant more money. And
25 Georgia Pacific also lost interest. They spun off

1 their distribution business into Blue Links now.
2 Weyerhaeuser also used to be a big customer, but
3 they're not specialized into this. Their priority is
4 into the wood and paper depending on whom you talk
5 with, so they sort of lost interest in the business.
6 But we kept on. We found new partners, new --

7 VICE CHAIRMAN WILLIAMSON: Thank you. I
8 just had to close that loop, because curiosity was
9 getting to me.

10 Let's get to the present time, though.

11 This is for anyone on the panel. You've
12 already talked about what happened on volume I guess in
13 the first half of 2011. Some of the pricing probably
14 seems to have increased in 2011, and either now or in
15 post-hearing I was wondering if anyone could address
16 to what extent it might be a function following the
17 petition or to something else.

18 MS. ZINMAN: I'm sorry, did you say pricing
19 increased? Is that what you said? Why did the prices
20 increase?

21 VICE CHAIRMAN WILLIAMSON: Yes.

22 MS. ZINMAN: Again, the price of everything
23 that we buy from Dubai Wire is based on an index. So
24 if wire rod prices went up, then the cost of the
25 product went up. One hundred percent index related,

1 cost of production.

2 VICE CHAIRMAN WILLIAMSON: So it has nothing
3 to do with the petition.

4 Thank you.

5 This morning Petitioners stated that one
6 pound to five pound boxes account for a very small
7 share of the market. Do you agree with this
8 characterization? And can you give an estimate of the
9 approximate share of the market accounted for by the
10 one to five pound boxes?

11 MS. ZINMAN: I don't agree that it's a small
12 part of the market. I think in case of the hand drive
13 nail business I think it's a major part of the
14 business. It's stocked in every single Home Depot,
15 Lowe's store, every single large retail hardware
16 store, lumber yards, that is the major way now that
17 hand drive construction nails are sold.

18 I would estimate that small packaging has
19 got to be, in case of the hand drive part of the
20 business, --

21 VICE CHAIRMAN WILLIAMSON: And by small
22 packaging you mean?

23 MS. ZINMAN: One pound and five pound, as
24 opposed to a large 50 pound carton.

25 VICE CHAIRMAN WILLIAMSON: Thanks.

1 MS. ZINMAN: In that channel it must be 80
2 or 90 percent and maybe overall I would be guessing,
3 maybe 60 percent.

4 Again, there are other niche parts of the
5 hand drive business. For example pallet nails which
6 Mid Continent is very strong in. There are no
7 packaged nails sold in pallet nails because basically
8 the nails are dumped out of the box. It's not a
9 retail type item. But in case of retain it's a very
10 large part of the business.

11 Just to give you one number example, our
12 overall fastener sales, this includes nails and
13 screws, most of which is packaged, is several hundred
14 million dollars of which Home Depot and Lowe's is
15 about 40 percent, so you can try to get some sense of
16 the numbers of the sale volume.

17 VICE CHAIRMAN WILLIAMSON: Do the big box
18 retailers have different requirements for their
19 suppliers than say other major purchasers? And how
20 are their requirements different?

21 MS. ZINMAN: In case of service, for Home
22 Depot we are required to service their stores. So we
23 have 120 employees whose job is 100 percent of the
24 time to go to visit the Home Depot stores, make sure
25 that the shelves are correct, everything is neat.

1 VICE CHAIRMAN WILLIAMSON: This is your
2 marketing program.

3 MS. ZINMAN: Right. In addition, everything
4 must be UPC coded. All of the billing must be
5 electronic through electronic, you don't mail an
6 invoice, it has to be done electronically. They have
7 to be able to scan receipt of the product that comes
8 in. So there's a lot of technical requirements in
9 doing business with them.

10 And just from a general --

11 VICE CHAIRMAN WILLIAMSON: Does that mean
12 when the product comes from the factory is it already
13 in those packages with the UPC codes and --

14 MS. ZINMAN: Yes. It's already labeled with
15 the UPC code. Before we ship it out we check it. We
16 have bar code machines that scan to make sure that the
17 UPC codes are working correctly.

18 Also you have to make, you're basically
19 obligated if you want to maintain the business, to
20 ship as close to 100 percent fill rates as possible.
21 Which means if they order 50 items on a truck, you
22 need to deliver those 50 items. If you deliver 40 of
23 those items, you're going to have a problem in
24 maintaining the business.

25 So you have to be able to make store direct

1 deliveries, directly to the store with a multitude of
2 items. Hundred percent fill rates, once a week.
3 Within 72 hours generally.

4 MR. LEFFLER: Mr. Williamson, can I add
5 something to that? I think it's a real important
6 topic.

7 Home Depot and Lowe's both have very very
8 specific requirements of their vendors. When it comes
9 to shipments, they could order anywhere from one box
10 to 50 boxes. That may go straight and it passes right
11 through their DC to the store. There's extensive
12 requirements with labeling the pallet so that there's
13 manifests on there so they know when it hits their
14 RDC, their regional distribution center, it passes
15 straight through to the store. It's not like we're
16 just going to load a whole truckload of product and it
17 hits the DC and they break it out. There are very
18 extensive contractual requirements that you have to
19 follow, and it's not something that's easy to do.
20 It's a major investment for anyone to sell that
21 channel.

22 VICE CHAIRMAN WILLIAMSON: The channel for
23 like the Ace or Tru-Value, those buying cooperatives,
24 is that similar or different requirements?

25 MR. LEFFLER: From my perspective the Ace

1 and Tru-Value, there are varying levels of programs.
2 They have their own warehouse program and then they
3 have what's called a drop ship program. Basically the
4 warehouse program is where they order product into
5 their distribution centers and they distribute it
6 based on their customer orders. In a lot of cases they
7 also have drop ship programs because they don't want
8 to stock everything in the warehouse. So they'll
9 place a smaller order with us that ships direct to the
10 customer. Once again, it's extensive to bring those
11 orders together, palletize them, and very expensive to
12 ship. In those cases that's why it's advantageous for
13 them to stock as much product in their distribution
14 center as possible. But we participate in both sides
15 of that, warehouse and drop ship.

16 VICE CHAIRMAN WILLIAMSON: And they're also
17 expecting UPC labels and all that to be on it.

18 MR. LEFFLER: Yes. EDI, UPC, all of that.

19 VICE CHAIRMAN WILLIAMSON: This morning Mr.
20 Gordon brought in a lot of products they purchased at
21 I think some of the big box stores and also local
22 stores around here. All domestic produced.

23 I don't understand, you all have been
24 implying that basically they can't do that. He's
25 saying they are in the stores in the U.S., so I don't

1 understand what's the problem? Is it they're not able
2 to do it to the extent that you all are?

3 MR. LEFFLER: We compete with Stanley
4 Bostitch, Paslode, Senco, all day long. It's like I
5 spoke about earlier, there are brand preferences
6 throughout the United States. They're good
7 competitors. We're definitely, if you were to look at
8 our brand compared to say Paslode or Stanley Bostitch,
9 in a lot of cases our tools are priced higher, our
10 fasteners are priced higher.

11 VICE CHAIRMAN WILLIAMSON: When you say
12 tools, do you mean nails?

13 MR. LEFFLER: Tools and fasteners, yeah.

14 VICE CHAIRMAN WILLIAMSON: I understand
15 that, but we're talking about nails today. So every
16 time you use tools I'm thinking --

17 MR. LEFFLER: I apologize. When you look at
18 our fasteners compared to their fasteners, we're not
19 the cheapest. That's a product of what that end user
20 in that market decides to buy. In some markets our
21 fasteners are stronger than Paslode or Bostitch. In
22 other markets they may be stronger than us. I think
23 it's a preference in that market based on that end
24 user.

25 In this market here, Paslode and Stanley

1 Bostitch, in the northeast are very strong.

2 MS. ZINMAN: Again, we come back to this
3 question of can they do it, are they capable of doing
4 it, and are they doing it or able to do it in any kind
5 of commercial quantity to actually service an account
6 like a Home Depot or a Lowe's. Could they do it? Mr.
7 Libla said well, he could change --

8 VICE CHAIRMAN WILLIAMSON: But if their
9 products, if somebody can buy their products in Home
10 Depot and Lowe's, doesn't it mean they're doing it?

11 MS. ZINMAN: The box, the package that he
12 had on the table, the one that he had from Paslode, if
13 you actually looked at that label on the side it said
14 manufactured in one of the following countries. And
15 United States was listed as one of the following six
16 countries that was on the label.

17 VICE CHAIRMAN WILLIAMSON: Maybe post-
18 hearing if there's anything wrong with the examples
19 they've given us, let us know. That would seem to
20 suggest that yes, they can do it and are doing it.

21 MR. FISCHER: Vice Chairman --

22 VICE CHAIRMAN WILLIAMSON: I'm going to have
23 to come back to you because I'm way over my time. I
24 will come back to you. Sorry.

25 CHAIRMAN OKUN: Commissioner Pearson?

1 COMMISSIONER PEARSON: Thank you, Madame
2 Chairman.

3 Mr. Fischer, would you please continue with
4 your comment?

5 MR. FISCHER: I thought Mona was going to
6 address it, but I think the nails this morning that
7 the people brought in were not from a Home Depot or
8 Lowe's. That's the difference. They were from a
9 hardware store. The hardware store like an Ace
10 Hardware like you might have in your neighborhood or I
11 have one, is typically a co-op, so that co-op company
12 bought a small quantity, like a few pallets from maybe
13 a U.S. manufacturer. They don't have the ability to
14 buy the full product line with their label on it.
15 It's a small segment of the business. It's not a big
16 part of the business.

17 I really don't think the Ace Hardwares or
18 Cotters or whoever they are sell 10 percent of the
19 nails that Home Depot and Lowe's do. It's really a
20 very different part of the business, I would think.

21 Petitioners can address that post-hearing I
22 think if they disagree with that analysis, but thank
23 you for that clarification.

24 COMMISSIONER PEARSON: Some Commissioners
25 already have asked about the effects of the preliminary

1 duties on shipments from the UAE to the United States.
2 What I'm wondering, why do we see in this record that
3 both the market share and the actual quantity of
4 shipments from the UAE to the United States did fall
5 off somewhat in 2011 relative to 2010? Was that in
6 response to the duties or was it something else?

7 Mr. Fischer?

8 MR. FISCHER: In our case with our large
9 two-steppers, our business last year with them was
10 down probably 30 percent. We just did less business
11 in those items. Certain segments of the market we
12 were actually up in, but not in those products. Like
13 our roofing nail Business which I know is not part of
14 this, but because there was a lot of storm roofing
15 work, we were really busy. But in the fasteners that
16 we were buying from Dubai for the new construction
17 market or the multi-families, especially in the
18 southeast, we had an off year. I know nationwide or
19 regionally it was not as strong.

20 COMMISSIONER PEARSON: So just to clarify,
21 you're saying that perhaps part of what we're seeing
22 in the record relates to changes in the U.S.
23 marketplace --

24 MR. FISCHER: On a regional basis.

25 COMMISSIONER PEARSON: On a regional basis.

1 Okay.

2 Mr. Doody?

3 MR. DOODY: I'd just like to add from our
4 perspective it was more just a rebalancing of order
5 patterns. We moved quite a bit of Business over into
6 Malaysia from the United Arab Emirates.

7 COMMISSIONER PEARSON: In response in part
8 to the concerns raised by the duties?

9 MR. DOODY: Absolutely not. It was way
10 prior to that. It's just a balance of business.
11 Because we can't give everything to Joe, and he knows
12 that. He felt that early in the year. He knew. I'm
13 moving a big chunk of our portfolio to keep balance in
14 our business.

15 COMMISSIONER PEARSON: Could you in the
16 post-hearing provide some documentation for the timing
17 of that decision?

18 MR. DOODY: Absolutely. We got solicited
19 from the Commission to provide all that input.

20 COMMISSIONER PEARSON: Oh, we already have
21 it on the record?

22 MR. DOODY: You should have it.

23 COMMISSIONER PEARSON: Apologies, this --

24 MR. DOODY: No, no, that's quite all right.

25 COMMISSIONER PEARSON: This is Tuesday,

1 right? We have a vote tomorrow, a hearing again on
2 Thursday.

3 MR. DOODY: But I'd be glad to supply it
4 again. There's no problem.

5 COMMISSIONER PEARSON: If it's on the
6 record, the timing of the decision to redirect sales
7 is quite clear, then we have already what we need. I
8 was not aware that we had --

9 MR. HOUSE: We'll make sure that in our
10 post-hearing that you have any additional
11 documentation that's not already on the record that
12 speaks to that issue.

13 COMMISSIONER PEARSON: I'm going to call on
14 Mr. Ved here in just a minute, but we have this growth
15 in U.S. consumption overall and a decline in shipments
16 from the UAE. It's so easy to explain that as a post-
17 petition effect. And if it's not, I'd like to
18 understand it better.

19 Mr. Ved?

20 MR. VED: We started packing our bags
21 sometime in July, August onwards. So naturally our
22 capacity went down so our shipments came down.

23 COMMISSIONER PEARSON: So Dubai Wire's
24 ability to serve the customers from the UAE decreased
25 starting mid-year basically.

1 MR. VED: Yes, sir.

2 MR. MARSHAK: We'll provide monthly
3 statistics in the post-hearing brief. You'll see by
4 month the quantities of shipments from Dubai Wire.

5 COMMISSIONER PEARSON: And counsel, are you
6 making an argument that there are no post-petition
7 effects on this record?

8 MR. MARSHAK: The filing of the petition had
9 absolutely no impact on the quantity and value of
10 shipments from Dubai Wire. We can say that
11 categorically. Filing the petition, as far as they
12 were concerned it was a non-event.

13 COMMISSIONER PEARSON: Good. If you want to
14 elaborate on that for the post-hearing, that would be
15 great.

16 Petitioners are arguing that imports from
17 the UAE have increased over this period due in part to
18 price. This is a price-driven business we've heard to
19 some degree.

20 We look at the record and we can see that
21 the average unit values of imports from the UAE are
22 lower than from other non-subject countries that also
23 supply the United States. So how do you respond to
24 that argument? Are they indeed right that price is
25 playing some meaningful role in this?

1 MR. MARSHAK: I'm going to just quickly
2 discuss the statistics. Exhibit 2 of our pre-hearing
3 brief we break down, I think it's Exhibit 2 or Exhibit
4 3 of our pre-hearing brief, we break down the AUVs
5 from six countries by year by one of the 19 HTS sub-
6 headings. And we can look on the sub-headings,
7 there's a tremendous variation in quantities from
8 different countries classified in different sub-
9 headings.

10 In this case we don't really think the
11 overall general AUV has any credibility. It's
12 different products, different sub-headings, different
13 countries, so if you look at more discrete sub-heading
14 categories in the HTS, that disappears in the overall
15 AUVs. But also you're looking at hundreds and
16 hundreds of different SKUs from different countries.
17 You have a tremendous difference in product mix.

18 If you look at your ten pricing categories
19 and you look at what we think of as a valid analysis
20 of the ten products that you pick for individual
21 pricing and look at them by what Prime Source is
22 selling subject merchandise, non-subject merchandise,
23 what's being sold from other countries not by Prime
24 Source, what's being -- You're going to see, I
25 believe, that the UAE is not the lowest price,

1 definitely not the lowest price.

2 COMMISSIONER PEARSON: I appreciate the
3 challenges relating to product mix. It can make the
4 average unit values not worth a whole lot in a given
5 investigation. That may be what's going on here.

6 But if I recall correctly, the domestic
7 industry did say this morning that as they looked at
8 the individual pricing products they were kind of
9 proving the opposite point from what I think you've
10 just stated.

11 MR. MARSHAK: I think on pricing products
12 we're going to get into the issue with the information
13 that Precision placed on the record. And the
14 information, what's the proper level of trade to look
15 at the pricing.

16 If you look at Itochu-Prime Source pricing,
17 and we think that's the proper comparison compared to
18 domestic manufacturers pricing, against a Prime Source
19 pricing, I think I can say this in public. You're
20 going to see over-selling, substantial over-selling by
21 Prime Source.

22 Now Precision, that's a different issue as
23 to what was placed on the record and how that should
24 be analyzed. But as far as Prime Source goes, we have
25 been over-selling, higher prices from Prime Source to

1 USE and from Prime Source from around the world.

2 COMMISSIONER PEARSON: Mr. House?

3 MR. HOUSE: Thank you, Commissioner Pearson.

4 On the pricing products and the example
5 products that the Commission gathered price data on,
6 we do think it's important for the Commission and the
7 staff when this is going through your final
8 evaluation, the prices that were submitted by
9 Precision in its importer questionnaire reflect the
10 prices at which Precision sold its product to Hitachi
11 or to one of its other U.S. purchasers, Hitachi being
12 a very significant customer of Precision's.

13 That's because the Commission required
14 Precision to respond to the importer questionnaire
15 because on all of Precision's imports into the United
16 States or exports to the United States, Precision is
17 the U.S. importer of record, but it is also the
18 foreign producer.

19 So what we're seeing in the importer
20 questionnaire pricing data are prices charged by the
21 foreign producer to the U.S. importer, practically
22 speaking meaning Hitachi. Hitachi did not submit an
23 importer's questionnaire because they're not
24 technically the U.S. importer of record, however, as
25 you know the Commission's record was supplemented

1 recently by a submission which does place the prices
2 of Hitachi's products, the prices at which Hitachi is
3 selling its products to its customers in the market
4 which we submit is the proper comparison level when
5 the Commission looks at the pricing data on the
6 example products. That puts the comparison at the
7 same level as Prime Source, the same level as the U.S.
8 competing producers. Because as we've heard from
9 Hitachi, their competition are the U.S. producers that
10 are selling product into this market.

11 COMMISSIONER PEARSON: Thank you very much.

12 Madame Chairman, my time has expired.

13 CHAIRMAN OKUN: Commissioner Aranoff?

14 COMMISSIONER ARANOFF: Just a few follow-up
15 questions.

16 We had asked this morning for the domestic
17 producers to put on the record the percentage of their
18 sales that are private label product. If you haven't
19 done that already I'd like to ask both of the
20 companies represented here if they would do that.

21 Mr. House, you don't actually have a witness
22 here for Precision itself, so I'm going to ask a
23 question to you and hope that you'll pass it along to
24 your client.

25 Since Precision began operations just prior

1 to our period of investigation for the final phase
2 here, has Precision supplied the Commission with a
3 business plan underlying its investment decision? And
4 if not, is that something they would be able to do
5 post-hearing?

6 MR. HOUSE: Yes, Commissioner. I'll
7 certainly check on that. I know that Precision did
8 submit a foreign producer questionnaire response to
9 the Commission. I'd have to go back and look through
10 it again. I can't recall whether there was specific
11 documentation enclosed with their response as to their
12 plan, but I'd be happy to make sure that's submitted
13 in the post-hearing if it's not already with their
14 response.

15 COMMISSIONER ARANOFF: It would be helpful
16 to have something that was prepared in the ordinary
17 course of business as to what the business plan
18 underlying the investment was.

19 MR. HOUSE: And your question, just to be
20 sure I understand, relates to the plan in the
21 formation of the company which occurred in 2008.

22 COMMISSIONER ARANOFF: Exactly.

23 There was a little discussion that one of my
24 colleagues was having about the cost of wire rod and
25 the effect of that on pricing and I wanted to make

1 sure that I understood that. There are a lot of
2 steel-consuming industries, there are contracts with
3 formulas built in so that when the price of the
4 incoming steel product goes up it's automatically
5 passed through to the next level.

6 Since you all generally I don't think sell
7 on contract, can you explain to me how wire rod cost
8 changes are handled?

9 I know, Ms. Zinman, you said they change
10 monthly.

11 MS. ZINMAN: Wire rod is generally bought
12 once a month, enough wire rod for production for once
13 a month. So once the purchase of wire rod is made,
14 that then becomes the basis for the equivalent number
15 of containers of nails that you're going to be able to
16 make out of that wire rod at that price. So that wire
17 rod price then goes into a calculation matrix along
18 with what happened to the price of zinc for that month
19 for the nails that are going to be galvanized? And
20 how about the cost of cardboard for the cartons? Or
21 the cost of plastic for the -- Those prices monthly
22 are put into the matrix and the price is adjusted
23 either up or down for a month.

24 So generally pricing is set for a month for
25 the quantity of nails that are being bought for that

1 shipping month.

2 COMMISSIONER ARANOFF: So for your whole
3 program that you're doing for some of these large
4 retailers, the price of wire rod is notoriously fickle
5 in the way that it goes up and down very suddenly.

6 MS. ZINMAN: Right.

7 COMMISSIONER ARANOFF: You just calculate
8 that into the price of the product and they say okay?

9 MS. ZINMAN: No, no. The price calculation
10 I'm talking about is the way we buy.

11 As far as the way we sell to an account like
12 a Home Depot or a Lowe's it's different. It's tied to
13 wire rod and other factors, but there's much more
14 tolerance. There's a range.

15 So if wire rod moves like within three or
16 five percent up or down, there's no change. Then we
17 calculate what percentage of the price is the actual
18 wire rod movement and what are the other factors?

19 Then there's a 60 day time period. So the
20 price movement is much smoother and much less subject
21 to the monthly adjustments that we pay which is much
22 more tied to like what is really the production cost
23 for the next 30 days. It doesn't quite translate the
24 same way.

25 COMMISSIONER ARANOFF: So you're absorbing

1 100 percent of the risk of the cost variation because
2 you're paying your supplier whatever it actually
3 costs.

4 But for a customer, you're providing some
5 kind of a cushion.

6 MS. ZINMAN: Correct.

7 COMMISSIONER ARANOFF: That you don't get
8 compensated for.

9 MS. ZINMAN: But remember, the theory can go
10 either way. The cost of wire rod can go down and that
11 down is not passed the same way. It's the same deal
12 up and the same deal down.

13 If the market is not volatile, and it stays
14 within a range up and down you're okay. If it really
15 moves, it's not a good month.

16 COMMISSIONER ARANOFF: -- contract with your
17 customers, so there's this understanding that you're
18 operating under.

19 MS. ZINMAN: We don't have a contract, but
20 it's the framework of how we do business with them.
21 So it's a business agreement but it's not a written
22 contract.

23 COMMISSIONER ARANOFF: Is that because that
24 what those particular customers insist on, or is that
25 your business model that you've offered to them?

1 MS. ZINMAN: No contract.

2 COMMISSIONER ARANOFF: It's their terms.

3 In dealing with other customers, not the
4 large retailers, so you're dealing with some of these
5 smaller retailers or distributors or some of the tool
6 dealers, how does it work in those cases?

7 MS. ZINMAN: Generally a customer has a
8 price for every item that he is going to buy from you.
9 The price is in the computer. The price, it's kind
10 of agreed pricing. Again, there's virtually no
11 contract pricing at least in our business. But there
12 is an agreed price, it's in the system. A customer
13 calls up and he wants to place an order and usually
14 the price is in the system, and the order is
15 generated. Unlike as the Mid Continent testified,
16 there's generally not, at least for our business, not
17 a daily discussion and negotiation, a market
18 conversation about the price. The price generally has
19 already been established for the customer.

20 Our costs may go up three percent. It
21 doesn't necessarily mean that the price to the
22 customer is going to move. It depends on the market
23 conditions, it really needs, the pricing really needs
24 to jump for us to come out to the market and then
25 either ask for an increase or to adjust prices.

1 There's not that much, at least on our side, price
2 movement on the market side. Unless there's big
3 movement in wire rod or other cost factors. Ocean
4 freight may jump up or something happens that causes
5 us to really go out with a price increase or if it
6 goes the other way a price reduction. So a lot of it
7 is absorbed by us.

8 COMMISSIONER ARANOFF: I appreciate those
9 answers. That's helpful.

10 One last question. We've talked about this
11 a lot. I want to go into a little bit more detail.
12 This is the continuing insistence by the members of
13 this panel that the domestic industry, no single
14 domestic producer can supply the full range of product
15 that a number of you carry and then provide to your
16 customers.

17 So my question is, I'm not trying to be
18 difficult but I am trying to just spell this out so
19 that we have it on the record.

20 You function as distributors. So why is it
21 better to import products from what you've told me
22 sometimes multiple suppliers to spread out the
23 business, than to collecting product from several
24 domestic producers who collectively can make it, it's
25 their job to sort of stock it all, put together all

1 the pieces and then provide it to your customers.
2 Where does the can't come in. What is it that can't
3 happen here that you can do by bringing in multiple
4 import sources?

5 MR. DOODY: We have also bought, at one time
6 or another they have produced our private label brand.
7 so the difference is from a private label standpoint
8 you're not just making fasteners in your brand for
9 Senco tools. You're also making, like Senco would.
10 Senco primarily, and Paslode and Bostitch, they make
11 fasteners, nails, that fit in their tools, not
12 something that fits in Paslode tools.

13 So we as a brand, like Grip-Rite for Prime
14 Source or Interchange like Carlson, we provide the
15 full range of fasteners to a customer that comes in.
16 There are brand choices, brand loyalties. That's why
17 we carry genuine Senco. Interchange would also run in
18 that tool. And we actually price very similar all
19 these brands.

20 Again, Interchange can run in Paslode,
21 Senco, Bostitch, DualFast, whatever it may be. We've
22 got a very broad depth. As a matter of fact we
23 private label every collated fastener that's out there
24 that's made. In every collation. And there are a lot
25 of different families. That gets pretty complicated.

1 But again, next week I have a meeting with a
2 domestic manufacturer that wants to quote us our
3 Interchange brand here. And we're absolutely going to
4 listen to them.

5 And they have just as much opportunity as a
6 Malaysian source, but they can only provide what they
7 manufacture, which is limited, because they only make
8 what runs in their tools.

9 I hope that helped.

10 COMMISSIONER ARANOFF: I think that makes
11 sense from the tool side of the market.

12 MS. ZINMAN: Let me quickly give you, on the
13 hand drive side, let me give you one example. When we
14 keep saying they don't make everything or they don't
15 make the whole range.

16 Let's take just a basic common nail. We
17 stock a common nail from a two penny size which is
18 maybe an inch up to a 60 penny size which is six
19 inches. That means we stock a one inch -- two penny,
20 three penny, four penny, six penny, eight penny,
21 ten, 12, 16, 20, 30, 40, 50, 60. All those sizes in
22 38 distribution centers. I need to buy a mixed
23 container of common nails.

24 I go to a domestic manufacturer, they make
25 only a six penny to a 16 penny. Which is let's say

1 70 percent of the mix. Now I have 30 percent left. I
2 need someone to give me the two penny, the three
3 penny, the four penny, the other sizes. They don't
4 make it.

5 Now what do I do? Where do I get the small
6 quantities that I need to complete the line? I just
7 can't carve out six of the most popular sizes and book
8 that. I need to be able to book the common nails to
9 somebody. Trying to maintain thousands of SKUs in 38
10 locations. It becomes impossible if you can't get a
11 complete, at least within a category, a complete range
12 of nails. That's part of the problem. We say they
13 don't make everything, they don't make the whole line.
14 They make a piece of it.

15 Yeah, we make common nails, but you don't
16 make a 60 and you don't make a two penny. We need
17 them all because they're all on a Home Depot order
18 list.

19 COMMISSIONER ARANOFF: Okay.

20 I'm out of my time, but I appreciate the
21 answers from all the witnesses. Thank you.

22 CHAIRMAN OKUN: Commissioner Pinkert:

23 COMMISSIONER PINKERT: Thank you, Madame
24 Chairman.

25 A question for Mr. House. Precision makes

1 the argument that imports from the UAE are at a
2 different level of trade and I understand that
3 argument, but how is that consistent with the
4 purchaser responses to the lost sales, lost revenue
5 allegations?

6 MR. HOUSE: I'll have to deal with the
7 specific responses in the post-hearing in a
8 confidential basis.

9 I think that the level of trade argument, if
10 it's cast that way, the primary focus of our argument
11 was as I was alluding to earlier in that Precision's
12 sales to the U.S., a very predominant part of their
13 sales to the U.S. market are done -- let me back up a
14 step.

15 A hundred percent of their sales to the U.S.
16 market are done on the basis where Precision itself is
17 the importer of record. In terms of the data that's
18 in front of the Commission, the importer questionnaire
19 response, you have an importer questionnaire response
20 from Precision. But that reflects its prices to its
21 U.S. customers such as Hitachi.

22 In terms of level of trade what we're trying
23 to get across is that Precision is the foreign
24 producer. The pricing on its sales to Hitachi is what
25 you see in that importer questionnaire. So you're not

1 seeing prices at the same level in the market. That
2 is the price from an Hitachi to its customer, whether
3 that's a Lowe's or a dealer, that you see in other
4 importer responses in the Commission record.

5 A large part of what we were trying to get
6 at is when you're looking at price data in the market,
7 with Precision especially because of the way their
8 shipments are structured where Precision is the
9 importer of record, you have to take that into account
10 and make sure you're looking at pricing data at the
11 comparable level of competition in the market.

12 We think in the staff report, the staff
13 report simply uses the prices from Precision's
14 importers questionnaire response when it calculated
15 the under-selling margins in the ten example products.
16 So we're arguing that needs to be adjusted, at least
17 with regard to the Precision part of that data.

18 More specifically with regard to purchaser
19 responses, we'll be glad to take that up in the post-
20 hearing.

21 COMMISSIONER PINKERT: Please do. What I'm
22 interested in figuring out is whether the purchaser
23 has the understanding that the sales are at a
24 different level of trade or not.

25 MR. HOUSE: Let me let one of the purchasers

1 answer that question.

2 MR. LEFFLER: We buy, Hitachi buys the
3 majority of the capacity out of Precision. We buy it,
4 bring it into our warehouse in a lot of cases, or
5 shipped direct to customers. So we have programs that
6 go -- We have lots of additional things that we do
7 from a logistical perspective in our warehouse, which
8 we talked about a little bit earlier. Shipping and
9 training and all those different things we do. But in
10 addition to that we also have programming in place
11 that encompasses our whole mix of what we do in the
12 marketplace.

13 When we purchase that product, we're not in
14 Business to not make money. We have a, without going
15 into details because this is a public hearing, I mean
16 we certainly have to be profitable in all aspects of
17 our business. Everything is a profit center for us.
18 So we mark up from what Precision charges us so that
19 we can create a profit.

20 COMMISSIONER PINKERT: And Mr. House, you'll
21 take a look at those responses for the post-hearing?

22 MR. HOUSE: Yes.

23 COMMISSIONER PINKERT: Thank you.

24 More generally, as you all know the
25 Petitioner maintains that if you work with them they

1 will be able to produce all the different kinds of
2 nails at any specification that you might have.

3 I just want to get some clarification on
4 your earlier testimony. you're saying that well, the
5 Petitioners don't produce the full range. Could they
6 produce the full range if they were given the
7 opportunity to do that?

8 MS. ZINMAN: The only way I can answer that
9 is that to this point with all the opportunities that
10 have come through the market, they have never
11 attempted to sell us anything. So what their
12 capability is inside their factory or what their
13 actual equipment is, to the best of my understanding,
14 as an example, they do not have hot dip galvanizing
15 facilities in the plant. So whether they could sell
16 us hot dipped nails competitively, I don't know. But
17 they've never come to us and made any sort of
18 presentation and said hey, this is what we can do. We
19 can do the whole range. Or give us a chance. I've
20 never had that conversation, I've never been
21 approached with that opportunity, which I can only
22 assume because either they can't or they don't have
23 interest, it's not their market niche, or they can't.
24 I can only speak for my experience with them from the
25 beginning.

1 COMMISSIONER PINKERT: Any comments on that
2 issue from the back row?

3 MR. FISCHER: Commissioner, if they could,
4 why aren't they? There's nothing stopping them from
5 going out, they don't produce those nails. They don't
6 offer them. They don't make duplex nails. They don't
7 make masonry cut nails. There's a lot of products
8 that they say they have the ability to do. There's
9 nothing stopping them from doing it. If they could,
10 they'd be out there marketing them.

11 MR. DOODY: I live in the collated nail
12 side, so I speak to that. There are families of
13 collated. What I was trying to explain, I wasn't
14 talking about tools. Each tool has its own family of
15 nails.

16 So when I would look at Mid Continent, which
17 we've done business with, they have a few good volume
18 family of nails. They've got plastic collated,
19 they've got paper tape, they have wire weld. That's
20 some pretty good meat.

21 But when we went to them to try to expand
22 that line, they didn't want to do a private label for
23 us. It's because we compete in some cases, and they
24 do take some pallet accounts direct, so they're a
25 manufacturer that take accounts direct. And we don't

1 want to be representing the Magnum brand because all
2 of a sudden they're well, a customer's like I can buy
3 that Magnum brand direct from Magnum in a lot of
4 cases. We want to build our own brand.

5 So nothing personal, these are business
6 decisions that are made. That's why I just told you
7 I'm meeting with another domestic manufacturer to
8 quote us and negotiate on private label interchange.
9 Again, for the same reasons, to be able to have good
10 domestic manufacturing along, to balance out a lot of
11 the off-shore that we do.

12 COMMISSIONER PINKERT: That's helpful.
13 Thank you very much.

14 My last question has been discussed in
15 various ways today, but it has to do with what would
16 have happened with the non-subject imports during the
17 period under examination if the subject imports had
18 left the market?

19 So instead of this forward looking question
20 about what will happen in the future, what would have
21 happened if the subject imports had exited the U.S.
22 market during the period? Would the non-subject
23 imports have ramped up, and what would have been the
24 impact of that?

25 MS. ZINMAN: That's exactly what would have

1 happened. The non-subject imports would have
2 certainly increased without a doubt. Would it have
3 taken a couple of months? Would there have been some
4 isolated shortages in the market? Maybe. But for
5 sure in some of these other countries they also can
6 make nail machines, they're already in the business,
7 they are motivated to do more, and I think you would
8 have seen within a relatively short time more imports
9 coming from places like Taiwan, like Vietnam,
10 Bulgaria, Mexico. The market just would have
11 rebalanced with additional imports from another
12 country.

13 These are countries that are already in the
14 business making the products. So I think that's
15 exactly what you would have seen happen.

16 COMMISSIONER PINKERT: Mr. Fischer, then
17 we'll go to Mr. Marshak.

18 MR. FISCHER: It would be classic supply and
19 demand. What ended up happening is the American
20 consumer would pay more because product would be in
21 tighter supply, and we're all businessmen.

22 Just like Prime Source, when things are
23 tight they raise their prices, we raise our prices.
24 You'll end up paying more to get your house fixed if
25 there's not an abundant supply of product, and that's

1 what happens.

2 MR. MARSHAK: I think what happened here,
3 and I hate to say it was Prime Source's decision
4 because of the uncertainty in China to go to the UAE.
5 I think no matter where Prime Source would have gone,
6 the quantity would have gone up and Petitioners would
7 have brought a case. It happened to be they went to
8 the UAE so the case was brought against the UAE. If
9 Prime Source had decided to increase substantially in
10 Taiwan or Korea, Petitioners probably would have
11 brought a case against Taiwan or Korea.

12 COMMISSIONER PINKERT: Thank you.

13 Thank you, Madame Chairman.

14 I don't think I have any further questions,
15 so I appreciate the panel presentation and I look
16 forward to the post-hearing submission.

17 CHAIRMAN OKUN: Commissioner Johanson?

18 COMMISSIONER JOHANSON: Thank you, Madame
19 Chairman.

20 This is a question for Dubai Wire and
21 Hitachi building products.

22 In your brief you show a table with market
23 shares from 2008 to 2011 and that is Table 12. It
24 indicates that domestic producers gained four
25 percentage points in market share from 2008 to 2009

1 before losing market share to UAE imports in
2 subsequent years.

3 Doesn't this show that some U.S. consumption
4 switched to domestic products rather than other
5 imports following the China antidumping finding?

6 MR. MARSHAK: We don't really think the
7 antidumping finding had that much to do with what was
8 happening domestically.

9 What happened was there was a real change in
10 Prime Source and Itochu sourcing. What happened, you
11 had the order on China, China goes down. Prime Source
12 has to look for another source of nails. It goes
13 someplace else. For whatever reason there's a blip in
14 a year so in 2008 domestic market share is a little
15 bit more, it's a higher percentage. But overall, over
16 time, the domestic market share is relatively steady
17 over time. I think what Petitioners have done,
18 they've said everything that's happened in this
19 industry is because of their actions in bringing a
20 petition or an order in place. It hasn't been. It's
21 really been market forces over time with the major
22 players there, the Hitachi's and the Prime Source's
23 just making decisions as to where they're going to
24 source nails.

25 It may look that way that somehow for some

1 reason the petition had an impact on domestic
2 production. We don't think it did. When you really
3 get in to what happened in the marketplace.

4 The other major significant factor in the
5 marketplace over the last three years is the company
6 that we haven't discussed here today. We haven't
7 discussed the name. They made a very significant
8 decision as to where to source their nails. That's
9 really been a change in domestic market share as to
10 where this company has gone and we don't think their
11 decision has anything to do with UAE imports.

12 So there are a lot of factors. This is a
13 complex analysis and you can't just say hey, a
14 petition was filed, an order was placed, cause and
15 effect. You have to look at what was really going on
16 for individual companies in the industry, and the
17 unnamed company has had a major impact on domestic
18 market share. The same as Prime Source's decisions
19 has had a major impact on UAE market penetration.

20 COMMISSIONER JOHANSON: Thank you.

21 This is for Dubai Wire. I was wondering if
22 for your post-hearing brief you could comment on
23 Petitioner's claims regarding inconsistent data
24 surrounding Dubai Wire's production capacity? That's
25 at pages 61 to 62 of the Petitioner's brief. I'd

1 appreciate that. Thank you.

2 MR. MARSHAK: We'll put that in a brief.

3 That's easy.

4 COMMISSIONER JOHANSON: Than's a lot.

5 How do you all respond to Petitioner's claim
6 that certain equipment in the UAE that is being used
7 to produce other products could be used to produce
8 subject merchandise? Specifically, Precision's nail-
9 making machines that are being used to produce roofing
10 nails and former nail producer Millennium's equipment?
11 And how easily could Millennium restart production of
12 nails in the UAE?

13 MR. HOUSE: I'll respond on the Precision
14 specific questions to some extent here in the public
15 hearing and then we'll have to elaborate in the
16 confidential post-hearing.

17 As we'll show in the documents that were
18 requested as far as the plans relating to Precision's
19 formation in 2008 that we'll be submitting, you'll
20 find it's clear that there is, as a result of
21 contractual provisions, there's no possibility of any
22 capacity going back to Millennium. Millennium is not
23 in this business and will not be in this business.

24 Your question specifically on the roofing
25 nail capacity, we'll address that more specifically in

1 our post-hearing submission.

2 COMMISSIONER JOHANSON: Thank you.

3 The share of U.S. producer shipments to
4 distributors relative to shipments to end users
5 increased somewhat over the period of investigation.
6 What accounts for this change? And why have UAE
7 import shipments shifted somewhat towards sales to end
8 users?

9 MR. LEFFLER: Can you repeat that question?

10 COMMISSIONER JOHANSON: Right.

11 The share of U.S. producer shipments to
12 distributors relative to shipments to end users
13 increased somewhat over the period of investigation.
14 What accounts for this change?

15 MR. LEFFLER: You're saying what accounts
16 for the change in the share for U.S. producers to end
17 users?

18 COMMISSIONER JOHANSON: Right.

19 MR. LEFFLER: I don't know how we can
20 comment on that.

21 COMMISSIONER JOHANSON: Okay. I will skip
22 that one.

23 MR. DOODY: There is one dynamic I'd like to
24 add here. From our business, which is a substantial
25 piece of business, during the recession we all

1 contracted our companies, but we have one huge
2 domestic supplier that went bankrupt. When that
3 happened, we realized how vulnerable our Business was.
4 So we didn't know if they were going to come out of
5 bankruptcy, so we increased our brand, Interchange
6 brand, to take care of a really deep portion,
7 millions, of this existing manufacturer, not knowing
8 if they were going to come out of bankruptcy or not.
9 They did. That volume shifted. And it's all end user
10 Business. And it's in the millions.

11 That's just a dynamic I think you should be
12 aware of.

13 COMMISSIONER JOHANSON: Thank you.

14 That concludes my questions and I thank you
15 all for appearing here today.

16 CHAIRMAN OKUN: Thank you. Just a few
17 things to wrap up as well.

18 Mr. Doody, your comments reminded me, and
19 this might be directed to both counsel, but
20 Petitioners have argued that the companies that went
21 out of business, making I guess what we would refer to
22 as the survivor bias argument, that the companies are
23 leaner, stronger, and therefore to the extent you're
24 arguing that the industry is doing well and not
25 vulnerable, it's because these companies have gone out

1 of business. The panel this morning was asked if they
2 could put information on the record to indicate why
3 companies went out of business and was it related to
4 subject imports. I didn't know if there was any
5 information you had with respect to what happened to
6 the companies that went bankrupt that you could share
7 either now or for the post-hearing?

8 MR. DOODY: Most all those companies I've
9 personally done business with in the past. A lot of
10 it was an OEM or a branded relationship with us
11 because the businesses that I believe they're
12 referring to didn't necessarily have their own bundled
13 brand as a Paslode, Senco, or Bostitch. Those brands
14 have earned value that they can get a higher price for
15 those brands. They've been around for a long time.

16 The companies that I believe they're
17 referring to are generic houses that started up to be
18 able to sell and compete underneath and lower priced
19 against the brands. That was a natural for us from a
20 private label standpoint, to partner with those
21 companies. But it's a lot lower margin.

22 So the companies that are still out there
23 that are dominant, and the one I was referring to
24 since it's public record, was Senco. Senco filed
25 bankruptcy. It really hurt our organization. Again,

1 we had to take a real hard look at our business.

2 But I think the business model of the
3 companies that went under was strictly that. It had
4 to do with they didn't have any value to bring to
5 their product, so all they had was price.

6 CHAIRMAN OKUN: Any other comments from this
7 panel?

8 So any information that might have been
9 contemporaneous with that would be helpful to fill out
10 the record.

11 I think this would just be a post-hearing
12 request. I know in the exchange with one of the
13 Commissioners you were addressing what the number of
14 lost sales, lost revenue allegations on this record
15 mean, even if we were to change or adjust the pricing
16 section of the report in the way that you argue. What
17 does that mean for price suppression, depression, and
18 our analysis.

19 You have responded to this in some of the
20 exchange, but in Precision's pre-hearing brief at page
21 nine, it stated that U.S. producers sell to "end
22 users and tool supply customers and avoid the
23 distributor networks".

24 The staff report at Table 2.1, the pre-
25 hearing report, would not support that statement.

1 Again, this may go back to how people are classifying
2 customers, but can you respond to that? Again, just
3 trying to understand the competition in the market.

4 Mr. House?

5 MR. HOUSE: I think with regard to some of
6 the statements and focus that we've put in our
7 description of the U.S. industry is oriented toward
8 the Petitioner.

9 We are talking about a company, Mid
10 Continent, that brought this case. We're talking
11 about a company that by all accounts does not
12 participate in the mass market, Lowe's and Home Depot
13 channels, according to everyone on this panel.

14 So I think that with regard to some of our
15 emphasis in our brief, it's oriented towards what is
16 this Petitioner doing or not doing in contrast to its
17 claims of injury?

18 I think that our Hitachi representative and
19 others can talk about where some of the other U.S.
20 producers are in this market. I think there's been
21 testimony that of course Paslode and Stanley Bostitch
22 have been part of the main brand supply in some of
23 these large-scale stores. But I think what we're
24 trying to argue is what's important when you're
25 looking at the causal connection between the UAE

1 imports, where the UAE imports are going, and who the
2 purchasers of those are and then where they're going
3 into the market, we're not seeing a connection to
4 where the complaining U.S. parties are, the
5 complaining U.S. producers are. But we'd be glad to
6 elaborate further in our post-hearing on that.

7 CHAIRMAN OKUN: That's helpful. I do
8 understand the distinction we're making, and again, I
9 think this was posed earlier which was, to the extent
10 the statute requires us to look at the domestic
11 industry as a whole, there are sometimes conditions in
12 competition that the Commission examines that relate
13 to I think the arguments you're trying to make.

14 So for post-hearing if you could elaborate
15 on that, how the makeup of the domestic industry and
16 the competition relates to the arguments and the
17 analysis that you would have us perform under the
18 statute, I would appreciate that.

19 The last one that I'd ask you to respond,
20 based on some of the discussion that we've had about
21 what would this market have been like had the UAE not
22 become the, hadn't increased -- the imports from UAE
23 had not increased. What role of non-subjects. And
24 Commissioner Pinkert went through that, what this
25 record would look like, and I'd appreciate you doing

1 that more post-hearing.

2 I think the other argument from the
3 Petitioners that I'd ask you to respond to is the idea
4 of serial dumping. A Petitioner has the right,
5 obviously, to bring a case if they have an order and
6 it's not effective because other dumped imports enter
7 the market. We have to presume for purposes of our
8 analysis that the UAE imports are dumped because
9 Commerce tells us they are.

10 So I want you to respond to that. What
11 about this record, either the post-petition effects,
12 help me parse out the record to understand why this
13 doesn't just look like another case where an order has
14 been put on and companies just go to the next person
15 that can give them the low priced imports. Why isn't
16 that this case?

17 MR. MARSHAK: Just briefly, because I think
18 Ms. Zinman has said it. An order was put on China.
19 One of the biggest exporters, one of the biggest
20 importers in the United States made a business
21 decision. I don't want the uncertainty. I have to go
22 some place else. Itochu, Prime Source, was buying
23 from Taiwan, buying from Korea. It saw that there was
24 a UAE. UAE had fairly priced imports. There was no,
25 it got by the Department of Commerce so they decided

1 we're going some place else for non-price reasons.
2 Because of uncertainty. And we've seen here that this
3 company goes for non-price reasons. We believe that
4 data is going to show that the sales in the United
5 States are not based on price.

6 The final score here is that the decision is
7 made by the UAE producer and the importer to
8 manufacture in the United States.

9 So we have these unique circumstances in
10 this case where you could actually look at the people,
11 and it's really a decision by these two people sitting
12 next to me here as to why UAE increased, why UAE
13 declined, and why is Itochu, why is Prime Source
14 successful in the U.S. market? We believe it's not
15 price related.

16 A lot of cases you have hundreds of
17 different importers, hundreds of different
18 manufacturers. We have everybody at the table here.
19 We have I think incredible coverage of importers, we
20 have the primary manufacturer. So it's all here
21 before you. So this case is a little bit different,
22 or in our opinion different enough for you to reach a
23 negative determination, especially because of the
24 recent decisions in the industry to come to the United
25 States and the fact that Mid Con is going to be

1 stronger than ever. This industry is so strengthened
2 from what it was in 2009, and it's gone through the
3 great recession, and it's come out okay, and now it's
4 coming out stronger.

5 CHAIRMAN OKUN: Thank you for those
6 comments.

7 Mr. House, would you want to add anything in
8 my time remaining?

9 MR. HOUSE: I think that Ned covered the
10 main points. I think this really is a far cry from
11 the kind of classic case that you described. When you
12 look through the record and you look at what's going
13 on with these purchasers and distributors that you're
14 seeing before you as well as the producers in the UAE,
15 it's not in any way the case of the kind of classic
16 order gets imposed for the lowest possible price,
17 Country B then gets targeted as a new Source of
18 supply, and then a petition gets filed by the U.S.
19 producer that's suddenly lost a lot because of supply
20 coming in from this new Country B. That's not, in
21 terms of causal connection, that's not what we have
22 here.

23 CHAIRMAN OKUN: I appreciate all those
24 comments and all the responses you've given this
25 afternoon. I don't have any more questions.

1 Let me turn to Vice Chairman Williamson.

2 VICE CHAIRMAN WILLIAMSON: Thank you, Madame
3 Chairman.

4 Table 3-7 of the staff report indicates that
5 most nails sold by both subject importers and domestic
6 producers are collated. This morning Petitioner
7 stated that most collated nails are not sold through
8 mass merchandisers such as Home Depot. The nails are
9 primarily sold to the building industry.

10 My question is, does this suggest that
11 there's direct competition between the domestic
12 producers and the subject importers for the sales of
13 the collated nails to the building industry?

14 Does anyone want to take that?

15 If the big consumers of the collated nails
16 are the building industry, would you agree that there
17 is direct competition between the imports from the UAE
18 and the domestics in this sector?

19 MS. ZINMAN: First of all, there is still a
20 very significant hand drive market in the United
21 States which Petitioner here, Mid Continent, doesn't
22 participate in basically at all except in pallet nails
23 which is a different industry.

24 In the case of collated nails, there's a
25 tremendous quantity of collated nails sold through the

1 big boxes, through Home Depot and through Lowe's.

2 There is another segment of the market where
3 it's more geared towards the professional user or the
4 contractor that would be the area where there is some
5 competition between the UAE and the domestic
6 manufacturers. Mostly if there's any, the competition
7 would be in the STAFDA channel. Specialty Tool and
8 Fastener Distributors Association. It's a category of
9 customer more geared towards high quality, the
10 professional, selling to the professional end user.
11 As opposed to the DIY, do it yourself, guy that goes
12 to Home Depot and buys a tool to fix his own --

13 VICE CHAIRMAN WILLIAMSON: But that still
14 includes, I guess, basic collated nail that's --

15 MS. ZINMAN: Mostly collated.

16 VICE CHAIRMAN WILLIAMSON: -- used in the
17 building industry.

18 MS. ZINMAN: Mostly collated in that
19 industry. Very small quantity of hand drive nails.

20 VICE CHAIRMAN WILLIAMSON: But the collated,
21 are they the major user of collated nails versus, is
22 that market bigger than the market that goes to the
23 other mass retailers?

24 MR. LEFFLER: I can tell you from our
25 perspective, more than half of our Business is in the

1 home center channel. I would say it's around roughly
2 55 percent of our business is in the home center
3 meaning Lowe's, Home Depot, Menards, regional players.
4 And roughly 45 percent of our business is in the
5 STAFDA channel when it comes to fasteners.

6 You have a much larger audience at Home
7 Depot and Lowe's and Menards, people coming in to do
8 decks or projects. Certainly the volume of what the
9 individual buys at a STAFDA customer is higher because
10 he's a professional, but the sheer numbers of people
11 that go through the Home Depot, Lowe's, Menards on a
12 weekly basis, buying a box of nails for their own
13 personal consumption, is significant.

14 VICE CHAIRMAN WILLIAMSON: I think that
15 clears it up. Thank you.

16 For Dubai Wire, you mentioned in your brief
17 that Dubai Wire produces 1400 SKUs. Do these 1400
18 SKUs represent 1400 different nail types and sizes, or
19 is that 1400 different nail types ad sizes and
20 packaging?

21 MR. VED: And packaging.

22 VICE CHAIRMAN WILLIAMSON: Okay.

23 IBH has argued consistently that sourcing
24 product from the UAE and specifically Dubai Wire makes
25 it a one-stop shop for nail purchases. The question

1 is, what advantages accrue from being able to source a
2 large majority of nails from one source? And do these
3 advantages override price concerns? Has IBH
4 historically sourced or tried to source those nails
5 from a single producer?

6 MS. ZINMAN: Being able to buy the full
7 range is a huge benefit, especially in our case where
8 we're stocking 38 different distribution centers with
9 thousands of SKUs.

10 So you're trying to do sales forecasts and
11 balance to maintain inventory. If you have it coming,
12 if you have to deal with it coming from ten different
13 vendors on ten different time schedules, what's going
14 to happen is that the amount of inventory that you're
15 going to have to maintain to keep it balanced is going
16 to jump up. Which means that you have more money
17 cost, you have more money tied up in inventory, you
18 have more borrowing costs, more finance costs.

19 So the big benefit when you're trying to
20 maintain so many different inventories with so many
21 different items is to be able to combine as many
22 products as possible in one container, and therefore
23 you're also reducing the actual quantity of each SKU
24 that you have to buy each time. So it's a big cost
25 benefit, inventory balance benefit to be able to do

1 that.

2 VICE CHAIRMAN WILLIAMSON: I assume you're
3 so big you can't say it's just going to be one, but
4 you try to limit the number of people you do business
5 with.

6 MS. ZINMAN: Correct.

7 MR. LEFFLER: Also when you look down the
8 scale to the smaller customers, the mom and pop STAFDA
9 centers, it's very important for them to be able to
10 combine a variety of different products to maximize
11 their cash flow, especially in today's economy.
12 Headlines are "Residential construction plummeting"
13 and "Banks tightening up". Cash flow became so very
14 important, and that's one of the benefits and services
15 that Hitachi is able to provide, and Prime Source, to
16 our customers. Being able to diversify that mix and
17 also providing the terms to help manage their cash
18 flow. Very, very important.

19 VICE CHAIRMAN WILLIAMSON: Thank you.

20 Petitioner states on page 15 of its brief
21 that customer support is a very important factor when
22 producers interact with purchasers. But on page 18
23 and 19 you state that Precision offers no such
24 support.

25 Do domestic producers have an advantage with

1 respect to customer support?

2 MR. LEFFLER: That's the benefit that
3 Hitachi provides. We buy the product from Precision
4 and then we take on all those responsibilities,
5 whether it's replacing the product if it's damaged
6 product, whether it's working the events and training
7 the people on the fasteners and the attributes that
8 are most important. That's why the role that Hitachi
9 plays is critical. That's why it's important for us
10 to have a supplier that delivers the specs to the
11 details that we need and we're able to go out and
12 stand behind that product and put our name on it.

13 VICE CHAIRMAN WILLIAMSON: Then you provide
14 all those services that --

15 MR. LEFFLER: We have to.

16 MR. DOODY: I buy from Hitachi, and I know
17 I'm paying a little bit of a premium but I'm paying
18 for that value add because we also purchase direct
19 from other countries actually cheaper than I can from
20 Dubai, but it brings value. And in resources of sales
21 guys working events, going out calling on customers,
22 they'll do the Hitachi brand and our brand. So it's
23 both ours and his. And we're equally going out
24 together and promoting that and building business. It
25 makes a huge difference.

1 VICE CHAIRMAN WILLIAMSON: So you're saying
2 the domestic suppliers aren't providing that service?

3 MR. DOODY: Not to that level, no. As a
4 matter of fact, none of them to that level today.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

6 Both Petitioner respondents have referenced
7 the 2008 antidumping order on China. To what extent
8 is it appropriate for the Commission to consider the
9 2008 data in this phase of the investigation? This is
10 probably for the lawyers. Unless somebody's asked
11 that already.

12 MR. MARSHAK: It's just a condition of
13 competition. We want you to have a full picture of
14 what's going on in the industry going back 2004, 2005.
15 You have a tremendous quantity of nails coming in.
16 You have an influx of Chinese nails. You have an
17 order. Then you have what's coming on from the UAE.

18 As far as your period of investigation, we
19 think your POI should be 2009 to 2011, but we want to
20 give you the whole picture and that's just another
21 condition of competition. What happened in 2008.
22 Again, the major change here was that Prime Source
23 decided to go from China because of the uncertainty to
24 the UAE. So you get the whole picture by looking at
25 2008, by looking at 2007 and seeing what happened.

1 VICE CHAIRMAN WILLIAMSON: Thank you for
2 those answers. My time is about to expire.

3 I want to thank everyone for answering the
4 questions.

5 CHAIRMAN OKUN: Commissioner Pearson?

6 COMMISSIONER PEARSON: Madame Chairman, I
7 believe I have no further questions, but would like
8 very much to thank everyone on this panel. Singling
9 out particularly those of you on the business side of
10 the Business who have, especially those who might have
11 taken a day to be in Washington when they really
12 rather would have been somewhere else.

13 It's helped us to build a more solid record,
14 and I appreciate it very much.

15 CHAIRMAN OKUN: Any other questions or
16 comments from the Commissioners?

17 Let me turn to staff to see if they have
18 questions for this panel.

19 MR. CARLSON: Thank you, Madame Chairman.

20 Just one quick question please. This is
21 Jeffrey Carlson from the Office of General Counsel.

22 For Dubai Wire and IBP, just one quick issue
23 for the post-hearing brief, please.

24 I know Petitioners were asked about the
25 market segmentation theory. The producer specific

1 analysis I believe is on page 20 to 24 of your pre-
2 hearing brief.

3 One question for follow-up please. That is,
4 in those cases where the Commission engages in the
5 segmented analysis, typically the segments are based
6 on distinctions in product types or production
7 methods, and I just wanted to offer you an opportunity
8 to provide a statement of what justification you see
9 in this case for your segmentation approach.

10 Thank you.

11 MR. MARSHAK: It will be in our brief.

12 Thank you.

13 CHAIRMAN OKUN: Do those in support of
14 imposition of duties have any questions for this
15 panel?

16 MR. GORDON: We do have a couple if I may,
17 please.

18 Mr. Leffler, could you please tell us what
19 percentage of your Business is in one and five pound
20 boxes?

21 MR. LEFFLER: Zero.

22 MR. GORDON: Mr. Doody, would you please
23 tell us what percentage of your business is in one and
24 five pound boxes?

25 MR. DOODY: It would be less than one

1 percent for sure. A fraction of a percent.

2 MR. GORDON: And if you could please, sir,
3 would you please let us know what percentage of your
4 Business is through the big box stores?

5 MR. LEFFLER: Zero.

6 MR. GORDON: Thank you very much.

7 No further questions. Thank you.

8 CHAIRMAN OKUN: Before we turn to our
9 closing and rebuttal let me take this opportunity
10 again to thank this panel of witnesses. We very much
11 appreciate you being here and answering all our
12 questions.

13 I will also review the time. Let me just
14 check with Mr. Secretary.

15 MR. BISHOP: Subtract one minute from the
16 Petitioner's Direct.

17 CHAIRMAN OKUN: So Petitioners have a total
18 of 33 minutes remaining -- 5 minutes for closing, 28
19 minutes for Direct.

20 Respondents have a total of 23 minutes
21 remaining.

22 If there's no objection from counsel for
23 either side we would combine the closing and rebuttal
24 and proceed with those in support of imposition of the
25 duties.

1 We'll let this panel go back. Thank you.

2 (Pause.)

3 CHAIRMAN OKUN: Please proceed.

4 MR. GORDON: Thank you.

5 Before getting into my rebuttal/closing
6 comments, one housekeeping matter. I heard a
7 reference to supplemental materials that have been
8 submitted on the record, specifically with respect to
9 the issue of level of trade. We have not received
10 anything on that. I don't know if the staff has, but
11 we certainly haven't, so I feel like I'm at a little
12 bit of a disadvantage and I'm somewhat concerned about
13 that with respect to our comments here and going into
14 the post-hearing brief.

15 CHAIRMAN OKUN: Mr. Gordon, I will consult
16 with staff and we will get back to you on that with
17 regard to your specific reference.

18 MR. GORDON: Very good. Thank you.

19 I'd like to start actually by picking up on
20 a thread from Chairman Okun's next to last round of
21 questioning.

22 This looks like a case of serial dumping
23 because it is a case of serial dumping. What you have
24 on the record before you, as you have since the
25 preliminary determination, is a situation where after

1 an order was imposed on dumped imports from China the
2 UAE industry stepped up, doubled its capacity and
3 surged product into the market.

4 Now had that been all they did we wouldn't
5 really have a problem. If they had brought product in
6 at fairly traded prices, no problem.

7 As you've heard today from both Tree Island
8 and from Mid Continent Nail, these companies and the
9 rest of this industry stand ready, willing and able
10 and desiring to compete fairly with producers, whether
11 they be in the United States or Malaysia or even
12 Dallas, Texas, which I guess is still part of the
13 United States.

14 However, what we have seen happen on the
15 record is that the UAE imports, not UAE producers, not
16 simply Dubai Wire supplying to Prime Source but also
17 Precision supplying to Hitachi, used low prices,
18 dumped prices. The Commerce Department actually has
19 confirmed that in its final determination this
20 afternoon. Dumped prices at very deep levels of
21 underselling to bring product into our market and
22 increase their volume and market penetration at a time
23 when demand, all drivers of demand and all demand
24 indicators, were collapsing.

25 It makes no sense except for the dumping and

1 how this was going on.

2 Ms. Zinman candidly tries to work her way
3 around their motivations but the facts speak for
4 themselves. Price is what this case is about.

5 Prime Source's or Hitachi's ability to find
6 dumped imports from another Source after their
7 preferred source of dumped imports, China, was cut
8 off.

9 Especially in the last panel, the second
10 panel today, there was a lot of time spent discussing
11 the issue of the big box stores. It's sort of like a
12 big bright spotlight that people and the mosquitoes
13 get drawn to. I think it's a bit of a mistake to get
14 too caught up in that idea.

15 As we've heard, the big box stores do not
16 account for the majority of the sales of subject nails
17 in the United States. They have a high profile. They
18 do a lot of marketing. A lot of people walk through
19 them. But that's not where the action is for these
20 products.

21 Also there was a great deal of attention
22 spent on trying to turn this case into all about just
23 Mid Continent Nail. Now Mid Continent is the
24 Petitioner in this case. They had the wherewithal and
25 the guts to stand up and try to defend this industry.

1 But this case is about the entire U.S. industry.
2 It's about the companies who are forced out of
3 business. It's about the companies who have remained
4 in business barely. It's about companies who are
5 making decisions about whether and how to participate
6 in this market in light of the current market
7 conditions with the dumped UAE imports.

8 It is not a case about one company any more
9 than it is a case about Prime Source alone.

10 A couple of other points. I heard some
11 questions exploring the idea of justification for the
12 lower prices from the UAE imports, whether it has to
13 do with the price of wire rod or the price of energy
14 or the price of anything like that.

15 Well the testimony from the Respondents
16 themselves very clearly should have put an end to
17 that. There is no advantage in the cost of rod in the
18 UAE. You heard that. There is no advantage for
19 electricity or gas. In fact some of these things are
20 actually cheaper in the United States. Never mind the
21 effect of logistics and not having to move product
22 from the UAE to the United States if you're actually
23 producing it here.

24 We also heard testimony, there was a good
25 discussion of alternate sources of imports. Would

1 this order actually be effective if it's put into
2 place? I heard several very good questions asked
3 about that. I didn't hear any good answer telling the
4 Commission that there are alternate sources of supply.

5 In fact if there had been I sincerely doubt
6 you'd have Prime Source and Dubai Wire open up
7 production in the United States.

8 I'd like to pick up on one point that Mr.
9 Doody made twice, claiming that Mid Continent Nail
10 refused to supply them nails under private label. In
11 fact I think Mr. Doody actually admitted, and as Mid
12 Continent will attest, they do supply his company with
13 private label nails. They did decline to grow that
14 program with him but the reasons are something
15 different than Mr. Doody would have spoken. We'll get
16 into that in our post-hearing brief, but I wanted to
17 flag this issue for you, that things are not as they
18 may appear.

19 Overall, I would bring to the Commission's
20 mind the fact that, as I mentioned earlier, no fewer
21 than seven companies have been forced out of business
22 in the last three or four years. Those companies
23 represented long-standing committed U.S. producers,
24 hundreds of good-paying jobs, wages, thousands of tons
25 of capacity, and they're not here today and their data

1 are not on the record today. But what is on the
2 record is massive evidence of lost sales and lost
3 revenue, employment losses in the industry, reduced
4 wages to the workers that are left, and reduced
5 profitability over the period.

6 These and the many other indicia of injury
7 fully support a determination of present material
8 injury and also a determination that the industry is
9 vulnerable to material injury by reason of the subject
10 imports.

11 Thank you very much.

12 CHAIRMAN OKUN: Thank you.

13 Please come forward for your closing, Mr.
14 House.

15 MR. HOUSE: Thank you, Madame Chairman.
16 Michael House, again, on behalf of Precision Fasteners
17 and on behalf of the Respondents in closing and
18 rebuttal.

19 I think it's important that we not lose
20 sight of what the record shows as to the performance
21 of the domestic industry during this period. There's
22 very little discussion of that today. Obviously much
23 of that is on the confidential record. It's hard to
24 discuss fully in a public hearing. But we have a very
25 dramatic record in our view in this case. We have an

1 industry that in the face of the greatest economic
2 recession in generations and a housing freefall that
3 began in '08 and still hasn't fully recovered, we have
4 an industry that the confidential record before the
5 Commission shows is performing remarkably well.

6 We have an industry that we think is no
7 stretch to conclude, despite what Mid Continent would
8 like you to believe, that has a level of health that
9 is during this difficult economic period is really
10 striking.

11 We've had discussion today about what the
12 data might show, including certain companies and not
13 including other certain companies of this domestic
14 industry. We think that it is important for the
15 Commission to look at the makeup of the domestic
16 industry, look at the trends of the performance of
17 each component of the domestic industry, but of course
18 as the Commission has correctly noted, ultimately you
19 need to decide on the basis of what the record tells
20 you about the industry as a whole.

21 We think that looking at the data as to this
22 industry as a whole, even with the housing industry at
23 its most moribund, we have a U.S. industry that has
24 maintained overall consistently healthy levels of net
25 income throughout the period. And this is taking into

1 account the circumstances that Petitioners have
2 described.

3 When examined in an overall basis, the U.S.
4 industry in this period demonstrated significant
5 improvement as the period progressed, particularly as
6 the period reached its mid point and continuing to
7 today, we saw very significant improvement in all the
8 pertinent categories -- shipments, net sales,
9 operating income, net income, inventories.

10 We encourage the Commission to examine this
11 record carefully. Again, with particular reference as
12 it examines the conditions of competition here to the
13 party that brought this case, Mid Continent.

14 It's our position that the record simply
15 doesn't support Mid Continent's claims.

16 Petitioner points to the increase in imports
17 from the UAE that occurred during the period. We've
18 heard from Prime Source and Dubai Wire exactly why
19 this occurred, and it wasn't due to dumped prices. In
20 fact as counsel to Petitioners alluded to, the U.S.
21 Department of Commerce just today while we were
22 sitting here announced its final determination of
23 dumping margins, and the Department concluded that
24 margins were in a fairly minimal level. Dumping
25 margins in the range of two to six percent. These are

1 the UAE imports coming into this market.

2 Yet during this period the U.S. nails
3 industry was able to remain profitable and perform
4 favorably and improve during a great recession when
5 demand for nails at this same time plummeted from
6 prior levels.

7 It's clear that this recession did not
8 result in imports gaining a greater share of the
9 domestic consumption then in the past.

10 Finally, and most importantly, causation and
11 the role of imports in this market.

12 We heard today from importers and purchasers
13 who account for virtually all of the subject imports
14 from the UAE. The Commission with its panel today and
15 the submissions on the submissions record has a
16 complete picture of the market from the very
17 participants to count for all of the subject imports.

18 Their testimony tells a markedly different
19 story than what Petitioner Mid Continent would have
20 you believe.

21 We heard the Petitioners themselves concede
22 this morning that the nails industry is not
23 monolithic. We heard Mr. Skarich of Mid Continent
24 concede that there are many different segments of this
25 market. We've heard a lot of testimony and there's a

1 lot of information in this record about how the
2 imports from the UAE compete in these different parts
3 of the market.

4 The mass merchandiser market, the big home
5 center market -- Home Depot, Lowe's and the like.
6 It's clearly a very important part of this market.

7 We heard the representative from Hitachi
8 testify that that's well over half of his business.
9 And of course he's collated nails. He was questioned
10 whether he makes any one to five pound packages. Of
11 course not. He's in collated nails. Those are bulk
12 nails.

13 The competition in this very important part
14 of the market is served by UAE product because of what
15 the witnesses testified to today and what the record
16 reflects, which is the capacity, the willingness, the
17 capability of delivering on a just in time basis
18 significant quantities of multiple SKUs from vendors
19 that are capable of meeting the needs of these
20 customers.

21 Prime Source is capable of doing this and
22 has succeeded on that basis. Whether their sourcing
23 was from China in the past or whether it is from the
24 UAE now.

25 Hitachi is capable of doing this, whether

1 their sourcing was from Dubai Wire in the past or is
2 from Precision in the UAE now.

3 And as we heard, they are able to serve this
4 important part of the market not based on price, but
5 based on their capability to serve the large-scale and
6 just in time needs of those types of customers.

7 In the case of Hitachi in particular the
8 record is clear, and Hitachi of course accounts for a
9 very significant amount of imports from the UAE, that
10 it is that company's quality and brand recognition
11 that are the basis for the company's success and not
12 price.

13 Of course it's clear from the record that
14 Mid Continent is not seen in this big box mass
15 merchandise market.

16 Finally with regard to the other important
17 part of the market, the distributor STAFDA part of the
18 market. WE heard today the real reason why purchasers
19 have purchased from the UAE during this period, and
20 it's not because of price. We heard uniform testimony
21 from the purchasing industry that the U.S. suppliers
22 that they would like to buy from, i.e. Mid Continent,
23 are not willing to supply them with the private label
24 products that they require. We heard significant
25 testimony today as to the role of private label

1 products in both the big box and STAFDA distributor
2 markets. The very important role that private label
3 branded products plan.

4 You heard both Mr. Doody and Mr. Fischer
5 testify directly to this. Essentially the message to
6 them from Mid Continent was buy our brand or go away.

7 This is not a question of price. This is a
8 question of a U.S. producer's unwillingness to supply
9 the brand needs of important U.S. purchasers.

10 In sum, we have a case where the performance
11 of the U.S. industry during this period is simply not
12 connected to the pricing of subject imports from the
13 UAE. And it's equally clear from the record and from
14 testimony today that U.S. importers and purchaser who
15 currently buy from the UAE will not turn to U.S.
16 producers for supply in the event of an antidumping
17 duty order. It is clear that this supply would shift
18 to third countries.

19 Accordingly, there is no basis on this
20 record for the Commission to reach an affirmative
21 determination.

22 Thank you very much.

23 CHAIRMAN OKUN: Thank you.

24 Post-hearing briefs, statements responsive
25 to questions, requests of the Commission and

1 corrections to the transcript must be filed by March
2 27, 2012.

3 The closing of the record and final release
4 of data to parties is April 12, 2012.

5 Final comments are due April 16, 2012.

6 With no other business to come before the
7 Commission, this hearing is adjourned.

8 (Whereupon, at 4:30 p.m., the hearing was
9 adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Steel Nails From The United Arab Emirates (Revised/Corrected)

INVESTIGATION NO.: 731-TA-1185

HEARING DATE: March 20, 2012

LOCATION: Washington, D.C.

NATURE OF HEARING: Commission 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: March 20, 2012

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Rebecca McCrary
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: W. Andre Bellamy
Signature of Court Reporter