

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: ) Investigation Nos.:  
MULTILAYERED WOOD FLOORING FROM CHINA ) 701-TA-476 AND 731-TA-1179  
) (REVIEW)

Pages: 1 - 211  
Place: Washington, D.C.  
Date: Thursday, October 12, 2017



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UNITED STATES OF AMERICA  
BEFORE THE  
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF: ) Investigation Nos.:  
MULTILAYERED WOOD FLOORING ) 701-TA-476 AND 731-TA-1179  
FROM CHINA ) (REVIEW)

Main Hearing Room (Room 101)  
U.S. International Trade  
Commission  
500 E Street, SW  
Washington, DC  
Thursday, October 12, 2017

The meeting commenced pursuant to notice at 9:30  
a.m., before the Commissioners of the United States  
International Trade Commission, the Honorable Rhonda K.  
Schmidtlein, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Rhonda K. Schmidtlein (presiding)

5 Vice Chairman David S. Johanson

6 Commissioner Irving A. Williamson

7 Commissioner Meredith M. Broadbent

8

9

10

11

12 Staff:

13 William R. Bishop, Supervisory Hearings and Information

14 Officer

15 Tyrell Burch, Legal Document Assistant

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17 Drew Dushkes, Investigator

18 Joanna Lo, Investigator

19 Sarah Scott, International Trade Analyst

20 Craig Thomsen, International Economist

21 David Boyland, Accountant/Auditor

22 Courtney McNamara, Attorney-Advisor

23 Douglas Corkran, Supervisory Investigator

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25

1 Opening Remarks:

2 In Support of Continuation of Orders (Jeffrey S. Levin,

3 Levin Trade Law, P.C.)

4 In Opposition to Continuation of Orders (Lizbeth R.

5 Levinson, Kutak Rock LLP)

6

7 In Support of the Continuation of Antidumping and

8 Countervailing Duty Orders:

9 Levin Trade Law, P.C.

10 Bethesda, MD

11 on behalf of

12 Coalition for American Hardwood Parity ("CAHP")

13 Clifford T. Howett, Jr., President, Hardwood Plywood

14 and Veneer Association

15 Donald R. Finkell, Jr., Chief Executive Officer,

16 American OEM

17 Adam Ward, Senior Product Director - Hardwood, Mohawk

18 Industries, Inc. Mills, Inc.

19 James P. Dougan, Vice President, Economic Consulting

20 Services, LLC

21 Emma K. Peterson, Economist, Economic Consulting

22 Services, LLC

23 Jeffrey S. Levin - Of Counsel

24

25

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

3 Kutak Rock

4 Washington, DC

5 on behalf of

6 The Alliance for Free Choice and Jobs in Flooring (the  
7 "Alliance")

8 Sam Cobb, President, Real Wood Floors

9 Paul Anderson, President, Metropolitan Hardwood Floors

10 Dave Sandover, General Manager, Metropolitan Hardwood  
11 Floors

12 Elizabeth Baldwin, Environmental Compliance Officer,  
13 Metropolitan Hardwood Floors Inc.

14 Kevin Bowen, President, BR Custom Surface

15 John Troendle, President, Crescent Hardwood Supply,  
16 Inc.

17 Michael Schultz, Vice President, Floor & Decor

18 Wayne Lin, Director of Supplier Compliance, Floor &  
19 Decor

20 Vito Luppino, Jr., Chief Operating Officer, V.A.L.  
21 Holdings

22 Daniel Klett, Principal and Economist, Capital Trade  
23 Inc.

24 Lizbeth R. Levinson, Ronald M. Wisla and Brittney R.  
25 Powell - Of Counsel

1 Rebuttal/Closing Remarks:

2 In Support of Continuation of Orders (Jeffrey S. Levin,

3 Levin Trade Law, P.C.)

4 In Opposition to Continuation of Orders (Lizbeth R.

5 Levinson, Kutak Rock LLP)

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9:30 a.m.

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

CHAIRMAN SCHMIDTLEIN: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Nos. 701-TA-476 and 731-TA-1179 Review involving multilayer wood flooring from China. The purpose of these investigations is to determine whether revocation of the countervailing duty order and antidumping duty order on multilayer wood flooring from China would be likely to lead to continuation of recurrence of material injury within a reasonable foreseeable time.

Schedule setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony.

I understand that the parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the secretary. Speakers are reminded not to refer in their remarks or answers to questions of business proprietary information. Please speak clearly into the microphone and state your name for the

1 record and for the benefit of the court reporter.

2 If you will be submitting documents that contain  
3 information you wish classified as business confidential  
4 your request should comply with Commission Rule 201.6. Mr.  
5 Secretary, are there any preliminary matters?

6 MR. BISHOP: No, Madam Chairman.

7 CHAIRMAN SCHMIDTLEIN: Very well. Let us begin  
8 with opening remarks.

9 MR. BISHOP: Opening remarks on behalf of those  
10 in support of continuation of the orders will be given by  
11 Jeffrey S. Levin of Levin Trade Law. Mr. Levin, you have 5  
12 minutes.

13 CHAIRMAN SCHMIDTLEIN: Welcome, Mr. Levin.

14 OPENING STATEMENT OF JEFFREY S. LEVIN

15 MR. LEVIN: Good morning, Commissioners. My name  
16 is Jeff Levin and I am with Levin Trade Law. I have the  
17 distinct privilege of representing the Petitioners in these  
18 reviews, the Coalition for American Hardwood Parity and its  
19 member companies. On behalf of Petitioners we respectfully  
20 submit that the Commission should determine that revocation  
21 of the Antidumping and Countervailing duty orders on  
22 multilayered wood flooring from China would be likely to  
23 lead to a continuation or recurrence of material injury to  
24 the Domestic Industry.

25 I am honored to be joined today by members of the

1 U.S. Manufacturing Industry as well as the President of the  
2 Association which represents these manufacturers. These  
3 gentlemen are a continuing testament to manufacturing in the  
4 United States. The remedial impact of the antidumping and  
5 countervailing duty orders on multilayered wood flooring or  
6 as we'll use through the course of the day the acronym MLWF,  
7 the remedial impact has been significant but inchoative.

8           The Domestic MLWF Manufacturing Industry has  
9 achieved increases in capacity, production, capacity  
10 utilization and U.S. shipments over the period of review.  
11 There are several new Domestic entrants to the Domestic  
12 Industry and the industry has added about a thousand new  
13 jobs.

14           If the purpose of unfair trade orders is to  
15 provide an opportunity for the Domestic Industry remediation  
16 by the imposition of pricing discipline on unfairly-traded  
17 imports then the orders on MLWF from China even with  
18 imperfections has worked and benefitted these manufacturers,  
19 their workers and the towns and communities to which these  
20 manufacturers are intrinsically tied.

21           But, the industry's footing is not sure. Subject  
22 MLWF imports continue to exert pricing pressure on  
23 domestically manufactured product and continue to impact the  
24 industry's overall competitive position. While U.S.  
25 shipments have increased the U.S. Industry has lost market

1 share and the industry continues to suffer an operating loss  
2 concurrent in part to the substantial investments over the  
3 past few years to enhance and expand domestic manufacturing  
4 abilities.

5 Termination of the subject orders would severely  
6 jeopardize the Domestic Industry's tenuous gains. The  
7 likely impact will be a significant increase in unfairly  
8 traded imports, imports that as determined by the Commerce  
9 Department will be determined by the United States with  
10 margins up to 25 percent, the suppression and depression of  
11 U.S. prices and material injury to the U.S. Industry.

12 Indeed, given the intense price competition faced  
13 by Domestic Producers the interchangeability of Subject  
14 Imports and domestically manufactured MLWF, the Industry's  
15 current financial performance and the substantial and proven  
16 capability of the enormous Chinese MLWF industry to ship  
17 product here, the Commission should find that the U.S.  
18 Industry is vulnerable to material injury from unfairly  
19 traded imports if these orders are revoked.

20 The Industry's gains to date are tenuous and  
21 susceptible to rapid and easy reversal. If the subject  
22 orders are terminated the U.S. Industry will be injured  
23 quickly and significantly. The CAHP respectfully submits  
24 that the Commission should determine that revocation of the  
25 orders on multilayered wood flooring from China would be

1 likely to lead to a continuation or recurrence of material  
2 injury to the Domestic Industry. Thank you.

3 MR. BISHOP: Opening remarks on behalf of those  
4 in opposition to continuation of the orders will be given by  
5 Lizbeth R. Levinson of Kutak Rock.

6 Ms. Levinson, you have five minutes.

7 OPENING STATEMENT OF LIZABETH R. LEVINSON

8 MS. LEVINSON: Good morning, Commissioners. I'm  
9 Lizbeth Levinson of Kutak Rock. I am here on behalf of the  
10 Alliance for Free Choice in Jobs and Flooring. I'm here  
11 today to tell you that a great deal has changed since the  
12 original antidumping and countervailing duty orders went  
13 into effect on MLWF. What exactly has changed you may ask?

14 First, overall market demand for MLWF has  
15 increased significantly during this sunset period due to  
16 strong growth in new home construction and the remodeling of  
17 existing homes. This growth has led to significant  
18 increases in U.S. Producers' capacity, production, shipments  
19 and employment. Forecast expectations continue to be  
20 positive for future growth.

21 Second, the volume of non-Subject Imports  
22 entering the United States has increased significantly. A  
23 large percentage of the imports from China that were  
24 considered Subject Merchandise at the time of the final  
25 injury determination are now outside of the AD/CVD orders.

1 The top three exporters of MLWF from China in the  
2 investigation, Layo, Yihua and Samling have now all been  
3 excluded from the antidumping order.

4 Even more Chinese exporters are expected to be  
5 excluded from the antidumping orders or will be assigned at  
6 a zero duty rate as a result of a court case now pending  
7 before the Federal Circuit. Since the imposition of the  
8 orders in 2011, new producers have begun significant  
9 operations in non-subject countries such as Vietnam and  
10 Cambodia.

11 Producers in Malaysia, Thailand, Indonesia,  
12 Canada, and Latin America have also increased their exports.  
13 As a result of these changes in the import mix the market  
14 share of Chinese subject merchandise has steadily declined  
15 since 2012.

16 Third, competition from non-wood flooring  
17 products that mimic the visual appearance of wood such as  
18 luxury vinyl tile, wood plastic composites and ceramic tile  
19 has dramatically increased. Technical improvements in  
20 digital photography and chemical coatings has made these  
21 lower-priced substitutes virtually indistinguishable in  
22 appearance from MLWF.

23 U.S. Producers have been at the forefront of  
24 introducing and promoting their own brands of these  
25 substitute products, even at the expense of their own sales

1 of MLWF. Competition for wood substitutes has also  
2 constrained the ability of Domestic Producers to increase  
3 MLWF prices.

4 Revocation of the antidumping and countervailing  
5 duty orders would not result in a significant increase in  
6 Subject Imports. The Domestic Industry itself have  
7 increased its own imports of subject and non-subject  
8 merchandise because the Chinese merchandise has physical  
9 attributes that the Domestic Industry is unable to produce  
10 in sufficient quantity. The Domestic Industry's own imports  
11 cannot be considered harmful to the Domestic Industry.

12 U.S. Importers in the Domestic Industry have at a  
13 great expense qualified non-subject Chinese producers and  
14 producers located in third countries that are not subject to  
15 the orders. These new sources are supplied with their  
16 developed supply chains and logistics will not suddenly be  
17 abandoned when the AD/CVD orders are invoked as our  
18 witnesses will tell you today.

19 Shifting sources of supply is also becoming  
20 increasingly difficult due to an increased regulatory burden  
21 relating to the Lacey Act and CARB compliance. Revocation  
22 of the order will not significantly impact the pricing of  
23 MLWF. Pricing data collected by the Commission do not  
24 support a finding of adverse price effects.

25 Underselling was mixed and in fact overselling

1 dominated later in the period of review. Purchaser  
2 questionnaire responses show that U.S. Producers are  
3 actually more aggressive with regard to discounts and  
4 rebates. Revocation of the order will not significantly  
5 impact the Domestic Industry. The orders have not been very  
6 restrictive. The CVD rate has hovered consistently around  
7 1% for the last five years.

8 As mentioned previously, Lao, Yihua and Samling  
9 are now excluded from the antidumping order. During the  
10 antidumping administrative reviews conducted by the  
11 Department of Commerce, at least 6 mandatory respondents  
12 have earned 0 or de minimus margins. Since publication of  
13 the final results of the 4th Administrative Review in June  
14 2017, the two mandatory respondents and 72 separate rate  
15 respondents are now currently subject to an antidumping duty  
16 deposit rate of 0. There simply is no evidence of pervasive  
17 or persistent dumping.

18 Direct competition between the Domestic Industry  
19 and the domestic like product is greatly attenuated. A  
20 majority of the Domestic Industry sales are of one species,  
21 red oak species and are narrow width products. Subject  
22 Chinese Imports concentrate on exotic species, distressed  
23 finishes and wide width plank products.

24 Regardless whether an order is in place, the  
25 Domestic Industry and Subject Chinese Imports operate in



1 distinct markets with attenuated head-to-head competition.  
2 For these reasons revocation of the AD and CVD orders on  
3 MLWF from China would not likely lead to continuation or  
4 recurrence of material injury. Due to the unique  
5 circumstances of this case a negative Sunset Determination  
6 should be issued. Thank you very much.

7 CHAIRMAN SCHMIDTLEIN: Thank you.

8 MR. BISHOP: Would the first panel in support of  
9 the continuation of the antidumping and countervailing duty  
10 orders please come forward and be seated? Madam Chairman,  
11 all witnesses on this panel have been sworn in. Mr. Levin.  
12 You have 60 minutes for your direct testimony.

13 MR. LEVIN: Thank you, Madam Chairman. Our first  
14 witness will be Mr. Kip Howard. Kip?

15 STATEMENT OF CLIFFORD T. HOWETT, JR.

16 MR. HOWETT: Good morning, Commissioners. My  
17 name is Kip Howett. I am president of the Hardwood Plywood  
18 and Veneer Association or HPVA now headquartered in Sterling  
19 Virginia. I have been in the forest products industry  
20 serving in various capacities for over 35 years. I was with  
21 Georgia Pacific for twenty years as a Vice President of  
22 Environment and Government Affairs have been President of  
23 the HPVA Hardwood Plywood and Veneer Association for ten  
24 years and HPVA has been nearing its hundredth anniversary.  
25 It represents only North American Manufacturers of

1 Engineered Hardwood Products.

2 HPV Laboratories which is over 50 years old is an  
3 IS accredited, third-party certification agency which  
4 includes formaldehyde emissions testing and certification  
5 for EPA, HUD and the California Air Resources Board, CARB.  
6 One of the principle units within the HPVA is its engineered  
7 wood flooring division whose membership is composed of  
8 virtually all the U.S. Manufacturers of Multilayer Wood  
9 Flooring including all of the members of the Coalition for  
10 American Hardwood Parity.

11 MLWF is composed of an assembly of two or more  
12 layers or plies of veneer in combination with a core, the  
13 seven veneers that form multilayer wood flooring are  
14 generally rotary cut, sliced or sawed from a log, bolt or  
15 flitch. The grains of the adjacent plies are at right  
16 angles perpendicular to one another. The several layers  
17 are glued together to form a final assembled product.

18 Most multilayered wood flooring is manufactured  
19 with a tongue and groove construction; that's the tongue  
20 along one side and the groove along the other and when  
21 installed the tong of the one board fits snugly into the  
22 groove of the adjoining board. Multilayered wood flooring  
23 may also have other types of connecting mechanisms and I  
24 have samples of both.

25 The core of multilayered wood flooring may be

1 composed of a range of materials including hardwood veneer,  
2 softwood veneer, particle board, medium density fiberboard  
3 MDF, high density fiberboard HDF and others. The face or  
4 the wear-layer of the product may be smooth, wire-brushed or  
5 distressed in any number of methods or hand-scraped.

6 Multilayered wood flooring is generally described  
7 by the overall thickness of the product, the species of the  
8 face, the wear-layer of the veneer, the thickness of the  
9 face of the veneer and the width and the length. The face  
10 veneer is the side of the product that is exposed to view  
11 after installation.

12 Multilayer wood products commonly have an overall  
13 thickness ranging from 0.25 inches to 0.75 inches. The face  
14 veneer may have a thickness as low as 0.004 inch to 0.25  
15 inch. Wood species commonly used in the face veneer include  
16 oak -- white and red, hickory, birch, maple, ash, beech,  
17 American walnut, Southern pine, American cherry, and  
18 numerous tropical hardwood species such as Brazillian Cherry  
19 or Jatoba.

20 The width of the product generally ranges from  
21 2.25 inches to 8 inches and may range as high as 12 inches  
22 or more. I have with me samples of MLWF products  
23 manufactured by U.S. Producers. MWF is considered the most  
24 dimensionally stable wood product and can be installed in  
25 locations that are not suitable for solid flood flooring

1 products and for these reasons the use of multilayer wood  
2 flooring has grown rapidly in the past decade and now  
3 represents more than half of the wood flooring products sold  
4 in the United States.

5           Since the dumping and countervailing duty orders  
6 went into effect in 2011, the number of companies that  
7 manufacture MWF in the U.S. has grown. There are at least  
8 three new manufacturers, members of HPVA that either didn't  
9 exist 6 or 7 years ago or began domestic manufacturing of  
10 MWF.

11           An additional major manufacturer has brought its  
12 previous Chinese-based MLWF production back to the U.S. and  
13 I understand from the Commission's prehearing report that  
14 the U.S. Manufacturers as a whole have added a thousand new  
15 jobs and I know from the HPVA's own reports of the  
16 industry's production capacity and capacity utilization  
17 rates have achieved significant growth over the life of the  
18 orders.

19           Several U.S. MLWF manufacturers have taken the  
20 remedial opportunity provided by the orders to invest  
21 heavily in their domestic manufacturing facilities both to  
22 expand their volume of production as well as their range of  
23 MWF products but I also know that these tangible signs of  
24 progress could be temporary and could be swiftly reversed.  
25 I know from my members that the Chinese Imports remain the

1 driving factor on the price of MPWF in the U.S. Market.

2 I know from my members that the price of the  
3 Chinese Imports remain a primary threat to their financial  
4 viability. If the pricing discipline and the threat of the  
5 antidumping duties imposed by the orders are removed there  
6 will be a quick and potentially irrevocable race to the  
7 bottom. The newer domestic market entrants will likely not  
8 long survive and some of the larger manufacturers including  
9 those that have invested heavily in U.S. Manufacturing in  
10 recent years will be forced to revisit their sourcing  
11 options.

12 If the MLWF orders are terminated, the gains made  
13 to date by this manufacturing industry, the jobs largely in  
14 rural areas, the investments, the value of these gains  
15 brought in the communities in which the U.S. Manufacturing  
16 plants are located will be placed in immediate jeopardy.  
17 There are hundreds of Chinese producers of MLWF, combined  
18 capacity of the Chinese Industry can simply swamp the U.S.  
19 Market if the orders are terminated. The Chinese spigot  
20 will simply be turned back on high. The damage will follow  
21 and make no mistake, the bottom will drop out of prices at  
22 least until competitors are swept away.

23 The Chinese are extremely adapt at the use of  
24 improper means to decrease costs and I am sure everyone here  
25 is familiar with the formaldehyde issue that arose just two

1 years ago regarding engineered wood for products coming from  
2 China. Let's call this what it really is, cheating in order  
3 to cut production cost.

4 The Commission has heard much about the rampant  
5 and continuing wide-spread use of illegal logs in Chinese  
6 manufacturing. China is the world's largest log consumer  
7 and in that volume China is also the world's largest  
8 purchaser of illegal logs. International government bodies  
9 and NGOs dedicated to tracking and exposing trade in illegal  
10 wood estimate that these illegal logs are used on  
11 engineered wood products such as engineered flooring from  
12 China.

13 In the 2017 IUFRO report it concludes that  
14 "almost all" engineered hardwood products exported from  
15 China have illegal wood. Just like the retail jeweler who  
16 cannot compete with a sidewalk seller of a stolen Rolex,  
17 neither can a U.S. Manufacturer who paid fair market value  
18 for their logs and to add insult to injury, China buys  
19 hardwood logs in the U.S. and can afford to bid those prices  
20 higher when they are veneered in China and come back into  
21 the U.S. as MLWF, American Oak, American Maple, American  
22 Walnut, American Cherry, American Hickory.

23 There is a pattern here of not playing by the  
24 rules, avoiding the cost from that kind of conduct to be  
25 able to offer deeply discounted prices. It's severely

1 injured our Domestic Industry abated in part by the orders  
2 in place. Termination of these orders would provide free  
3 license for this behavior and would assuredly place the  
4 Domestic Manufacturing Industry on the precipice of  
5 disaster. Thank you.

6 MR. LEVIN: Thank you, Kip. Next witness is Mr.  
7 Don Finkell. Don?

8 STATEMENT OF DONALD R. FINKELL

9 MR. FINKELL: Good Morning, Commissioners. My  
10 name is Don Finkell and I am the CEO of American OEMM an  
11 American manufacturer of multilayered wood flooring. I'm  
12 also the current Chairman of the Hardwood, Plywood and  
13 Veneer Association, the past Chairman of the National Wood  
14 Flooring Association and the past President of the Hardwood  
15 Association, an umbrella organization representing the  
16 majority of trade associations engaged in the manufacturing,  
17 wholesaling or distribution of North American hardwood  
18 lumber, veneer, plywood, flooring and related products. I  
19 was closely involved in the passage of the Lacey Act  
20 Amendments that were approved by Congress in 2008 and which  
21 were designed to help protect against the importation of  
22 wood products procured from illegal or undocumented sources.

23 In sum, I have been in this industry longer than  
24 almost anyone. Wood flooring is in my blood and in my  
25 family's genes. My lifelong dedication to wood flooring

1 manufacturing in the United States began with Anderson  
2 Hardwood Floors, which was started in 1945 as a family  
3 business. In 1958, Anderson bought out a small flooring  
4 operation in Clinton, South Carolina and became vertically  
5 integrated.

6 For the first time the company could make a  
7 product starting with a log and ending with a finished  
8 product in a box sold under its own brand name. Over the  
9 course of successive generations, Anderson expanded our  
10 product offerings through innovation and styling.  
11 Additional brands were created to reach additional market  
12 segments as the popularity of wood flooring in American  
13 grew.

14 The company introduced significant product  
15 advancements that reached worldwide acceptance as well. A  
16 particular point of pride for me personally was my role in  
17 bringing prefinished, hand scraped floors to market on a  
18 viable commercial scale when the face layer of the wood is  
19 literally scraped by hand, board by board to give it a  
20 rustic look.

21 In 2007, after nearly 62 years of business, the  
22 Anderson family upon my recommendation sold out to a larger  
23 competitor, Shaw Industries. I stayed on as CEO of Shaw  
24 Hardwood until 2013. A large part of my decision to sell  
25 our family business to Shaw was the competitive environment



1 that began to emerge at the time. Although the residential  
2 housing industry, which is so important to this industry,  
3 was going through an incredible boon, a powerful new force  
4 in the form of Chinese Imports emerged, almost overnight, on  
5 the scene.

6 2007 was also the year the Commission conducted  
7 its Section No. 332 fact-finding investigation regarding  
8 competitive conditions in the U.S. wood flooring market and  
9 as the Commission noted in its report in that investigation  
10 the Chinese Industry emerged as the largest foreign supplier  
11 of engineered flooring to the U.S. Market and the most  
12 significant competitors to the U.S. Industry in this  
13 market.

14 By the time we filed our Petition against Chinese  
15 multilayered wood flooring in 2010, China controlled nearly  
16 as large a share of the U.S. Market as did the U.S.  
17 Manufacturers. The antidumping and countervailing duty  
18 orders against most Chinese producers allowed a measure of  
19 reprieve for the Domestic Industry. I know that by many  
20 measures the Industry's condition has improved and the  
21 Industry took the opportunity to make several new  
22 investments in order to improve its competitive position.

23 Personally, I saw the opportunity to start  
24 American OEN, a point of enormous pride to me and the  
25 American OEM team. We maintain two manufacturing sites.

1 The first in Ownly, Tennessee which operates under the  
2 long-established and highly-regarded Prison Improvement  
3 Enterprise Program, a voluntary and tremendously successful  
4 program under which workers are paid to prevail on a  
5 civilian wage and a second in Montezuma, Indiana using a  
6 civilian labor force.

7 We are committed to reviving the American  
8 Hardwood Flooring Industry by making our products right here  
9 in the USA. Knowing around 50 percent of all wood flooring  
10 sold in the U.S. is imported from other countries, we focus  
11 on producing design-leading, cost-effective and durable  
12 American Made products using a sustainable, socially  
13 responsible business model. Our design leading floors  
14 feature a variety of North American species in a range of  
15 textures and styles including rotary and sliced face  
16 veneers of white oak and red oak, maple, walnut and hickory.

17 The face veneers are produced in a variety of  
18 surface finishes including smooth, hand-scraped, naturally  
19 cracked, skip sawed and wire brushed. We were one of the  
20 first multilayer wood flooring manufacturers to introduce  
21 board lengths up to 8 feet and widths up to 7 inches or  
22 more.

23 While the orders have imposed a degree of pricing  
24 discipline on subject Chinese Imports, our greatest  
25 challenge now is the same as when we started production a

1 few years back, competing against lower-priced Chinese  
2 Imports that are fully interchangeable with the products  
3 manufactured here in the U.S.

4 We attempt to counterbalance the Chinese pricing  
5 advantage by promoting the benefits of purchasing  
6 American-made multilayered wood flooring: U.S. based  
7 employment, responsible and sustainably sourced hardwood,  
8 fast and reliable servicing and giving back to our  
9 communities but too often these factors are simply not  
10 enough.

11 As we try to maintain at a level of capacity  
12 utilization that could lead to at least a financial  
13 break-even point, I know that the products we manufacture  
14 can also be sourced from China whether it be the exact same  
15 product or a product that is viewed in the marketplace as  
16 directly competitive and interchangeable.

17 For example, a Chinese product with a birch face  
18 versus an American OEM product with a maple face. Every  
19 single customer that I have, whether it's a distributor, a  
20 manufacturer, contractor or wholesaler can source a directly  
21 competitive product from China and expects me to be  
22 cost-competitive with the Chinese suppliers.

23 As a stark demonstration of just how price  
24 sensitive this competition remains, we have had the  
25 experience of getting to stick -- we have had the experience

1 of attempting to stick with a particular price point out of  
2 a cost comparative only to see our sales volumes drop almost  
3 immediately.

4 If these orders are terminated, the bottom will  
5 drop out of Chinese pricing. This is due not only to  
6 inherent cost advantages enjoyed by the Chinese and I  
7 include in these cost advantages to continuing use of  
8 illegally resourced wood and the enormous cost savings  
9 stemming from simple cannibalization of design and  
10 aesthetic innovations first formulated by Domestic Producers  
11 at significant expense after years of painstaking trial and  
12 error but also due to the fact that the Chinese multilayer  
13 wood flooring industry is enormous and clearly focused on  
14 capturing U.S. Markets.

15 Even with two larger Chinese manufacturers  
16 excluded from these orders there are still dozens of major  
17 manufacturers in China and hundreds of smaller producers.  
18 The total production capacity in China simply dwarfs that of  
19 the U.S. Industry. If the orders are lifted, there is no  
20 barrier, no pricing discipline, no possibility of remedial  
21 duties that would be left to contain what would surely be a  
22 predatory market share grab.

23 Under those conditions, I doubt we will be able  
24 to remain in business which would simply pull the rug out  
25 from under the 4th generation of my family's business now

1 proudly represented by my daughter Allie who is working and  
2 fighting alongside me to maintain this tradition of U.S.  
3 Manufacturing. I know I am not alone. Likewise, the new  
4 investments that I know have been made by several of the  
5 other larger multilayer wood flooring manufacturers in the  
6 U.S. and the increased employment base achieved by this  
7 industry will be severely and perhaps irrevocably  
8 jeopardized. Thank you.

9 MR. LEVIN: Thank you, Don. Our next witness  
10 will be Mr. Adam Ward. Adam?

11 STATEMENT OF ADAM WARD

12 MR. WARD: Good morning, my name is Adam Ward.  
13 I'm the senior product director for Hardwood and Laminate  
14 from Mohawk Industries. I have been with Mohawk since 2005.  
15 I started my career as a business director for Unilin for  
16 Mohawk's primary trade name for flooring products and moved  
17 up through successive managerial positions as an assistant  
18 product manager, then product manager for hardwood, followed  
19 by product director for hardwood, and then on to my current  
20 position.

21 In my position, I have overall responsibility  
22 for sales and marketing of multilayered wood flooring for my  
23 company. I have direct almost daily personal contact with  
24 major wood flooring customers in the U.S. market. Mohawk's  
25 marketing personnel responsible for these products report

1 direct to me. And I personally review sales reports, market  
2 pricing data, customer call reports, emails, and other  
3 correspondence from our sales force concerning activity and  
4 prices in our customer accounts and reports in prices  
5 offered to me in the U.S. market by Mohawk's foreign and  
6 domestic competitors.

7 I am very familiar with all the domestic  
8 manufacturers of multilayered wood flooring and a vast  
9 majority of the foreign manufacturers as well, including  
10 those in China. Over the past several years, I have visited  
11 Chinese flooring companies several dozen times and seen  
12 first-hand their products and manufacturing operations.  
13 There are literally hundreds of manufacturers of MLWF in  
14 China from small, mom and pop type shops to some of the  
15 largest most sophisticated flooring producers in the world.  
16 And although the Chinese middle class and the demand for  
17 wood flooring has grown in recent years, there is no doubt  
18 in my mind that the United States remains the primary focus  
19 for Chinese producers.

20 Mohawk has been in the business since 1978m  
21 first as a producer of carpets, then expanding and  
22 production capabilities throughout the decades. We now  
23 produce and sell a wide range of floor covering including  
24 laminate, ceramic, luxury vinyl towel or LBT, in in addition  
25 to engineered wood flooring or MLWF.

1                    Since the anti-dumping and countervailing duties  
2                    on MLWF from China went into effect in 2011, we have been  
3                    fortunate to increase our production capabilities for MLWF  
4                    and we have made planned equipment purchases and upgrades  
5                    for a MLWF plant in Danville, Virginia since 2011.

6                    This has allowed us to expand production and the  
7                    types of products offered from our Danville plant. In  
8                    addition, we have under taken a major expansion of our plant  
9                    in Melbourne, Arkansas. The Melbourne plant was originally  
10                   a solid flooring production facility and only until our  
11                   expansion there became an engineered flooring in 2015.

12                   This now provides us with the capability to  
13                   produce even greater range of MLWF products, including most  
14                   notably wide plank engineered flooring. That is MLWF with a  
15                   width of 5 inches or greater. Over all, Mohawk has invested  
16                   more than \$25 million since 2011 to improve and expand our  
17                   domestic manufacturing of MLWF.

18                   As recorded in our questionnaire response, our  
19                   production capacity utilization has increased over the life  
20                   of these orders and we added approximately 200 new  
21                   production jobs just in MLWF manufacturing. And while we  
22                   still import some MLWF as a commercial necessity in order to  
23                   provide a full range of products at price points required by  
24                   some customers, our strategy and focus has been and will  
25                   continue to be to produce MLWF at our U.S. manufacturing

1 facilities as much as possible.

2 To the extent which we import MLWF, we do so in  
3 order to maintain our customer base that might otherwise get  
4 the product from other another source. It is an economic  
5 imperative, but we would certainly prefer not to do that.

6 For periods 2011 through 2014, the dumping duty  
7 had a marginal impact on our ability to successfully compete  
8 with the Chinese imports due to the low amount of duty  
9 imposed on Chinese importers.

10 While our production did expand during this  
11 period, this was mainly driven by the improving U.S. economy  
12 following the recession from 2008 to 2010. We continue to  
13 lose share against Chinese imports that were sold to U.S.  
14 retail operations at prices below what we would be  
15 profitable for U.S. based manufacturing.

16 But for periods 2015 through 2017, the dumping  
17 duty rates increased to higher levels, which brought Chinese  
18 import pricing closer to that of U.S. MLWF manufacturing  
19 cost.

20 As a result, we were able to expand sales  
21 activities and to support increased demand. As I noted  
22 before, we added additional manufacturing shifts and made  
23 considerable investments in assets to increase our  
24 manufacturing capacity.

25 The orders and announced duty rates in place for



1 the previous two years have had a positive effect on our  
2 sales activity and the resulting capital expenditures  
3 increased manufacturing employment needed to support this.

4 With the zero percent duty rates announced a few  
5 months back and the most recently completed administrative  
6 review of the dumping order, we expect that this will have a  
7 negative impact on our sales activities due to lower  
8 expected cost now available to Chinese importers.

9 It is possible that we will need to lower U.S.  
10 production and reduce investment in our manufacturing  
11 assets, lower employment and production facilities, and  
12 reduce warehouse inventories that would result in lower  
13 sales due to downward pricing pressure from increased  
14 Chinese imports.

15 However, if these orders are terminated, we  
16 expect an even greater negative effect on our sales due to  
17 lower cost product coming in from Chinese importers. While  
18 all flooring sold is subject to competitive pricing, we  
19 expect that our ability to offer competitive pricing at  
20 acceptable margins would be significantly compromised if the  
21 dumping duties were revoked.

22 We would potentially reduce our 2018 production  
23 capacity, thereby reducing our overall competitive position  
24 in our ability to supply products from our domestic  
25 manufacturing.

1                   The benefits that we have gained from the unfair  
2 trade orders would most certainly be undermined if not  
3 reversed. What I know to be true for Mohawk, I know believe  
4 to be true for the U.S. industry as a whole. Without  
5 pricing discipline imposed by these orders, Chinese imports  
6 will increasingly capture the market based on declining  
7 prices.

8                   There was a time not long ago that styling and  
9 aesthetics of the products were the overarching factors in a  
10 purchasing decision. Now however, while MLWF remains an  
11 aspirational product, and while the product needs to be  
12 visually pleasing and at least serviceable quality, there is  
13 no doubt in my mind that price drives the market and China  
14 drives the price.

15                   I am hoping that in the question and answer  
16 session, I'll have the opportunity to talk about the  
17 differences between multilayered wood flooring and other  
18 floor coverings. Let me just make two quick points here  
19 about multilayered wood flooring and other products such as  
20 laminate or LBT. First, they're made differently with  
21 different materials by different people in different  
22 production facilities and on different equipment. They  
23 have different properties which allow for different uses.

24                   Second, as something I'm sure most of people in  
25 this room are familiar with, if you look at home listings

1 very often, one of the principal selling points in the home  
2 are hardwood floors and throughout. Laminate LBT tile, they  
3 don't earn that sort of prominence in sales pitches to a  
4 potential home buyer. There is no true substitute for MLWF  
5 since no other product can give the look and feel of real  
6 wood. Thank you for your time and attention this morning.  
7 And I look forward to any questions and answers that might  
8 come up.

9 MR. LEVIN: Thank you, Adam. Our next witness  
10 is will be Mr. Jim Dougan and Ms. Emma Peterson of Economic  
11 Consulting Services.

12 Jim?

13 STATEMENT OF JAMES P. DOUGAN

14 MR. DOUGAN: Good morning, Commissioners. I'm  
15 Jim Dougan from ECS appearing behalf of petitioners. My  
16 testimony will address how the volume of MLWF imports from  
17 China is likely to increase significantly if the orders are  
18 revoked and that this increase in volume will lead to a  
19 continuation or recurrence of injury to the domestic  
20 industry.

21 I will then turn to my colleague Emma Peterson,  
22 who will provide similar analysis with respect to pricing  
23 impact. In the original investigation, the Commission found  
24 that the volume of MLWF imported from subject producers in  
25 China was significant, both absolutely and relative to

1 consumption and production in the United States. The  
2 Commission also found that the increase in subject import  
3 volume relative to U.S. production and apparent consumption  
4 was significant.

5 The period of the original investigation was  
6 characterized by declining demand reflecting a downturn in  
7 macroeconomic conditions and in the U.S. housing market, the  
8 main driver of demand for MLWF.

9 While demand recovered slightly at the very end  
10 of the POI, the Commission noted that subject import market  
11 share increased regardless of whether apparent U.S.  
12 consumption was increasing or declining and that most of  
13 this increase came at the expense of the domestic industry.

14 The Commission determined that subject imports  
15 were able to maintain this large presence in the market  
16 because they competed in the same geographic markets,  
17 competed in the same channels of distribution, and were  
18 highly substitutable for the domestic like product.

19 As discussed in our prehearing brief, the record  
20 summarized in the prehearing staff report shows that these  
21 same conditions hold true today.

22 Respondents claim that competition between  
23 engineered flooring and other flooring products has  
24 increased over the POR and that this has constrained MLWF  
25 volumes and prices. However, data presented at page 2^^19

1 of the prehearing report show that hardwood flooring,  
2 including MLWF, had the second fastest growth rate over the  
3 POR among different floor covering products, 45.8 percent by  
4 volume and 56.1 percent by value.

5 The prehearing report cites an article from  
6 "Floor Covering Weekly" that states "despite slower growth,  
7 wood flooring has been able to make inroads in the U.S.  
8 floor covering market." Inroads reflect the growing  
9 popularity of engineered wood floors."

10 It notes further that in 2016, hardwood floors  
11 accounted for 14.9 percent of the floor covering market in  
12 terms of value, an increase from the 12.2 percent market  
13 share in 2012.

14 Thus, wood flooring overall has been growing as  
15 a share of the floor covering market. What's more,  
16 respondents themselves cite to evidence that MLWF has made  
17 incursions into the overall hardwood market. The  
18 combination of these factors mean that MLWF has been growing  
19 its share of the floor covering market overall.

20 Respondents concede this point saying that  
21 "notwithstanding the increased competition from wood  
22 visuals, MLWF remains a viable wood flooring alternative in  
23 the U.S. market and visual performance improvements in MLWF  
24 since 2011 have allowed it to make inroads vis a vis solid  
25 wood flooring during the sunset period of review."

1                   They state further that "many of these  
2                   improvements are attributable to subject imports from  
3                   China," which may be true, but many of them are also  
4                   attributable to the efforts of U.S. producers as you heard  
5                   from Mr. Finkell and Mr. Ward.

6                   While MLWF does not exist in a vacuum, and there  
7                   are a wide variety of alternative floor covering products in  
8                   the marketplace, there's no evidence on the record that any  
9                   of these alternative products have exhibited any significant  
10                  constraints on MLWF volume or prices during the POR.

11                  In actuality, apart from the orders themselves,  
12                  the key difference in conditions of competition between the  
13                  original investigation and the current proceeding is the  
14                  strength of demand. Thanks to a continuing recovery in the  
15                  U.S. housing market and the U.S. economy generally, apparent  
16                  consumption grew by roughly 70 percent from 2011 to 2016.

17                  This demand growth, coupled with the imposition  
18                  of the orders, led to growth for the domestic industry. As  
19                  shown at slide 3, from 2011 to 2016, the domestic industry's  
20                  capacity, production, capacity utilization, and U.S.  
21                  shipments all increased. These trends show that given the  
22                  level playing field, the domestic industry can compete  
23                  better with imports.

24                  This growth would not have happened without the  
25                  benefit of the orders, however, and it will not continue if

1 the orders are revoked. In fact, the industry's recent  
2 growth trends will be reversed. Perhaps the best way to  
3 estimate the likely increase in subject import volume if the  
4 orders are revoked is to use the test case available to the  
5 Commission from this POR. As the Commission is aware,  
6 certain Chinese producers are excluded from the order.  
7 These companies are major suppliers to the U.S. market. So  
8 there's a significant amount of non^^subject product from  
9 China that was present in the U.S. market over the POR.

10 Free from the discipline of the orders, these  
11 non^^subject imports from China have grown rapidly over the  
12 POR in both volume and market share. As shown in  
13 petitioner's pre^^hearing brief, if all imports from China  
14 grew at the same rate as non^^subject imports from China,  
15 holding apparent consumption constant, U.S. producer's  
16 shipments and market share would have decreased. You can  
17 see on the chart the blue bars, which show the actual level  
18 of domestic producers U.S. shipments, which grew from 141.5  
19 million square feet to 209.6 million square feet or by 48  
20 percent. Without the orders, they estimate -- we estimate  
21 they would have shrunk to 115.8 million square feet or by 18  
22 percent.

23 Similarly, the green line represents domestic  
24 producers' actual market share, which declined from 52.9  
25 percent to 46.2 percent or by 6.7 percentage points.

1 Without the orders however, domestic producers' share would  
2 have fallen further to 25.5 percent, a drop of 27.4  
3 percentage points.

4 I also note that what you see on slide 4 is the  
5 more conservative of two scenarios that we presented in our  
6 pre^^hearing brief. The other scenario is even worse for  
7 the domestic industry.

8 What is clear from either scenario is that the  
9 absence of trade remedy would have prevented the increase in  
10 domestic capacity, production, and employment observed over  
11 the POI as domestic producers would have had little economic  
12 incentive to invest in expanding their capabilities here in  
13 the U.S.

14 What is also clear is that the revocation of the  
15 orders would prevent the domestic industry from fulling  
16 realizing the benefit of these investments and would lead to  
17 a recurrence of injury.

18 This is because subject producers in China are  
19 likely to increase their exports to the United States in the  
20 event of revocation. Respondents claim that this is not so  
21 in part because data provided in foreign producers'  
22 questionnaires show increases in these producer shipments to  
23 the Chinese home market as well as to non^^U.S. export  
24 markets. But the Commission should disregard these  
25 arguments given the lack of responsiveness of Chinese



1 producers and exporters.

2 As noted in the prehearing report at 4<sup>7</sup>, only  
3 10 Chinese producers provided questionnaires to the  
4 Commission. And these producers collectively accounted for  
5 only 12.2 percent of total production in China. By  
6 comparison in the original investigation, the Commission  
7 received 52 foreign producers' questionnaires.

8 And based on the Commerce Department's most  
9 recent administrative reviews, however, there were 75  
10 Chinese producer exporters that were either mandatory  
11 respondents or were granted separate rate applicant status  
12 in that review.

13 Thus, there are at least 65 known Chinese  
14 producer exporters of MLWF subject to the orders that did  
15 not provide questionnaires to the Commission. These  
16 producers' failure to cooperate with the Commission's  
17 investigation should not be rewarded with the drawing of  
18 inferences that are favorable to their case.

19 The data that are on the record, however,  
20 support a finding that subject producers are likely to  
21 increase exports to the U.S. in the event of revocation. In  
22 the pre<sup>hearing</sup> report at II<sup>6</sup>, staff observed that  
23 "producers of MLWF from China have the ability to respond to  
24 changes in demand with moderate to high changes in the  
25 quantity of shipments of MLWF to the U.S. market. The main

1 contributing factors are the availability of unused  
2 capacity and the high variability and capacity levels, the  
3 availability to shift shipments from alternative markets,  
4 and the ability to shift production to or from alternate  
5 products."

6           While some of the data underlying staff's  
7 conclusion are proprietary, available foreign producer data  
8 reveal significant levels of available capacity and 7 of 10  
9 responding producers stated that they could switch  
10 production from MLWF to other products, which presumably  
11 means that the reverse is true as well.

12           Respondents claim that certain factory closures  
13 in the Chinese wood industry "have caused the capacity for  
14 production of MLWF to decline since the original  
15 investigation," but they provide no evidence to support this  
16 claim. While the abysmal response rate of foreign producers  
17 has limited the data available to the Commission, data from  
18 IHS Global Trade Atlas provided a prehearing report table  
19 4^^8 show that China's total exports of plywood and wood  
20 flooring products grew from \$4.3 billion in 2011 to \$5.2  
21 billion in 2016 or by 21 percent. And China's total exports  
22 to the United States grew from \$830 million in 2011 to \$1.4  
23 billion in 2016 or by 66.3 percent.

24           Now while these data also include out of scope  
25 merchandise such as hardwood plywood, data in Appendix C of

1 the prehearing report show that U.S. shipments of subject  
2 imports from China were higher in 2016 at roughly 130  
3 million square feet than in 2010 at roughly 125 million  
4 square feet. If you include non-subject imports from China,  
5 that figure would be even higher.

6 But even if the Chinese MLWF industry's capacity  
7 has declined since the original investigation, and  
8 respondents have provided no evidence that it has, it's  
9 interesting using that capacity to produce for export to the  
10 U.S. market demonstrably has not declined.

11 At the same time, respondents point out that the  
12 imposition of the orders caused certain Chinese producers to  
13 move capacity or invest in new capacity in other countries,  
14 not subject to the orders. Respondents argue that it would  
15 not be economically rational for companies who have made  
16 these significant investments to simply abandon them.

17 To a certain extent, petitioners agree. These  
18 companies will continue to ship to the U.S. market in  
19 similar or even greater quantities from non-subject  
20 countries. At the same time, formerly subject producers in  
21 China, now free from the discipline of the order, will  
22 increase their shipments to the United States as well.

23 Respondents claim that "the significant volume  
24 of non-subject imports in the U.S. market combined with the  
25 lower prices of non-subject imports will place constraints

1 on the ability of subject producers in China to export to  
2 the United States." This may indeed be true. So how might  
3 these formerly subject Chinese producers now free from the  
4 discipline of the order seek to overcome these constraints  
5 of significant volumes of non-subject imports being sold at  
6 lower prices? By lowering their own prices of course.

7 I now turn to my colleague Emma Peterson To  
8 discuss the adverse price effects and adverse impact on  
9 domestic industry.

10 STATEMENT OF EMMA K. PETERSON

11 MS. PETERSON: Thank you, Jim. Good morning  
12 Commissioners. I'm Emma Peterson from Economic Consulting  
13 Services appearing on behalf of petitioners. I will be  
14 addressing the likely price effects and the impact of  
15 revocation of the orders.

16 First, the Commission found in the original  
17 investigation that price is important in the U.S. multilayer  
18 wood flooring market and that competition primarily depends  
19 on price. This remains true today as evidenced by the  
20 questionnaire responses presented in the prehearing report.

21 Specifically, as shown on slide 7, the all  
22 purchasers reported that price was important with the  
23 majority reporting that price was very important. As shown  
24 on slide 8, 22 purchasers cited price in their top three  
25 purchasing factors and price was second only to quality.

1                   As this table shows, price and quality were  
2                   cited far more than any other factor. As the Commission  
3                   acknowledged in its original determination, the fact that  
4                   quality is important to purchasers does not negate the fact  
5                   that price is also an important purchasing factor. This is  
6                   especially true given that the majority of producers and  
7                   importers reported that U.S. produced multilayered wood  
8                   flooring was always or frequently interchangeable with  
9                   subject product and that as slide 9 shows, U.S. produced  
10                  multilayered wood flooring and subject multilayered wood  
11                  flooring from China were comparable on a majority of factors  
12                  including quality.

13                  Thus, if U.S. produced and subject Chinese  
14                  multilayered wood flooring are comparable on quality, the  
15                  purchasing decision comes down to price.

16                  Finally, while companies' narrative responses  
17                  are confidential, the prehearing report documents numerous  
18                  instances in which purchasers and importers reported  
19                  changing their purchasing patterns because of the orders.  
20                  This is precisely the disciplining effect that these orders  
21                  have had on the market. That is the orders have had the  
22                  effect of, one, preventing unfairly low prices and two,  
23                  maintaining fair and responsible pricing in the  
24                  marketplace. The latter is especially true given the  
25                  retroactive nature of the duties.

1           In other words, since the duties are applied to  
2 goods that have already been sold, and future duties will be  
3 applied to goods that importers are selling currently,  
4 importers must be careful to maintain fair pricing or else  
5 they will be held liable in the future for unfair sale in  
6 the present.

7           This disciplining effect is further evidenced in  
8 the price data and is shown on slide 10. This graph shows  
9 the percent of instances of underselling in each year along  
10 with the annual average anti-dumping rate. All data labels  
11 have been removed from this chart to eliminate any BPI  
12 information.

13           As you can see, the percent of instances of  
14 underselling increases in the years that the anti-dumping  
15 rate is lower like in 2012 and 2013. However, as the  
16 anti-dumping rate increased in 2014, and then more  
17 substantially in 2015 and 2016, the percent of instances  
18 undersold moved in the opposite direction. That is, imports  
19 undersold the domestic industry less when the anti-dumping  
20 rate was higher.

21           While there are certainly a variety of factors  
22 to which market prices respond, we believe that this  
23 analysis demonstrates that the orders do have a price  
24 disciplining effect on subject imports.

25           Another way to demonstrate the disciplining

1 effect of the orders is by examining average unit values or  
2 AUVs. While the Commission does not traditionally use AUVs  
3 in its price analysis given that they can be influenced by  
4 product mix, AUVs can be instructive, especially in the  
5 absence of more granular price data for non-subject imports.

6 Slide 11 shows the AUVs for U.S. producers U.S.  
7 shipments and importer's U.S. shipments from China from the  
8 original investigation. As this slide shows, these AUVs  
9 were very similar. On slide 12, however, we see shipment  
10 AUVs from this review. This slide shows that non-subject  
11 Chinese AUVs, that is the AUVs of Chinese imports that are  
12 not under the orders, are quite similar to U.S. producers'  
13 AUVs. The subject Chinese AUVs, however, are much higher.  
14 This is a discernible change from the original investigation  
15 and it demonstrates the disciplining effect of the order.

16 It is important to mention that respondents  
17 repeatedly referred to the fact that non-subject prices are  
18 lower than subject prices as if this were some sort of  
19 alternative cause for any difficulty faced by the domestic  
20 industry during the POR. However, that is not the standard  
21 or how this fact should be interpreted.

22 Rather, the lower AUVs for non-subject imports  
23 from China should be interpreted as an example of what AUVs  
24 for subject imports from China would have been without the  
25 impact of the orders and what they will be if the orders are

1       revoked. This is especially true when subject producers are  
2       seeking to take back share that they have lost as discussed  
3       by Mr. Dougan.

4                       As a final note on price, I would like to  
5       mention respondents' attempt to analyze the underselling  
6       data. On page 54 of their pre-hearing brief, respondents  
7       divide the instances of underselling into two portions: 2011  
8       to 2013 and 2014 to 2017, and then show that there was less  
9       underselling in the latter portion of the POR. As my  
10      previous slide 10 showed, we agree and we believe this is  
11      likely attributable to the disciplining effect of the  
12      orders.

13                      Respondents, however, tried to use this as  
14      evidence that there is not a relationship between import  
15      prices and the condition of the domestic industry since the  
16      industry's profitability declined later in the POR when  
17      there was less underselling. However, respondents also  
18      claim that the industry's profitability from 2014 onwards is  
19      not representative of the industry as a whole, given the  
20      results of certain U.S. producers. Respondents cannot have  
21      it both ways. They cannot claim there is no relationship  
22      between import prices and domestic industry profitability,  
23      but simultaneously assert that the domestic industry's  
24      profitability data are distorted.

25                      In sum, respondent's analysis of the



1 underselling data is inconsistent with other arguments set  
2 forth in their prehearing brief and it should therefore be  
3 disregarded.

4                   Moving now to impact. Over the POR, the  
5 domestic industry has grown and expanded in a way that would  
6 not have been possible without the orders. Several new  
7 producers have entered the industry since 2012, and as shown  
8 on slide 13, and as discussed by Mr. Dougan, the industry  
9 has increased its capacity, production, and U.S. shipments  
10 from 2011 to 2016. The industry has also increased its  
11 capital expenditures and research and development  
12 expenditures.

13                   Importantly, as shown on slide 14, the domestic  
14 industry has increased the number of production related  
15 workers. This is a major accomplishment, especially given  
16 the number of jobs that were lost during the original POI.  
17 These new, added jobs are directly attributable to the  
18 investments the industry has made in its U.S. production  
19 facilities, which again, would not have been possible  
20 without the effect of the orders.

21                   Furthermore, while the industry's profitability  
22 appears to have declined over the POR, we, as well as  
23 respondents, acknowledge that this decline in profitability  
24 is primarily due to the results of a select few U.S.  
25 producers. While the details are confidential, it is

1 important for the Commission to know that these declines are  
2 due in large part to certain U.S. producers making  
3 significant investments in their U.S. production facilities.

4 This has been costly for these producers, which  
5 explains their relatively poor financial results, but these  
6 investments would not have been made if the orders had not  
7 been imposed.

8 Moreover, if the orders are revoked, the U.S.  
9 industry will never reap the benefits of these investments.  
10 Revocation of the orders will lead to a reversal of these  
11 growth trends and a recurrence of material injury to the  
12 domestic industry. While the domestic industry experienced  
13 growth over the full years of the POR, this growth has  
14 slowed between the interim periods. As shown at slide 15,  
15 the domestic industry's production, shipments, and capacity  
16 utilization declined between the interim periods. So did  
17 PRWs and hourly wages. Inventories increased and while the  
18 industry's cost to sales ratio improved slightly, a majority  
19 of importers anticipate increases in raw materials prices in  
20 the future. This makes the domestic industry more  
21 susceptible to a cost price squeeze.

22 Furthermore, as demonstrated by Figure 2-1 of  
23 the prehearing staff report, reproduced here in slide 16,  
24 the value of construction put in place, which is one of the  
25 biggest drivers of demand in this market, has been fairly

1 flat in 2017. Given all of these factors, it is clear that  
2 the domestic industry is vulnerable to future injury.  
3 Therefore, we believe that because of this and all the other  
4 reasons discussed in our presentation, the domestic  
5 industry will experience a recurrence of injury if the  
6 orders are terminated. Thank you.

7 STATEMENT OF JEFFREY S. LEVIN

8 MR. LEVIN: Thank you, Jim and Emma.

9 Good morning again, Commissioners. My name is  
10 Jeff Levin, counsel for Petitioners, and I want to conclude  
11 our witness panel this morning by touching briefly on a few  
12 issues.

13 In a sunset review the Commissioners are required  
14 to determine whether revocation of the subject Orders would  
15 be likely to lead to continuation or recurrence of material  
16 injury within a reasonably foreseeable time.

17 One factor that the Commission must take into  
18 account is its prior injury determination. In the original  
19 investigation, Respondent's overarching argument was that  
20 Chinese imports do not have an adverse impact on the volume  
21 or price of U.S.-produced MLWF, and on the MLWF industry as  
22 a whole, since there was only attenuated competition between  
23 Chinese imports and the U.S. product.

24 The Commission stated as follows in its original  
25 determination, quote: "The parties agree that

1       substitutability among different MLWF products is largely  
2       determined by the tastes and preferences of retail customers  
3       who buy the flooring for their homes.

4               According to the record, prospective consumers of  
5       MLWF evaluate their choices based on the look or appearance  
6       of the product, having in mind the preferred color scheme,  
7       texture, and perhaps a greying pattern.

8               Respondents argued that there is attenuating  
9       competition between imports of subject MLWF from China and  
10       domestically produced MLWF with subject MLWF complementing  
11       rather than displacing domestically produced product.

12               Specifically, Respondents argue that subject MLWF  
13       from China differs from domestically produced MLWF in terms  
14       of species, plies, widths, interlocking technology, and  
15       hand-scraping features, and they argue that the subject MLWF  
16       from China competes in different channels of distribution  
17       than MLWF produced in the United States. The record,  
18       however, clearly refutes each of these arguments." Close  
19       quote.

20               Nothing has fundamentally changed in the six  
21       years since the original investigation. Substitutability  
22       among different MLWF products is still largely determined by  
23       the tastes and preferences of retail customers who buy the  
24       flooring for their homes.

25               Prospective consumers of MLWF still evaluate

1 their choices based on the look or appearance of the  
2 product, having in mind a preferred color scheme, texture,  
3 and perhaps grain pattern.

4 In terms of species, plies, widths, interlocking  
5 technology, hand-scraping features, channels of  
6 distribution, the competition between subject imports and  
7 domestically manufactured MLWF remains broad and direct, and  
8 price remains one of the most paramount factors in this  
9 continuing competition.

10 Putting aside the intricacies of the nonmarket  
11 economy methodology, the Commerce Department has determined  
12 that revocation of the AD Order on MLWF would likely lead to  
13 the continuation or recurrence of dumping with margins up to  
14 25.62 percent.

15 So with the significant overlap in competition of  
16 a price-sensitive product, and where a significant portion  
17 of the market is already held by subject imports, the  
18 removal of any pricing discipline will lead to dumping at  
19 commercially significant levels. And not just by the  
20 handful of Chinese producers that responded to the  
21 Commission's questionnaire here, but also by dozens if not  
22 hundreds of other manufacturers and exporters in China.

23 This will likely lead to the recurrence of  
24 material injury. Domestic production and shipments will  
25 decline, or even in the most favorable of economic

1 environments increase at a slower rate than subject imports.  
2 Either way, U.S. producers will lose market share. Revenue  
3 will decline. And any reasonable expectation to gain a  
4 return on investments by this manufacturing industry here in  
5 the United States will be severely jeopardized.

6           The most consequential threat to the U.S.  
7 industry is not luxury vinyl tile or laminates. It is the  
8 danger posed by the removal of any pricing discipline on  
9 subject imports. But even if this was not the most  
10 consequential threat but one alongside others, as has been  
11 often noted by the Commission the statutory scheme clearly  
12 contemplates that an industry may be facing difficulties  
13 from a variety of sources, including non-subject imports and  
14 other factors. But the existence of injury caused by other  
15 factors does not compel a negative determination if the  
16 subject imports themselves are making more than an  
17 incidental, tangential, or trivial contribution to material  
18 injury." Close quote.

19           And that is what will happen here. On behalf of  
20 the Petitioners, we respectfully submit that the facts in  
21 evidence presented in these reviews strongly support an  
22 affirmative determination that revocation of the Orders on  
23 MLWF from China would lead to the recurrence or continuation  
24 of material injury within a reasonably foreseeable time.

25           On behalf of our witnesses, we thank the

1 Commission. We thank the Investigation Staff for their  
2 work. That concludes our panel for this morning, and we  
3 look forward to questions the Commissioners may have. Thank  
4 you.

5 CHAIRMAN SCHMIDTLEIN; Alright. Thank you very  
6 much, Mr. Levin. I would like to thank all the witnesses  
7 for being here today to help us understand this review.

8 We will begin the questions with Commissioners  
9 with Commissioner Broadbent this morning.

10 COMMISSIONER BROADBENT: Thank you.

11 Mr. Levin and your team, it's interesting. We  
12 have the Coalition versus the Alliance. It sounds like a  
13 Star Wars Movie.

14 (Laughter.)

15 COMMISSIONER BROADBENT: Are there any like Darth  
16 Vaders out there?

17 MR. LEVIN: Not that I'm aware of. We want to get  
18 some Storm Troopers through security but that was just  
19 really difficult.

20 (Laughter.)

21 MR. LEVIN: I will say, we came up with our name  
22 first.

23 (Laughter.)

24 COMMISSIONER BROADBENT: Okay. Just a preliminary  
25 question, Mr. Levin. Some of the domestic industry's

1 interested parties failed to meet the Commission's deadline  
2 regarding its questionnaires, and some of the data, once  
3 submitted, was incomplete, and some of it inaccurate.

4 Does this suggest ambivalence about maintaining  
5 the Orders?

6 MR. LEVIN: No, and I understand the question. As  
7 far as I know, there are no significant or sizeable domestic  
8 manufacturers that haven't responded to the questionnaire.  
9 There were several rounds of revisions. I don't think that  
10 is too out-of-normal course when the Investigation staff  
11 attempts, as they have here, with true diligence to try to  
12 fine-point all of the responses submitted in the  
13 questionnaire response.

14 But, no, no ambivalence.

15 COMMISSIONER BROADBENT: Can you explain to me the  
16 role of the Chinese imports in the market, both subject and  
17 non-subject? Why does the domestic industry import from  
18 China?

19 MR. LEVIN: Well I'll let some of the domestic  
20 industry answer the question for ourselves. There are  
21 certain reasons that are spelled out in the prehearing  
22 report, as quoted from the questionnaire responses. There  
23 are also in some instances very time-specific and  
24 factor-specific for a portion of the subject imports, and we  
25 will go into detail in that in some confidential affidavits



1 in the post-hearing brief.

2 But I do want to say one or two things about  
3 imports by domestic producers. I know a lot has been made  
4 of this point by the Respondents in their brief. I'm sure  
5 we'll hear plenty about it in their testimony this morning.

6 The vast majority of subject imports during the  
7 Period of Review were imported by companies other than U.S.  
8 producers. So even if you discount the subject imports by  
9 U.S. producers, that still leaves a wealth of subject  
10 imports coming into the United States by importers and  
11 distributors that have no relationship to the U.S. domestic  
12 industry.

13 Second, I want to make a fairly technical point.  
14 This is not a material injury investigation where we're  
15 looking at whether or not subject imports are a cause of  
16 material injury to the domestic industry over a period of  
17 investigation. This is a forward-looking review where we  
18 are trying to evaluate where the Commission has to  
19 determine what the likely consequence of revocation of the  
20 Order will be.

21 And notwithstanding subject imports by U.S.  
22 producers which have declined notably in the most recent  
23 periods, we believe as you move forward subject imports,  
24 whether or not by U.S. producers, will increase quickly and  
25 significantly.

1                   COMMISSIONER BROADBENT: Now have they declined  
2 because some of the Orders have come off?

3                   MR. LEVIN: Have the imports by U.S. producers--

4                   COMMISSIONER BROADBENT: Yes.

5                   MR. LEVIN: --declined? I think there's a couple  
6 of reasons. There's a slight softening in the market, which  
7 shows a downward trend for some of the indicators. Also,  
8 some of the time and fact-specific reasons for some of the  
9 subject imports that were time-specific, the time has  
10 passed. They no longer have the need to import in order to  
11 complete their product offerings to prospective customers.

12                   But also there's new manufacturing capability  
13 that is coming online, some of it quite recently, which  
14 truly dilutes the need moving forward for U.S. producers to  
15 import.

16                   COMMISSIONER BROADBENT: Okay. And then for--I  
17 know it's BPI--but for the record, could you give us pretty  
18 detailed information about how much domestic importers--I  
19 mean domestic industry is importing from China, both subject  
20 and non-subject, and the trends?

21                   MR. LEVIN: Absolutely we can do that in the  
22 post-hearing brief--

23                   COMMISSIONER BROADBENT: Right.

24                   MR. LEVIN: --if we may. I think that data is  
25 pretty well recorded already in the prehearing report, but

1 we'd be pleased to review it and expound on this.

2 COMMISSIONER BROADBENT: That would be great. The  
3 Alliance Group says that, in their prehearing brief, that  
4 U.S. producers continue to import multi-layer flooring from  
5 China, regardless of whether or not there are duties on it.  
6 Is that true?

7 MR. LEVIN: I think in the instances where there  
8 was a time-specific commercial need for it, that probably is  
9 true.

10 COMMISSIONER BROADBENT: Does the fact that U.S.  
11 producers have continued to import subject merchandise  
12 during this period of review support the Alliance's argument  
13 that there is some degree of attenuated competition between  
14 domestically produced and LWF and MLWF from China?

15 MR. LEVIN: I truly do not believe so. There may  
16 be instances where a very particular product on order was  
17 much more readily available, or more likely readily  
18 available at a better price considering the pricing  
19 pressures that producers are receiving from their customers.

20 But as a general, across-the-board matter, and  
21 consistent with the Commission's original finding, no, we  
22 absolutely do not believe that the competition between  
23 subject imports and domestically produced product can be  
24 characterized as attenuated in any way, shape, or form.

25 COMMISSIONER BROADBENT: Because of why? Can you

1 just flesh that out a little bit?

2 MR. LEVIN: Surely. There are few, ir any,  
3 products that cannot be domestically manufactured, first of  
4 all. Second of all, if you are talking about certain  
5 face-ply species that come in from China, this is an issue  
6 that the Commission looked at in the original  
7 investigation.

8 Back in the day when this attenuated competition  
9 argument was largely based on acacia-faced MLWF, we haven't  
10 heard any of that on this go-around, but the competition is  
11 not based on a specific species of the faced ply, which is  
12 what sells the product. It's based on the appearance, and  
13 therefore different species, one supplied by a Chinese  
14 exporter, one supplied by a domestic producer, they may not  
15 be identical species but they both qualify for the  
16 appearance, and the texture, and the look, as I was  
17 referencing in my testimony, that is sufficient for the  
18 customers.

19 COMMISSIONER BROADBENT: Okay.

20 MR. FINKELL: I would like to expound a little  
21 bit, or try to answer some of your questions.

22 COMMISSIONER BROADBENT: Sure. Mr. Finkell.

23 MR. FINKELL: Yes, this is Don Finkell. If you're  
24 a manufacturer that only makes wood flooring, then you've  
25 got to stay in that fight. But if you've got multiple

1 product categories, and you're a large manufacturer of floor  
2 covering and you have various categories, and then you get  
3 challenged on pricing on the wood side, your first efforts  
4 go into trying to reduce your costs.

5 So there's a lot of engineering, a lot of effort,  
6 you know, working with suppliers, you know, working with  
7 technology to see if you can get your price down. And so  
8 you continue to do that.

9 And then at some point it becomes cheaper to buy  
10 it than it is to make it yourself. And I think that some  
11 manufacturers, large manufacturers with multiple product  
12 categories, have made that decision at least on part of  
13 their product line.

14 COMMISSIONER BROADBENT: Okay. Mr. Ward, what are  
15 the distinctions between different tiers of stores that sell  
16 your product? For example, Armstrong has Armstrong  
17 Showrooms, premiere retailers, home centers, et cetera.  
18 What is needed to reach the different tiers? Which floor  
19 coverings help to determine these tiers?

20 MR. WARD: So Mohawk competes in all categories of  
21 retail sales from the independent distributor who is selling  
22 our product to the retailers, to directly the retailers and  
23 home centers as well.

24 Since Mohawk carries a wide swath of products  
25 from carpet to laminate to tile to engineered wood flooring,

1 we use that branding across all of our products to present a  
2 clean and tailored look in the showroom.

3 Those customers when they come in, you don't have  
4 all of the products mixed together. You have in those  
5 retail showrooms hardwood in one area,. Laminate in another  
6 area, tile in another area. When those customers go in,  
7 they're looking at hardwood, if they're looking for  
8 hardwood. They're not shopping laminate and LVT right  
9 beside. They're coming in to look for hardwood.

10 COMMISSIONER BROADBENT: Okay, thank you. My time  
11 has expired.

12 CHAIRMAN SCHMIDTLEIN: Okay. Can I go back to Mr.  
13 Levin? You just said that the vast majority of imports are  
14 coming from other than domestic producers. And I was  
15 wondering--and I looked in your brief and I see the number,  
16 it's BPI. Could you tell me where you get that number? I'm  
17 just trying to do a calculation here based on what the C  
18 table says in terms of the quantity imported for subject--

19 MR. LEVIN: Right.

20 CHAIRMAN SCHMIDTLEIN: And then I was looking at  
21 315 in the staff report where it shows the various  
22 quantities imported by U.S. producers. And I'm looking at  
23 2016, and that's the number that you have in your brief.  
24 It's hard to do, but when I look at that and do kind of a  
25 rough, it does not seem to equal what you all have in your

1 brief for 2016 in terms of percentage of subject being  
2 imported by U.S. producers.

3 MR. LEVIN: Well again the numbers are BPI. So we  
4 can't go into them in detail. But if you're looking at  
5 2016, yes, the information is culled from pages 315 and 316  
6 of the prehearing report. And it's a matter of comparing  
7 the sum total of the U.S. shipments of imports, of subject  
8 imports by the domestic producers against total U.S.  
9 shipments or total imports.

10 CHAIRMAN SCHMIDTLEIN: Total imports?

11 MR. LEVIN: Total subject imports.

12 CHAIRMAN SCHMIDTLEIN: Total subject is what--

13 MR. LEVIN: Right.

14 CHAIRMAN SCHMIDTLEIN: Okay, if you could spell  
15 that out in your brief, because it doesn't--

16 MR. LEVIN: Yes, absolutely.

17 CHAIRMAN SCHMIDTLEIN: Because I'm not sure--

18 MR. LEVIN: You have to--

19 CHAIRMAN SCHMIDTLEIN: Okay.

20 MR. LEVIN: --you need to hark back. You need to  
21 add up the sum of the company X, company Y, company Z,  
22 subject imports, and then compare it to total subject  
23 imports.

24 CHAIRMAN SCHMIDTLEIN: Okay. Okay, so I wanted to  
25 talk a little bit about the different substitutes, if you

1 will, for multi-wood, multilayered wood flooring in terms of  
2 vinyl, and I know we've touched on this a little bit, and in  
3 the staff report there's a pretty lengthy discussion of  
4 these different substitutes at pages 216 to 219, including a  
5 quote from an industry publication with regard to the  
6 decline in wood flooring prices in 2015 and 2016 occurring  
7 alongside decreases in lumber prices. The publication goes  
8 on to say there have been lower, or slower sales due to  
9 increased competition from wood-look ceramic tile planks and  
10 from new and innovative luxury vinyl tile and wood plastic  
11 composite products.

12 And then it also, on page 216, concludes with, in  
13 a different paragraph, a slight majority of firms noted that  
14 in aggregate these substitutes do influence the price of  
15 multilayer wood flooring.

16 The Respondents have argued in this case that  
17 that's constraining prices of multilayered wood flooring.  
18 So this is sort of a long wind-up to asking you all to just  
19 talk about the evolution of these potential substitutes  
20 since the last investigation, and whether or not you believe  
21 there is some cross-over price effects from them.

22 MR. LEVIN: Absolutely. And of course the  
23 industry witnesses are much more capable of speaking to this  
24 than I am. But I just want to set up the response.

25 Obviously we know the argument. We don't believe



1 in the argument, et cetera, et cetera. But we're looking at  
2 an MLWF market that has grown, and grown significantly, over  
3 the course of the period of review.

4 You're citing to one of the industry  
5 publications. I don't recall if we cited to one, as well,  
6 but I'll read it to you right now. This is the 2018 report  
7 of U.S. Floor Report, which I think everybody in this room  
8 is familiar with.

9 "Driven by significant consumer desirability and  
10 demand, wood flooring has enjoyed phenomenal growth in  
11 popularity in recent years, and this growth has been slowed  
12 only by the recent economic downturn."

13 So, yeah, LVT is going up in sales. Laminates, I  
14 don't believe, are. MLWF is growing. And to a certain  
15 extent, that's growing at the expense of solid wood  
16 flooring. Your question gets into another point, and I'll  
17 let Adam and Don or Kip chime in, if they may.

18 MR. WARD: So to touch on what Jeff has just said,  
19 as Mohawk reaches across all categories, it is true the  
20 other categories such as LVT and wood-look ceramics have  
21 grown. But they've largely grown at the expense of carpet  
22 or soft surfaces. Soft surfaces, such as carpet, continued  
23 to decline as consumers prefer hard surfaces such as wood  
24 looks.

25 As Jeff mentioned, wood has, and we expect to

1 continue to grow and industry reports reflect that as well.  
2 So while wood-look ceramics and LVT have grown, we see them  
3 largely as at the expense of carpet or soft surfaces, or  
4 solid wood floorings which carry a much higher price.

5 MR. LEVIN: And I think Don has one thing to add,  
6 if he may.

7 MR. FINKELL: Yes This is Don Finkell. Back in  
8 the 1990s when Pergo brought laminate from Europe to the  
9 United States, we heard this same thing, that why would  
10 anybody buy--why would anybody buy wood flooring when you  
11 can buy this laminate that's perfect, has no defects in it,  
12 and it's cheaper. And we were actually concerned about it.  
13 But it just didn't happen. People did not give up on wood  
14 floors.

15 It did take share, mostly from carpet. Thank  
16 you.

17 CHAIRMAN SCHMIDTLEIN: But you all don't disagree  
18 that they do compete? I mean, these types of substitutes?  
19 They're competing with solid wood flooring. They're  
20 competing with carpet. They're competing with all these  
21 other types of wood coverings.

22 MR. WARD: They compete in the market in that they  
23 look like a wood product. But as mentioned earlier, people  
24 that want wood are still going to buy wood because they want  
25 the real thing. There is no substitute for wood flooring.

1                   CHAIRMAN SCHMIDTLEIN: So why would those products  
2 take share from solid wood? Why would somebody switch from  
3 solid wood to that and skip over multilayered wood flooring?

4                   MR. WARD: Mainly a cost differential. So solid  
5 wood carries a much higher cost than an engineered wood  
6 flooring, or your LVTs or laminates.

7                   CHAIRMAN SCHMIDTLEIN: But multilayered wood  
8 flooring is less expensive than solid wood, right?

9                   MR. WARD: Correct.

10                  CHAIRMAN SCHMIDTLEIN: So those customers have  
11 just decided they don't want--a lot of these substitutes do  
12 have like a wood look now, don't they?

13                  MR. WARD: They do.

14                  CHAIRMAN SCHMIDTLEIN: They do. So you're saying  
15 they just want--their price point is so much lower that they  
16 skip over the multi-layer wood flooring?

17                  MR. WARD: Correct.

18                  CHAIRMAN SCHMIDTLEIN: So do you think it's  
19 constraining price at all, though, given that it looks like  
20 these customers who still want a wood look have a lower  
21 price point, that, you know, you're going to have to take  
22 that into account when setting your prices for multilayered  
23 wood flooring?

24                  MR. WARD: Again, we see customers coming into  
25 showrooms and coming into retail, they're specifically

1 looking for wood products. So again we have seen wood  
2 flooring as engineered grow over the past seven years, and  
3 we expect that to continue to grow.

4 We see most customers looking for wood are not  
5 settling for a substitute such as ceramic wood-look tiles or  
6 LVTs.

7 CHAIRMAN SCHMIDTLEIN: And why is that?

8 MR. WARD: It's an authenticity. It's a very  
9 large purchase for them. It's something that--

10 CHAIRMAN SCHMIDTLEIN: But it's a pretty small  
11 overall component of the cost of a house or renovation,  
12 right?

13 MR. WARD: In the renovation budget, it can  
14 account for as much as 20 percent of the reno. Definitely  
15 not the biggest, like moving walls or some other  
16 construction cost, but as a material that you buy, it can be  
17 one of the biggest purchases.

18 It's also a purchase that you'll likely live with  
19 for the next 10 to 20 years. It's a product that has  
20 long-lasting value as opposed to carpet which you may  
21 replace every five years. So it's an important decision,  
22 and there's a connection to wood that you don't get with a  
23 laminate or an LVT.

24 MR. FINKELL: I'd like to say, too--this is Don  
25 Finkell--that it may be a small price of the whole house,

1 but it's a large part of what you actually see when you're  
2 in the house.

3 CHAIRMAN SCHMIDTLEIN: Okay. Okay, did you want--

4

5 MR. LEVIN: I'd just add, harking back to what  
6 Adam said in his affirmative testimony, if you walk into  
7 showrooms, there's a section for hardwood. There's a  
8 section for laminate. There's a section for tile. There's  
9 a section for LVT. They are considered, even in the  
10 showrooms, separate product categories.

11 So if somebody is coming in and looking for wood  
12 flooring, they're going to go to the wood flooring section.  
13 They're not going to necessarily go to the laminate section  
14 and look for wood flooring-like.

15 And again, we were talking about HGTV and all of  
16 that sort of fun stuff yesterday. You never hear a home  
17 advertised "luxury vinyl tile throughout." It just doesn't  
18 have that aspirational panache that wood flooring still has  
19 and will continue to have.

20 CHAIRMAN SCHMIDTLEIN: Okay. Alright, my time is  
21 up. So we'll now go Vice Chairman Johanson.

22 VICE CHAIRMAN JOHANSON: Thank you, Chairman  
23 Schmidtlein. And I would like to thank all of you for  
24 appearing here today.

25 This is a very interesting investigation.

1 Looking back at the original investigation, it generated  
2 quite a bit of litigation. And with that in mind, I'd like  
3 to begin with this question:

4 Respondents note that Commerce's remand  
5 determination on the separate rate for eight companies that  
6 appealed Commerce's original determination is currently  
7 pending before the U.S. Court of International Trade. They  
8 contend that the ultimate decision will be critical to the  
9 Commission's review. And this can be seen at their brief at  
10 page two.

11 Do you agree with them? And in your view how  
12 would the CIT's decision affect our decision regarding the  
13 likely injury in this review?

14 MR. LEVIN: Let me start my response by saying I  
15 believe that counsel for the Respondents may have  
16 mischaracterized slightly what's going on here.

17 I believe she had said in the opening statement  
18 that it's likely that eight companies are ultimately going  
19 to be excluded from the order. That's simply not true.  
20 That is a possibility, but it hasn't happened yet.

21 Let me point out these companies were subject  
22 companies from the get-go. They were subject companies for  
23 the six-year period between the original investigation and  
24 to date. They were subject companies through four rounds of  
25 remands to the Commerce Department. What is before the

1 Court of International Trade right now is a remand  
2 determination that these eight companies will stay under the  
3 order. That's what the court is reviewing.

4 The Commerce Department was asked by the Court  
5 of International Trade to make a remand determination, the  
6 fourth or fifth on this issue. And on the most recent  
7 remand determination these companies still remain under the  
8 order and I've submitted briefs in this case. There is an  
9 oral argument before the Court of International Trade, which  
10 is currently scheduled for November 30, a day after the  
11 scheduled vote here. The Court of International Trade will  
12 likely not hand down a decision for several months after  
13 this review is over.

14 There is no basis to state with any degree of  
15 certainty anything beyond mere speculation that these  
16 companies are going to be removed from the order. They  
17 haven't been through four remands. They haven't been  
18 through the current remand. Every judicial opinion on this  
19 issue has kept those companies under the order.

20 VICE CHAIRMAN JOHANSON: Thank you, Mr. Levin.

21 Respondents take the position that the  
22 Commission should give little weight to any findings of  
23 underselling in the original investigation because the  
24 pricing data may have included non-subject imports from  
25 Yihua and Layo and this can be found at page 51 of their

1 brief.

2           They also argue, more generally, that given  
3 changes that occurred since the original investigation with  
4 regard to which exporters are subject to the orders and  
5 which are excluded the original investigation cannot be  
6 viewed as informative of the likely affect of revocation of  
7 the orders and this can be see at page 3 to 4 of their  
8 brief. What is your response?

9           MR. LEVIN: My response is, no, not quite.  
10 First of all, by the time the final determination in the  
11 Commission's final report in the original investigation was  
12 issued there was only one company, Yihua that was excluded  
13 by virtue of the original final determination by the  
14 Commerce Department. Layo and Samling were included in the  
15 original investigation, part of the injury determination.

16           Of those companies, Samling is still considered  
17 subject imports. The Respondents may not like it, but hey,  
18 that's the way the law operates. They're under the CVD  
19 Order. They're considered subject imports. So really, the  
20 only company that we're talking about here that may have had  
21 any impact on the Commission's initial determination is  
22 Leyo. And to the best of my knowledge, there is no way to  
23 segregate Leyo data out from the data for other subject  
24 imports that would undermine the Commission's original  
25 determination.



1                   So yes, the original determination had one  
2                   company -- one company that fell out after determination was  
3                   issued. They're a large company, but they're not the  
4                   largest and I wouldn't venture to guess a percentage of  
5                   total subject imports that were presented by Layo, but it is  
6                   not such a percentage that it would fundamentally alter any  
7                   of the findings in the original determination and that  
8                   should fundamentally alter the Commission's perspective of  
9                   the original determination for purposes of this review.

10                   Let me also add there is no evidence and there  
11                   is no proposition presented by the Respondents that would  
12                   indicate that the type of merchandise, the type of MLWF  
13                   produced and exported by Leyo is of a different kind or  
14                   quality or character that would disrupt the findings on  
15                   substitutability, on price competition, on underselling as a  
16                   whole.

17                   VICE CHAIRMAN JOHANSON: Thank you, Mr. Levin.

18                   Respondents take the position that the  
19                   anti-dumping and countervailing duty orders have not been  
20                   restrictive; given that certain large Chinese producers are  
21                   not subject to the orders and that others face  
22                   non-prohibitive anti-dumping duty rates. What is your  
23                   response?

24                   MR. LEVIN: My response is that the benefits of  
25                   the order are very clear and tangible. The new domestic

1 manufacturers that have come on the scene in the intervening  
2 years, the fact that some U.S.-based manufacturers have made  
3 some significant changes to their operations indicating a  
4 desire to keep manufacturing based in the United States.

5 I'm interested in the argument that the Order  
6 has not been effective because the margins have been found  
7 to be so low in the administrative reviews or at least in  
8 some of the administrative reviews, including the most  
9 recently announced. I'm a trade lawyer, so when I see an  
10 order going into place and the cessation or near cessation  
11 of dumping through administrative reviews my conclusion is,  
12 hey, the Order is working. That's what it's supposed to do.

13 MS. PETERSON: Commission Johanson, if I might  
14 add also, one of the things that I mentioned in my testimony  
15 -- and it's on Slide 10, if you want to put that back up --  
16 is that the underselling that we see on the record has  
17 varied inversely with the anti-dumping rates. So what this  
18 is showing is that the anti-dumping rate is having some  
19 affect on prices in the market and part of that has to do  
20 with, as Adam mention in his testimony, and I'll let him  
21 speak more to this, is the uncertainty that comes along with  
22 this and that's what we mean, in part, when we say the  
23 disciplining affect because you know importers are going to  
24 be liable in the future for sales that they're making now.

25 And what's shown on the slide has really -- as

1 Mr. Ward said, it depicts what's going on in the market and  
2 I'll let Adam add onto that, if you want to review what  
3 you'd said in your testimony.

4 MR. WARD: As we've made quite a bit of  
5 investment during the first five-year period, over \$25  
6 million; primarily, because we felt long term we could  
7 compete in a domestic product and our recent plant that  
8 opened last year in Melbourne that we made significant  
9 investment was directly related to the imposition of the  
10 duty orders that you see here. Without them, there is  
11 serious risk that we would not be able to continue  
12 competitively against Chinese imports.

13 MR. LEVIN: And I believe, Commissioner  
14 Johanson, there are narrative comments in Appendix E; I  
15 believe it is, of the pre-hearing report that would indicate  
16 that the Orders have impacted the commercial market,  
17 comments made by importers and purchasers. Along these  
18 general lines and picking up on the point that Emma made  
19 about the uncertainty that's imposed on the market by virtue  
20 of administrative reviews, et cetera, et cetera, let me  
21 just clarify.

22 The administrative review that was just  
23 completed had a zero percent duty margin for the imports  
24 that came up during that specific review period, which was  
25 December 1, 2014 through November 30, 2015. It doesn't mean

1 that there's no dumping going on now. The zero percent as  
2 it applies in the commercial market as of today means a zero  
3 percent cash deposit requirement, not that there's no  
4 dumping. We don't know that yet. Of course, that review is  
5 ongoing. Actually, the review for something that would come  
6 in today hasn't even begun yet.

7 MR. DOUGAN: Vice Chairman, if I can add one  
8 other thing. Part of the argument that you hear with regard  
9 to the CVD Order or the low AD margins when they've been in  
10 place is that they're not commercially meaningful and that  
11 they don't have an impact, they don't have a disciplining  
12 affect; but there's evidence on the record and some  
13 antidotal evidence presented at pages 26 to 27, BPI of our  
14 brief, but how even small changes in price or attempts to  
15 maintain pricing that would be only a couple of percentage  
16 points differential in pricing for the American product has  
17 lead to a decline in the volume of orders. So you know it  
18 doesn't have to be a 50 percent margin for it to have some  
19 commercial impact in the marketplace.

20 VICE CHAIRMAN JOHANSON: Alright, thank you for  
21 all your answers. My time's expired.

22 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

23 COMMISSIONER BROADBENT: Mr. Ward, is there a  
24 difference in terms of quality or product mix between MLDF  
25 from subject Chinese producers or non-subject Chinese

1 producers?

2 MR. WARD: To our knowledge, no.

3 COMMISSIONER BROADBENT: Given that we've seen  
4 so much about the formaldehyde issues, illegal timber,  
5 logging, why are U.S. producers continuing to import from  
6 China?

7 MR. WARD: Mainly, we hit all segments of the  
8 customer and there are price points that specifically we are  
9 required to get the overall business, that we cannot  
10 manufacture competitively in the U.S. There are also  
11 products that our manufacturing facilities did not -- and I  
12 say "did not" because when we opened our new facility that  
13 gave us the ability to produce those products and that was  
14 specifically revolving around the dumping duties.

15 So in the past, we've imported these wider,  
16 longer products that we did not have the ability to produce.  
17 We are now producing those in the U.S., so we have actually  
18 reduced our imports this year and see a reduction next year  
19 as well; mainly, because we have opened that new plant to  
20 produce those products in the United States.

21 COMMISSIONER BROADBENT: Are there still lines  
22 of product that you'll need to continue to import from  
23 China?

24 MR. WARD: There are still some very low-cost  
25 competitive products that we are continuing now. We are

1 looking at options to reduce those further, provided that  
2 the dumping duties stay in place.

3 COMMISSIONER BROADBENT: What are those low-cost  
4 options? What product is that?

5 MR. WARD: You typically see smaller planks, so  
6 they're up to 4-foot in length and approximately 5-inches in  
7 width that are scraped or distressed in some part. The  
8 selling prices they're almost a commodity product because a  
9 numerous number of people compete with those and volume-wise  
10 out of China that's what you see the most of.

11 COMMISSIONER BROADBENT: Okay. Yes, Mr. Finkel?

12 MR. FINKEL: I might add you know at American  
13 OEM we make -- 95 percent of what we make is wide and long  
14 product, so you know that part of the market is serviced by  
15 us and by other manufacturers, including Mohawk and various  
16 specialized manufacturers in the U.S.

17 COMMISSIONER BROADBENT: Okay.

18 Mr. Dougan and Ms. Peterson, when you're  
19 discussing the profitability of the domestic industry,  
20 you're saying that the declining profitability is a good  
21 thing because it has forced companies or has been correlated  
22 with investments here. If that's the case, is the industry  
23 really vulnerable, given the magnitude of those  
24 reinvestments? What indices should we look at to reflect  
25 vulnerability?

1                   MR. DOUGAN: I don't know that we would  
2 characterize it as a good thing. They're having some  
3 financial difficulties, but rather that that is a reflection  
4 of their -- okay, not a good thing, but perhaps should be  
5 interpreted as a reflection of their commitment to a renewed  
6 focus in investment -- additional focus in investment in  
7 their American manufacturing and that as with any  
8 large-scale investment of this sort, whether it be through  
9 new plants or repurposing or reinvestment in older facility,  
10 there's startup costs associated with that and so on.

11                   It's known that when you make sizable new  
12 investments you know you could have negative returns early  
13 in the life cycle of that investment, but you make that  
14 investment with the mindset of earning a return on it within  
15 a reasonable foreseeable future. And so the point being is  
16 that, yes, the industry is vulnerable to a recurrence of  
17 injury absent the Orders because they will not be able to  
18 earn a return on those investments without the protection  
19 of the Orders in place.

20                   COMMISSIONER BROADBENT: Okay.

21                   Mr. Levin, given that a portion of Chinese  
22 exports to the United States is comprised of non-subject  
23 merchandise, to what extent do you believe that subject and  
24 non-subject imports from China would compete against each  
25 other for market share if the Orders were revoked?

1                   MR. LEVIN: I think the competition would be  
2                   direct.

3                   MR. WARD: I might add to that. We've got  
4                   almost a good case study of this right now with the dumping  
5                   duties being zero and we've seen a large influx of  
6                   additional Chinese material coming into the market in the  
7                   last couple of months with those duties being reduced to  
8                   zero.

9                   COMMISSIONER BROADBENT: Okay.

10                  MR. LEVIN: We would not be terribly shocked if  
11                  in their heart of hearts the excluded companies are in favor  
12                  of the Petitioners' position in this review.

13                  COMMISSIONER BROADBENT: Mr. Howett, you  
14                  mentioned that Chinese MLWF uses American lumber in its  
15                  production of flooring. How are these products marketed?  
16                  Are they sold as American goods because of the American wood  
17                  content?

18                  MR. HOWETT: Your question really has sort of  
19                  two parts and let's start with if you look at the volume of  
20                  American logs that are going into China for processing into  
21                  veneer and they come back as engineered products, including  
22                  multi-layered wood flooring, in 2015 the U.S. log exports  
23                  into China were 196, almost \$197 million. In 2017, there  
24                  were \$345 million plus. And what's happening there is that  
25                  that becomes the American -- white oak American, red oak



1 American, walnut, American cherry flooring that comes back  
2 into this market, so it -- and there are a couple of  
3 reasons for that is, one, they are obviously able to bid for  
4 those logs because we're a free market.

5 They also go back into China in the empty  
6 containers. China puts up non-tariff trade barriers to keep  
7 our American-made veneer out, but the logs come in at zero  
8 tariff. So they get the logs at a good freight price, zero  
9 tariff, and then they're processed there and then they come  
10 back as these engineered hardwood products and so they're  
11 marketed -- and we can talk about this at length, if you'd  
12 like, but there's a lot obfuscation about whether just  
13 because it's an American red oak or American cherry is it  
14 American made or -- it gets marketed as a way that the  
15 consumer can't readily see, necessarily, if it's made in  
16 China or made in the U.S.

17 And I find it interesting that the American  
18 Alliance or whatever -- the Chinese importers love to wrap  
19 themselves in the American flag, so America's got some  
20 market advantage and it's the American hardwood species  
21 which, frankly, have cache around the world. So it's -- and  
22 the difficulty I think that you find with any of the  
23 engineered wood products is that when you've got the volume  
24 of illegal logs that are going into China if you look at the  
25 samples that you've seen that we've submitted and I look in

1 the back and I think you're going to see more samples that  
2 are Chinese produced. It's very easy in the middle of that  
3 engineered wood product find the illegal wood. It's  
4 sandwiched in the middle and it makes enforcement very, very  
5 difficult, but it doesn't disadvantage what is the price and  
6 the cost structure of producing that product.

7           Illegal wood it's illegal for a reason. It's  
8 deeply discounted and it gives a huge cost advantage and  
9 there's not been much enforcement. I think one of the  
10 things -- we were deeply involved in the formaldehyde issue  
11 with 60 Minutes and with the Lumber Liquidators. We did the  
12 testing for the Consumer Product Safety Commission on  
13 formaldehyde. No pun intended, but I think laminate  
14 flooring has kind of been poisoned in the marketplace and I  
15 think that that's one of the reasons that you're seeing a  
16 move toward engineered. Engineered has a price point  
17 advantage against solid.

18           I look at my membership. I have two new  
19 flooring members who were in the solid wood flooring  
20 business that have opened engineered wood flooring lines  
21 because you're seeing that shift in the marketplace.

22           COMMISSIONER BROADBENT: Okay. Could you talk a  
23 little about how that product is marketed that's made out of  
24 American wood in China and sent back to the U.S.?

25           MR. FINKELL: If I could say, we have a variety

1 of customers. We sell in really any channel that we can  
2 find to sell product and we try to push the Made in America  
3 theme. All of our raw material is sourced in the United  
4 States, so we can legally say that it's made in the U.S.A.,  
5 but we do have certain customers that will not allow us to  
6 say made in the U.S.A. because when they put it next to the  
7 other products that they import from China it begs the  
8 question, well, if this one says "Made in the U.S.A." what  
9 about this one and so in some of those cases we're not  
10 allowed to say that we're made in the U.S.A.

11 MR. LEVIN: I know the red light is on. Adam  
12 has been champing at the bit to give one perspective on the  
13 marketing.

14 COMMISSIONER BROADBENT: Okay, is that okay?

15 MR. LEVIN: And also, just let me add onto Don's  
16 point. I'm sure you're aware of it. There's no requirement  
17 that anything that needs to be labeled "Made in the U.S.A."  
18 County of origin marking is a requirement. Made in the  
19 U.S.A. is not a requirement.

20 COMMISSIONER BROADBENT: Right. I was just more  
21 curious as to what they're doing, yeah.

22 MR. LEVIN: Understood.

23 MR. WARD: To build onto what Don and Cliff had  
24 said, when you go into most retail stores, for one, the vast  
25 majority of the engineered hardwood sold into the U.S. today

1 is with domestic species. That is, hickory, maple, oak.  
2 That is the vast majority of engineered sales today. Those  
3 products are typically marketed with American-sounding names  
4 and American-sounding brands, such as California Classics  
5 and Hill Country Innovations and Magnolia and Southern  
6 Traditions. They appear to be American produced as a  
7 marketing strategy. Only when you look on the carton do you  
8 find that they're made in China.

9 COMMISSIONER BROADBENT: Okay, thank you.

10 CHAIRMAN SCHMIDTLEIN: So I don't know that this  
11 is -- I think maybe you've touched on this a little bit, but  
12 I'd like to understand better why subject imports have  
13 remained in the market since the imposition of the Order and  
14 in fact, have increased over the last five years, according  
15 to the C-Table, I think, by 90 percent and with AUVs that  
16 are above the AUVs of U.S. shipments. That's excluding the  
17 question of non-subject from China, which has gone up by  
18 even more.

19 MR. LEVIN: The AUV issue is interesting and  
20 it's been a matter of discussion and analysis and I'll see  
21 if Jim and Emma want to state anything on this point. If  
22 not, we will cover all of this territory in the post-hearing  
23 brief

24 Generally speaking, I know the AUV data was  
25 surprising to us because what we're hearing almost uniformly

1 is that the price differential on specific sales is still  
2 fairly significant. Understand, of course, underselling is  
3 different than dumping. I think the subject imports are  
4 still in the market because it's a growing market and a lot  
5 of this stuff comes in cheaply. I think to a large extent  
6 there are long-stemming relationships. And I'm just  
7 inferring here because I don't know -- I'm not an importer  
8 or distributor -- in which the margins that have been  
9 imposed, the cash deposit requirements are just not up to  
10 the extent where it would cause an importer or distributor  
11 to shift from subject imports to sourcing from another  
12 country.

13 CHAIRMAN SCHMIDTLEIN: So when you say it comes  
14 in cheaply is that not consistent with this information that  
15 we have on AUVs?

16 MR. DOUGAN: Jeff, if I can just jump in -- and  
17 Commissioner?

18 MR. LEVIN: Absolutely, jump in.

19 MR. DOUGAN: I mean the subject imports have  
20 remained in the market. The Order was not intended to be a  
21 ban on imports. It was intended to remedy the affect of  
22 them being sold at unfairly low prices. So the fact that  
23 they've continued to play a role in the marketplace over the  
24 last five years I mean it's different from other China cases  
25 maybe where they have 100 percent dumping margins, but you

1 know --

2 CHAIRMAN SCHMIDTLEIN: I mean aren't you all  
3 arguing this is almost a commodity-like product. Most  
4 decisions are based on price. And you know it's based on  
5 consumer preference and so forth and the U.S. industry  
6 offers things that, even though they're not exact  
7 specification in terms of the same species and all of that,  
8 that it's within the range of what a consumer would be  
9 looking to buy. So once the Orders goes on and the AUVs are  
10 higher and capacity for the U.S. industry -- there's plenty  
11 of capacity, so why are we still seeing all of these subject  
12 imports?

13 MR. DOUGAN: Well, we refer to AUVs in the  
14 presentation mostly as a way of getting an understanding of  
15 what the pricing of the non-subject imports were like  
16 because in the absence of -- because there were no  
17 non-subject China pricing data collected. The pricing data  
18 that were collected for --

19 CHAIRMAN SCHMIDTLEIN: Well, I'm looking at the  
20 AUVs in the C-Table for subject.

21 MR. DOUGAN: No, I understand that, but you're  
22 asking why are they in the marketplace and we're saying --

23 CHAIRMAN SCHMIDTLEIN: At higher AUVs than the  
24 U.S. shipment.

25 MR. DOUGAN: I understand that.

1                   CHAIRMAN SCHMIDTLEIN: Okay.

2                   MR. DOUGAN: What I'm trying to say is that that  
3 may reflect some difference in product mix. It may reflect  
4 something else there, but if you look at the prices for the  
5 products that are directly competitive in the pricing data,  
6 they were underselling about half the time. So you know  
7 it's again ^^^^ and given the Order wasn't intended to like  
8 drive them out of the market, but to make them fairly traded  
9 and they're still underselling in about half the instances.

10                   You know the testimony that they're still coming  
11 in at low prices in significant quantities is not  
12 inconsistent with that. And when you see the 90 percent  
13 increase in imports the other thing I would draw your  
14 attention to is that the 2011 numbers are understated I  
15 think as both sides here agree. And I can't get into why  
16 because it's PBI, but there was somebody who didn't have  
17 access to that data.

18                   So the increase in imports that you're seeing is  
19 -- that 90 percent is, to some degree, is overstated. There  
20 still is an increase and some of that has to do with the  
21 growth in demand and some of it has to do with the fact that  
22 you know, well, the evidence would suggest that at least  
23 half the time they are coming in at a lower price on a  
24 competitive product head-to-head versus the United States  
25 product.

1                   CHAIRMAN SCHMIDTLEIN: So I guess for the other  
2 half, though, does the fact that they're still coming in at  
3 a higher price suggest that they're competing on something  
4 other than price?

5                   MR. LEVIN: It may suggest that, but we don't  
6 know that. The best that we can determine is what's on the  
7 record, and what's on the record is that for the vast  
8 majority of factors that the Commission looks at for  
9 comparability, the imports and the domestically produced  
10 MLWF are comparable.

11                   There may be, and most likely is, a portion of  
12 subject imports that is coming in, for either longstanding  
13 relationships or the fact that this is the price that had  
14 been set and with the pressure of that can be exerted by the  
15 Chinese industry, that's the price that they're gonna get.

16                   CHAIRMAN SCHMIDTLEIN: Okay. All right. Does  
17 anybody have anything else to add to this? Mr. Finkell?

18                   MR. FINKELL: I'll just say that I've never had  
19 a customer tell me that my price was higher than a Chinese  
20 price. Never.

21                   CHAIRMAN SCHMIDTLEIN: Okay. I actually have no  
22 further questions. Vice-Chairman Johanson?

23                   VICE CHAIRMAN JOHANSON: Thank you, Chairman  
24 Schmidtlein. At Pages 3 and 4 of the Coalition's brief, you  
25 all refer to new domestic manufacturers that have entered



1 the U.S. market, and you describe domestic industry  
2 increases in production capacity, production capacity  
3 utilization and U.S. shipments over the period of review.

4 How does this help or hurt your case for a  
5 continuation of the orders? Citing some of these very same  
6 factors, those opposing continuation contend that the  
7 condition of the domestic industry's healthy and not  
8 vulnerable to a recurrence of injury, and this can be seen  
9 at Page 12 of the respondents' brief.

10 MR. LEVIN: I find it paradoxical that the fact  
11 that an unfair order has offered a period of remediation for  
12 the domestic industry, as is the case in this situation, is  
13 viewed as a bad thing in terms of whether or not the order  
14 should be continued. If the order was useless, then there's  
15 no point in continuing it.

16 But I think the facts and evidence of record  
17 shows that the order has provided significant remedial  
18 opportunities for the domestic industry that they have taken  
19 the opportunity to achieve over the past few years. The  
20 fact that they are doing better than they are now than they  
21 were back at the period of the original investigation just  
22 means to me the remedial impact, the very purpose of an  
23 unfair trade order is being fulfilled, at least to some  
24 degree up to this point.

25 And we believe strongly that if the orders are

1       revoked and we go back to the situation where there was no  
2       pricing discipline, the investments made by the U.S.  
3       industry will be undermined, if not vitiated. The new  
4       domestic companies that have come onto the scene in the  
5       period of review are not going to survive a deluge of  
6       Chinese imports. It will force domestic manufacturers to  
7       revisit sourcing options instead of trying to enhance and  
8       expand their own domestic capabilities.

9                       And let's not forget, I mean there's 1,000 new  
10       workers in this industry. That's not chump change. That's  
11       a pretty significant thing. And those jobs, which were  
12       created by virtue of new domestic manufacturing enterings,  
13       that were created by expanding capacity utilization by  
14       existing companies, that were expanding by adding production  
15       facilities, all of that will be put into jeopardy if there's  
16       no pricing discipline, if there is nothing to force subject  
17       imports to be concerned about.

18                      MS. PETERSON: If I could just add, on my last  
19       couple of slides, 15 and 16, I showed that while there was  
20       all of this growth during the full years of the POI, over  
21       the interim period, it appears that this growth has slowed,  
22       so to the extent that respondents are painting the domestic  
23       industry as healthy, you know, we agree that there have been  
24       great strides made, at least in part due to the effect of  
25       the orders; however, production, shipments and capacity

1 utilization all declined between interim 2016 and 2017, and  
2 it appears, based on the public data on construction  
3 spending that the staff put in the pre-hearing report that  
4 that has flattened out a little bit, too, in the most recent  
5 period examined.

6 VICE CHAIRMAN JOHANSON: Why has the situation  
7 with the domestic industry declined towards the end of the  
8 period of review?

9 MS. PETERSON: I think part of that has to do  
10 with the fact that demand is slowing. Mr. Dugan's chart  
11 showed 70% growth in demand between 2011 and 2016, but  
12 apparent consumption only grew about 2% between the interim  
13 periods, so I think that's part of it.

14 I don't know if either Don or Adam want to speak  
15 a little bit to their, you know, specific decisions they  
16 made during the 2017 period, or if they want to address that  
17 post-hearing, but I think they might be better suited to let  
18 you know what they're doing.

19 MR. FINKELL: This is Don Finkell. I'll give  
20 you two examples. In the first part of 2016, we reviewed  
21 all of our costs and we looked at the volume of business  
22 that we were spreading our overhead over. And we were  
23 anticipating a larger volume than we were able to get.

24 So we decided that we needed to have a modest  
25 price increase to cover that. And so we went out with a

1 price increase of about 3% or 4% on July 1st of 2016. And  
2 just instantly, our sales declined. And we struggled to  
3 recover that. We left that price increase in effect. And  
4 so that hurt us from where we thought we would be if we had  
5 continued at the same velocity of sales increases through  
6 the end of '16 and the beginning of '17.

7 And then, I will also say that, when the  
8 anti-dumping duty went to zero on July 1st, we saw an  
9 immediate decrease in volume of sales, down really, probably  
10 in the 30% range in July. We saw a little bit of recovery  
11 in August, but still not back to where we were.

12 And I think I said the wrong thing a minute ago  
13 when I said I've never had a customer tell me that my price  
14 was higher. They've never told me that my price was lower  
15 than a Chinese price. It's always been higher.

16 MR. WARD: And I'll just echo what Don said as  
17 well. We've seen a softening in our business in the latter  
18 half of 2017 as the duty rate went to zero.

19 VICE CHAIRMAN JOHANSON: Thank you for your  
20 responses. In Table 2-6 in the prehearing report, focusing  
21 on the importance of different market aspects, there are  
22 eight other factors more frequently considered very  
23 important than that of price. How does this fit with your  
24 argument that subject imports and the domestic product  
25 compete chiefly on the basis of price as you argue at Page

1 22 of your brief?

2 MR. DOUGAN: So those other factors ranked very  
3 important more often than price, but if the purchaser is  
4 making a decision based on those and, even if they look at  
5 those things first, and the U.S. and subject import  
6 merchandise are otherwise comparable with respect to those  
7 factors, then it's gonna come down to price.

8 And Suzanna, could you put up the slide, that  
9 one. Yes, Slide 9. That's Table 2-8 from the staff report.  
10 And so in virtually, well certainly, the vast majority and  
11 almost all factors, U.S. and China subject, are viewed as  
12 comparable. So these other purchasing factors that you  
13 described from Table 2-6 may indeed be very important, but  
14 if they view the U.S. and subject import merchandise as  
15 equal with respect to those factors, then they'll go next  
16 down the list until they come to price. And price is where  
17 they are not.

18 VICE CHAIRMAN JOHANSON: Okay, thanks. What  
19 role do non-subject imports from China and non-China sources  
20 play in the U.S. market? And specifically, what competition  
21 do you face from MLWF imports from Vietnam and Cambodia?  
22 And which the respondents have highlighted as having  
23 increased during the period of review at Page 7 of their  
24 brief.

25 MR. LEVIN: I'll ask Adam and/or Don to chime in

1 on this, but let me make two points. First of all, the  
2 presence of third country imports, I believe, are being a  
3 little overstated by respondents' panel. You look at the  
4 import data. We put in data web statistics. They've put in  
5 data web statistics. From any data source you can see that  
6 although there has been some increase in imports from third  
7 countries, China still swamps those volumes, just absolutely  
8 swamps those volumes.

9           Second of all, an unknown portion of the  
10 operations that have been set up in countries such as  
11 Vietnam and Cambodia, are not true manufacturing facilities.  
12 They are finishing operations. And we will provide the  
13 Commission in the post-hearing brief with highly  
14 confidential e-mails that I have in my possession that I got  
15 from certain people in which the seller is very  
16 specifically stating, "Yeah, we take the product, we ship it  
17 from China to Vietnam, we finish it there to avoid  
18 anti-dumping duties."

19           It's a really tough thing to catch red-handed  
20 unless you happen onto one of these instances where it's in  
21 writing. But I think it is pretty well-assumed throughout  
22 the industry that some portion of these third country  
23 imports -- I'm not talking Canada, which is a wholly  
24 different outfit. But I'm talking about some of the  
25 southeast Pacific nations, the Cambodias, the Vietnams --

1 I'll leave it at those two for right now. These are  
2 finishing operations, not manufacturing facilities. Which  
3 those are two things.

4 First of all, the Chinese are cheating. Second  
5 of all, not all, but some percentage of these operations  
6 aren't really all that cost-prohibitive to shut down and  
7 move back to the United States. What we were -- we were  
8 talking about bedroom furniture and what happened with their  
9 machinery. Let's add a point on that.

10 MR. WARD: To add onto that, our knowledge of  
11 the number of facilities in countries such as Vietnam and  
12 Cambodia are a small fraction compared to the literally  
13 hundreds that are in China. So while you do have some of  
14 those, it's been vastly overstated, and as Jeff mentioned,  
15 they're largely finishing operations that are receiving the  
16 most expensive and the most cost-intensive to produce piece,  
17 the core, from China. The finishing and the scraping aspect  
18 of the distressing is a relatively small part compared to  
19 that core that's made.

20 Second, our opinion, based on just the sheer  
21 population, where you've got several billion people in China  
22 versus only maybe a hundred million in Vietnam and Cambodia,  
23 their likelihood of becoming the next China is relatively  
24 small, just for their population and economic direction. To  
25 answer what Jeff was saying, you just simply will not have

1 the ability for those to grow like you have with China.

2 VICE-CHAIRMAN JOHANSON: Thank you to all your  
3 responses. My time has expired.

4 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent?

5 COMMISSIONER BROADBENT: No further questions, I  
6 thank the panel.

7 CHAIRMAN SCHMIDTLEIN: All right. I just had  
8 one follow-up question. And Mr. Levin, you touched on this  
9 in your remarks with regard to the channels of distribution.  
10 And you said the channels of distribution remain broad and  
11 direct. The respondents are arguing that there is  
12 attenuated competition by virtue of the fact that the  
13 domestic industry sells predominantly to homebuilders, and  
14 that subject imports are sold mostly to big box home  
15 retailers. And so I wonder if you could respond to that  
16 specifically?

17 MR. LEVIN: Absolutely, Madam Chairman. If you  
18 look at the Commission's report in the original  
19 investigation, Pages 22 to 23 of their determination, and  
20 Table 2-1 of the public report attached to that  
21 determination, and compare the percentages on the several  
22 different channels of distribution, distributors, big box  
23 retailers, other retailers, builders, other end users. You  
24 compare the percentages from the original investigation to  
25 the percentages in the prehearing report for this review at



1 Page II-3 and Table 2-1, you'll see that the percentages  
2 are, you know, with slight changes, roughly equivalent.

3 Also, as the Commission very well recognized in  
4 their original determination, the definition, or at least  
5 the interpretation of who was a builder and who was a big  
6 box retailer and the like, is not a uniform interpretation.  
7 So there is some variance in the way respondents, and I'm  
8 talking questionnaire respondents, may be answering that  
9 question.

10 Third of all -- and I guess I'll let Adam and  
11 Don speak to that. Well, let me just pass it along.

12 MR. WARD: So Mohawk is involved in both areas,  
13 both independent retail home builders and big boxes, and to  
14 our knowledge, no one, including ourselves, sells directly  
15 to the home builder. We are always selling through flooring  
16 contractors or retailers who then sell to the home builder.

17 They may negotiate on the basis of all of their  
18 products, but then so do the distributors who are selling  
19 imported products as well. From that standpoint, we are  
20 both negotiating and selling a package of products on an  
21 equal footing.

22 MR. DOUGAN: Madam Chairman, Jim Dougan from ECS  
23 if I can just add to this. In the public prehearing report  
24 at Table 2-1, the information about the share of shipments  
25 to each one of these channels is there and, you know, the

1 builders, the U.S. producers, U.S. commercial shipments to  
2 builders is between 7% and 9%. The number for the subject  
3 China is redacted.

4 But, you know, for the other channels, they're  
5 not very different. You know, big box retailers, between 7%  
6 and 20% and for the U.S. it's 10% to 15%. Distributors for  
7 the U.S., it's between 35% and 40% and for China, it ranges  
8 vastly, but between 42% and 60%. There's still a tremendous  
9 amount of competitive overlap in these channels.

10 CHAIRMAN SCHMIDTLEIN: Okay. Thank you so much.  
11 Vice Chairman Johanson.

12 VICE CHAIRMAN JOHANSON: Thanks, Chairman  
13 Schmidtlein. What is the best evidence that we have that  
14 prices in other markets, including those in China, and I'm  
15 asking this as respondents argue at Page 5 of the prehearing  
16 brief, that non-U.S. export markets have higher average  
17 prices than U.S. market. Do you all agree with this  
18 contention of the respondents?

19 MR. DOUGAN: Vice Chairman Johanson, if I can  
20 just add one thing. That contention from them is based  
21 largely on responses of the foreign producers'  
22 questionnaires, which as we mentioned, are pretty slim.  
23 Very, very few representations, so I would caution the  
24 Commission about drawing inferences from ten foreign  
25 producers when there's fifty or sixty out there who have not

1 given you questionnaires.

2 VICE CHAIRMAN JOHANSON: Do you have any idea  
3 what prices are in other markets? I know the U.S. does  
4 export. Do any of the witnesses have any information on  
5 that? And if you don't, or if you could, maybe look into  
6 this in the post-hearing.

7 MR. LEVIN: And that's what I was just gonna  
8 say. If we may have the Commission's leave, we'd be more  
9 than happy to take a look at this and address it in the  
10 post-hearing brief.

11 VICE CHAIRMAN JOHANSON: That's fine. As you  
12 know, this is often an issue in investigations that we like  
13 to look at.

14 MR. LEVIN: And just that, yeah. The U.S.  
15 industry does export, but it's not a whole lot.

16 VICE CHAIRMAN JOHANSON: Yeah, I remember seeing  
17 that. From a consumers' standpoint, how comparable are  
18 white oak and red oak in the marketplace?

19 MR. WARD: It really depends on styles and  
20 color. If you are looking at what I would call medium to  
21 dark stains, they are interchangeable. As you get towards  
22 lighter, blonder floors, where the slight red in the red oak  
23 versus the white in the white oak would show more, they can  
24 not be interchangeable, but overall, as trends lean towards  
25 those medium to dark colors, they are used interchangeably.

1                   MR. FINKELL: What we've seen is just a consumer  
2 preference away from red of any kind, and so I'll second  
3 what Adam said. As you get lighter, where the natural color  
4 of the wood shows through, the pinkish cast of red oak tends  
5 to make it not as sellable. We sell very little red oak.  
6 We sell a lot of white oak.

7                   VICE CHAIRMAN JOHANSON: Thanks for those  
8 responses. And I just have one more question. And this  
9 deals with my personal observations and not with anything on  
10 record, so pardon me here. But I travel a fair amount and  
11 when I stay in hotels now, I see the more frequent use of  
12 multi-layered wood flooring in hotel rooms. Is that true?  
13 Is the market going more towards this product?

14                   MR. WARD: You're seeing a trend away from soft  
15 surfaces such as carpet, and more towards hard surfaces such  
16 as engineered wood floors. And hotels want to be more like  
17 your home. If you look at hotels, they want to feel like  
18 your home away from home, and if you're tending to put  
19 hardwood floors in your house, you would like to have those  
20 in your hotel rooms as well.

21                   VICE CHAIRMAN JOHANSON: I guess it's easier to  
22 clean, too?

23                   MR. WARD: Yes.

24                   VICE CHAIRMAN JOHANSON: Right? I'd rather --  
25 well, actually vacuum is pretty easy, but sweeping does a

1 pretty good job, too.

2 MR. WARD: There's focus around allergies as  
3 well. Hypoallergenic -- you'll see some talk about that.  
4 Carpet just traps more dust and dirt. And there's more of a  
5 prevalence around pets being part of your life. You're  
6 taking 'em to bars, restaurants. You're taking 'em to  
7 hotels. Hotels are more pet-friendly now. Tends to do well  
8 with pets as well because you can see the dog hair and sweep  
9 it up.

10 MR. LEVIN: Which really makes me wonder what  
11 bars Adam is taking his pets to. But we'll talk about that  
12 later.

13 VICE-CHAIRMAN JOHANSON: I've never seen a dog  
14 in a bar.

15 MR. LEVIN: Vice-Chairman, it sounds like you're  
16 setting up a joke.

17 VICE CHAIRMAN JOHANSON: No, I'm not.

18 MR. LEVIN: You walk into a bar --

19 VICE CHAIRMAN JOHANSON: No. But no, I just --  
20 so I guess overall, the market is expanding, you'd say?  
21 Okay, thanks. Well, that concludes my questions. I  
22 appreciate all of you appearing here today.

23 CHAIRMAN SCHMIDTLEIN: That concludes the  
24 questions from commissioners. Do staff have any questions  
25 for this panel?

1                   MR. CORKRAN: Douglas Corkran, Office of  
2                   Investigations. Thank you Madam Chairman. Staff has no  
3                   additional questions.

4                   CHAIRMAN SCHMIDTLEIN: Okay, thank you. Do  
5                   respondents have any questions for this panel at this time?

6                   MS. LEVINSON: No, we don't.

7                   CHAIRMAN SCHMIDTLEIN: All right. Thank you  
8                   very much.

9                   MR. LEVIN: If I may, Madam Chairman --

10                  CHAIRMAN SCHMIDTLEIN: Yes?

11                  MR. LEVIN: -- I neglected to ask this at the  
12                  outset of the question and answers. I believe we have about  
13                  nine or ten minutes left from our sixty-minute allotment.  
14                  May I respectfully request that that be held for rebuttal  
15                  time?

16                  CHAIRMAN SCHMIDTLEIN: That is correct. And the  
17                  secretary will tell you how much time you have.

18                  MR. BISHOP: You have ten minutes remaining and  
19                  we will reserve that for your rebuttal.

20                  MR. LEVIN: Thank you, Mr. Bishop.

21                  CHAIRMAN SCHMIDTLEIN: Yes. All right. Great.  
22                  So this brings us to our lunch hour. We will reconvene at  
23                  1:00. Let me remind you that the hearing room is not  
24                  secure, so please take your papers and your confidential  
25                  information with you and we will stand in recess until 1:00.

1                   (Whereupon a brief lunch recess was taken, to be  
2 reconvened this same day.)

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

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

3                   CHAIRMAN SCHMIDTLEIN: Good afternoon.

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

6                   MR. BISHOP: Madam Chairman, I would note that  
7 the panel in opposition to the continuation of the  
8 anti-dumping and countervailing duty orders have been  
9 seated. All witnesses have been sworn with the exception of  
10 Mr. Wisla, whom I swear in upon his arrival. Ms. Levinson,  
11 you have 60 minutes for your direct testimony.

12                  MS. LEVINSON: Thank you, Mr. Bishop. Good  
13 afternoon, Commissioners. Thank you for this opportunity to  
14 appear on behalf of the Alliance for Free Choice and Jobs in  
15 Flooring. I'm very proud to have a distinguished panel of  
16 importers from both subject and non-subject countries of  
17 MLWF. These people have -- each of them has a wealth of  
18 experience. They're going to introduce themselves and tell  
19 you a little bit about their background, but they've all  
20 travelled from across the country. So this is clearly a  
21 very important issue to them. They also participated in the  
22 original investigation five years ago. They're going to  
23 talk among other things about the differentiation in the  
24 physical characteristics of imports versus domestic  
25 products. And they will address other issues that came up



1 this morning.

2 We're going to start with our economists, get  
3 the economics out of the way and then we'll go to our  
4 industry witnesses. So I'm going to introduce Mr. Dan  
5 Klett.

6 STATEMENT OF DANIEL KLETT

7 MR. KLETT: Good afternoon. I am Dan Klett with  
8 Capital Trade on behalf of the Alliance respondents group.  
9 I will address six issues. First, multilayered hardwood  
10 flooring is not a commodity purchase primarily on the basis  
11 of price. Second, any improvements in the industry's  
12 condition are not due to the order. Third, any analysis of  
13 subject imports' patterns must account for U.S. producers  
14 own imports. Fourth, the presence of non-subject imports  
15 will limit the ability of new suppliers as subject imports  
16 to re-enter the U.S. market. Fifth, the implications of  
17 increased competition since 2011 from the various wood  
18 visuals. And sixth, there will be no adverse price effects  
19 with revocation.

20 The Commission is familiar with commodity  
21 products with little product differentiation such as flat  
22 rolled carbon steel and chemicals such as phosphor copper.  
23 In my experience, price is always an important factor to  
24 purchasers, but your data showed that MLWF is not a  
25 commodity and price is not the primary reason for choosing

1 among alternative sources.

2 Slide 1 shows the U.S. product is often rated as  
3 inferior to subject imports by purchasers for physical  
4 attributes specific to this case, such as species type,  
5 finished quality, board width, and face thickness.

6 In fact, U.S. producers purchased subject  
7 imports because they have attributes they cannot produce or  
8 obtain from other U.S. sources. As shown in slide 2, U.S.  
9 producers have a much higher concentration in red oak and  
10 thinner board widths than do subject imports.

11 Slide 3 shows that for other species, U.S.  
12 producers have a much higher concentration and smooth  
13 finishes and thinner board widths than to do subject  
14 imports.

15 Petitioners assert that increases in their trade  
16 indicia over the period of review reflect the ability of the  
17 domestic industry to compete on a more level playing field.  
18 They do not realistically recognize the effects of changes  
19 in demand on the U.S. industry's condition. As shown in  
20 slide 4, there's a strong correlation between U.S. apparent  
21 consumption and home construction and remodeling and in  
22 turn, between U.S. apparent consumption and U.S. production  
23 of MLWF.

24 Slide 5 is from Mohawk's July 2017 investor  
25 presentation and it attributes positive growth to

1 macroeconomic factors not the order, which is not what you  
2 heard this morning.

3 Slide 6 shows Mohawk has positive expectations  
4 regarding U.S. demand for flooring, including into -- again,  
5 which is not what you heard this morning.

6 Slide 7 shows that Armstrong specifically  
7 forecast a 9 percent increase in demand for engineered wood  
8 flooring in 2007. And I also want to point you to the right  
9 block. You heard this morning that engineered flooring and  
10 wood visuals don't compete. Well, if that's the case, why  
11 does Armstrong compare price points for LVT and engineering  
12 -- engineered wood flooring? And by the way, Armstrong is  
13 the largest producer of engineered flooring.

14 Petitioners' biggest U.S. companies say their  
15 engineered wood products are not profitable. In general,  
16 the smaller U.S. producers are more profitable. As you will  
17 hear later, the smaller U.S. producers do not sell the full  
18 range of wood substitutes and concentrate in only wood  
19 flooring including solid and engineered.

20 They specialize in products with attributes  
21 customers really appreciate, such as wider and longer boards  
22 and with sawn faces. These producers don't shortchange one  
23 program to capture the entire home floor surface category.

24 Petitioners prehearing brief discusses trends  
25 and average unit values for subject imports, but completely

1 ignores the fact that U.S. producers rely on imports.  
2 Although U.S. producers lost market share over the review  
3 period, this in part reflects their own imports displacing  
4 U.S. production. As shown in slide 8, U.S. producers import  
5 from China including from Yihua, Layo, Samling among others.

6 U.S. producers cannot assert that they were  
7 forced to import to remain price competitive. With the  
8 orders in place, subject imports are fairly traded and U.S.  
9 producers also gave non-price reasons for buying imported  
10 product.

11 Non-subject imports include both China and  
12 non-China sources. In slide 4 of Mr. Dougan's presentation  
13 this morning, there's an analysis that asserts that absent  
14 the orders, subject imports in China would have grown at the  
15 same rate as non-subject imports from China and this growth  
16 would have displaced only U.S. producer shipments on a one  
17 for one basis.

18 First, there's no factual basis that subject  
19 imports would have grown at the same rate as subject imports  
20 absent the order. Second, your data support a finding that  
21 any increase in subject imports that might occur would most  
22 likely displace other non-subject imports, not U.S.  
23 production.

24 Slide 9 shows that subject imports are much  
25 closer substitutes with non-subject imports than with U.S.

1 origin MLWF. And you will hear testimony later on the clear  
2 differences between U.S. origin and subject imports with  
3 respect to physical attributes that differentiate these  
4 products.

5 The reasons why wood visuals such as LVT have  
6 become more competitive with MLWF will be discussed later by  
7 industry witnesses. I want to address the implications for  
8 the sunset review.

9 It is important to understand that the three  
10 major U.S. producers, Armstrong, Shaw, and Mohawk all  
11 promote these wood visual substitutes. Slide 10 shows  
12 Armstrong's marketing of its LVT product and the strong  
13 market growth since 2012.

14 Slide 11 shows that Shaw markets the full  
15 spectrum of wood visual products alongside its wood flooring  
16 options.

17 Slide 12 shows Mohawk illustrating more natural  
18 visual such as LVT alongside its wood visual -- its wood  
19 flooring offerings and laminates and in the same and LVT --  
20 and laminates and woods, by the way, are in the same product  
21 category.

22 Reports from trade publications such as "Floor  
23 Covering Weekly" and "Catalina" confirm that wood visuals  
24 have taken market share from hardwood flooring both  
25 engineered and solid. To the extent U.S. producers U.S.

1 shipments of MLWF have not kept pace with the overall growth  
2 in U.S. apparent consumption, this is in part the result of  
3 their own sales of wood visual substitutes.

4 In addition, the ability of MLWF to remain a  
5 viable flooring alternative for consumers depends on two  
6 factors. First, at the lower end of the MLWF offering such  
7 as builder grade, the price must remain competitive.  
8 Second, at the higher end, there must be advances in style,  
9 design and look and performance that enable -- that enables  
10 continued incursions by MLWF into the solid hardwood  
11 flooring market imports. And in particular, subject  
12 imports at the high end of the market spectrum are necessary  
13 for MLWF's overall success in the market as a viable  
14 flooring alternative.

15 The final issue I want to address is price. The  
16 underselling data and findings in the original investigation  
17 have absolutely no relevance to the sunset review because  
18 the data necessarily included some shipments of what are now  
19 non-subject imports. In my experience, price is always  
20 important for purchasers. But this tells you little about  
21 the importance of price relative to other non-price factors.

22 As shown slide 13, price was fairly far down the  
23 list of very important factors reported by purchasers of  
24 MLWF. To put this in context as shown in slide 14, price is  
25 normally rated as very important much more often for

1 products that are commodity in nature in other ITC cases  
2 such as ferro vanadium. or rebar.

3 I've reviewed additional cases as well and I  
4 cannot find a recent one where price was rated very  
5 important by a fewer percentage of purchasers than in this  
6 MLWF proceeding. As to understand -- as to underselling  
7 during the review period, it can best be described as mixed.  
8 In addition, the instances of underselling take no account  
9 of the volumes associated with those instances or the  
10 relationship between underselling and price or profit  
11 trends.

12 For example, although there were more instances  
13 of underselling than overselling in total, it can be  
14 calculated from your staff report tables that 61 percent of  
15 import volume oversold U.S. producers and 79 percent of U.S.  
16 volume undersold subject imports.

17 My testimony was based primarily on data  
18 collected in your investigation, testimony you will now hear  
19 from industry witnesses will corroborate these findings  
20 based on their real world experience in the market. Thank  
21 you.

22 STATEMENT OF DAVE SANDOVER

23 MR. SANDOVER: My name is Dave Sandover and I'm  
24 general manager and one of four owners at Metropolitan  
25 Hardwood Floors U.S., Inc. We're head quartered in Camp

1 Washington.

2 My company has a long history of purchasing wood  
3 flooring from many sources, including the U.S. and Canada,  
4 as well as throughout Europe and Asia and even some from  
5 South America. We started our Chinese purchases in 2003.

6 I would like to give you some basic fundamentals  
7 on the construction of multilayered wood flooring, which we  
8 refer to as engineered wood flooring. You will see and hear  
9 a lot of reference to three particular features in the  
10 floors. One, the thickness type and species of the top face  
11 veneer, two the type of core, and three, the stain and  
12 surface texture.

13 I've brought samples that I will reference these  
14 attributes and leave here after the presentation. This is  
15 important because it helps to understand how products  
16 supplied by subject, non-subject, and domestic mills are  
17 differentiated.

18 The first sample I have is sawn, which is the  
19 most expensive veneer type, followed by slice, and then by  
20 rotary peel.

21 Sawn or sliced veneer looks like solid wood and  
22 rotary does not. This is a sawn face on the left hand side  
23 and a rotary veneer on the right. Rotary has a much less  
24 desirable look. And this is what we -- this sample is what  
25 we compete with in the -- with the domestic producers.



1                   Let me demonstrate some of the unique Kentwood  
2 products we sell from both subject and non-subject  
3 factories. We refer to the non-subject suppliers as zero  
4 mills. That's industry terminology we use for Chinese mills  
5 that have a permanent zero anti-dumping rate.

6                   The zero mills, the three mills we all consider  
7 non-subject are Layo, Yihua, and Samling. We understand  
8 that legally, Samling is subject to CVD, but we call it a  
9 non-subject zero mill because they have a zero anti-dumping  
10 and the CVD rates are insignificant.

11                   Further, since Samling serves as its own  
12 importer of record for our business, I have no retroactive  
13 liability concerns, as all such risk is born by Samling.

14                   Now we'll look at some wood. These samples are  
15 a part of a metallic stain collection. These floors are  
16 subbed -- are from subject merchandise. They are made with  
17 a sawn face European oak veneer is that 4 millimeters thick  
18 that is 7 and a half inches wide and 6 feet long.

19                   These floors are produced on what we call a  
20 lumber core construction. This is a three layer engineered  
21 floor. This is a very uncommon core type in U.S. production  
22 and I don't believe any of the petitioners make it. We do  
23 most of our wider material in this type of construction for  
24 stability purposes.

25                   The finished process is extremely complicated to

1 apply as it is partially completed by hand. It took close  
2 to two years to bring the final product to market from the  
3 original prototype. To my knowledge, we were one of the  
4 first to do a metallic stain on hardwood floors. These  
5 products cost nearly 30 percent more than a regular stain on  
6 the same floor type because of the labor and material costs  
7 involved. And yet, this glazed base sample is one of our  
8 best sellers, not to mention one of our most expensive in  
9 the collection.

10 Now the next sample I'm going to show is  
11 produced by one of the zero mills. This is Calico produced  
12 by Layo. These floors are made with a sliced European oak  
13 veneer that is 2 millimeters thick. These floors are  
14 produced on what we call multi-ply construction, which is  
15 plywood. It shows some marks that are made on a special saw  
16 machine that doesn't do a single pattern, but many different  
17 ones. These marks are not applied by hand, but the process  
18 of making each surface texture is time consuming compared to  
19 regular production. The domestic industry even in their  
20 present factories, do not produce such uniquely personalized  
21 flooring.

22 This next sample is a chemical stain product  
23 from Samling. Samling was not producing this product five  
24 years ago. We worked with them in developing this finish.  
25 It's taken us nearly 18 months to build this collection.

1 And this is also a sliced European oak veneer that is 2  
2 millimeters thick and also multi-ply construction.

3 Chemical stains, sometimes called reactive  
4 stains, are very difficult to do. Most of them require a  
5 great deal of hand processing. It is very difficult to keep  
6 the colors consistent on each production run because we are  
7 relying on a reaction of the stain with the wood itself.  
8 They tend to work best on white oaks, particularly European  
9 White oak. And that's because of the tannin content in the  
10 wood.

11 Red oak is never used for wine barrel making  
12 because it doesn't have any tannin in it. And that's why it  
13 doesn't do well with chemical stains. American red oak does  
14 not work with this type of chemical staining process.

15 This chemical stain color is our current overall  
16 bestseller and it's produced for us at two different subject  
17 mills. It takes an extra week to process this product as  
18 the first stain is applied by hand and air dried before the  
19 additional top coats are placed over it.

20 It is highly unlikely that a volume focused U.S.  
21 producer is going to take an extra week to do two different  
22 coats like this. All of these programs were incredibly  
23 challenging to create.

24 I understand one of the questions you asked is  
25 how likely we are to change suppliers especially if the

1 orders are revoked. And I can tell you it not at all  
2 likely. We've pruned our suppliers of subject merchandise  
3 down to key companies and have expanded our business with  
4 the zero suppliers: Layo and Samling. We also have some  
5 international supply outside of China.

6 Overall, I consider our program well balanced in  
7 construction types, sizes, colors, species, et cetera. And  
8 I don't plan on making significant changes over the next few  
9 years.

10 I'll continue to tweak and of course some of my  
11 decisions may be influenced by the orders staying in place  
12 or being revoked, but the orders are not the make or break  
13 factor in my program. They can't be. Quality is first.  
14 Compliance is second and price is third. All three of those  
15 have to be in place before I start focusing on the next  
16 issues.

17 Qualifying new suppliers or building new  
18 programs is expensive and time consuming. Some companies  
19 have spent years talking to, visit regularly, and still  
20 don't find a match for our needs. Those that do match our  
21 needs can take six months to two years to fulfill an initial  
22 purchase order. Even with existing suppliers, we can take a  
23 year or more to develop a new color or collection. As I  
24 said, the Samling chemical stain program took us 18 months  
25 to launch.

1 Compliance is a significant factor. Our  
2 environmental compliance officer, Elizabeth Baldwin, has to  
3 sign off on a mill before we start. Elizabeth actually has  
4 veto power over my planned purchases. If she says no, I  
5 can't buy.

6 She worries about Lacey and formaldehyde  
7 regulations like CARB and EPA TSCA Title 6. Elizabeth will  
8 sometimes visit component suppliers that service our mills.  
9 She also invests significant time and money in training our  
10 mills and better management and sourcing.

11 And of course, we have an amazing logistics and  
12 quality control program of over 30 people in China that  
13 oversee every step of our production.

14 So after all of that, when we finally get to the  
15 point of bringing a product into our sales program, we have  
16 to sample it. Even a limited introduction can require 1,000  
17 physical samples put in the field. We have to take  
18 photographs to illustrate the colors. These small 10 inch  
19 cuttings don't give consumers a good idea of how this looks  
20 in a room. We have significant marketing expenses to launch  
21 a new item.

22 We do need some subject merchandise in our  
23 supply chain because it helps us with our desire to be  
24 different and market unique products. I think Layo is  
25 supplying almost everyone on both sides of this room. We

1 appreciate having Layo as a major supplier and have no  
2 intention of walking away from what we've developed there,  
3 but we know that they are also a huge supplier of Shaw and  
4 other large competitors.

5 And just as we can't buy from Shaw in the U.S.,  
6 we don't want them copying all of our ideas because we share  
7 a manufacturing facility.

8 By the way, I did not show you a sample of Uwa  
9 material. Even though they are as zero mill, who has sought  
10 our business for years, even though they have a major  
11 advantage of being a zero mill for a wide variety of  
12 reasons, we're not yet working with them. This illustrates  
13 the fact that I can't base my program on the orders alone.  
14 I have to find partners that meet all of our business  
15 requirements.

16 And all of this means that if a product works  
17 for us, we are not about to change the program. We're not  
18 changing suppliers that Elizabeth has approved or finishes  
19 that took us years to get right or collections that have  
20 marketing costs in the tens of thousands of dollars. Thank  
21 you.

22 STATEMENT OF SAM COBB

23 MR. COBB: Good afternoon, my name is Sam Cobb  
24 and I am the CEO and managing partner for real wood floors,  
25 a wood flooring designer and producer. We're based out of a

1 small town in south central Missouri and have active sales  
2 efforts going on in 40 states, including our own design  
3 centers in Florida, Georgia, Missouri, and Colorado. We're  
4 a designer, importer, distributor, and part of a group of  
5 companies that includes a domestic production facility  
6 manufacturing solid wood floors.

7 I'd like to discuss the arduous process of  
8 qualifying and selecting partner mills, why mill capacities  
9 and the threat of retroactive liability pushes us to expand  
10 our manufacturing base, the limited sourcing options of high  
11 end engineered wood flooring products, and the unlikelihood  
12 that revocation will have any effect on our sourcing  
13 strategies.

14 I grew up in the flooring business. Some people  
15 make that statement figuratively, but for me, it's very  
16 literal as we actually lived in my dad's retail flooring  
17 store. After college, I jumped back into the flooring  
18 business in the bottom rung, sweeping a warehouse for a  
19 flooring distributor and continually making my way up until  
20 they afforded the opportunity to invest and become the  
21 managing partner.

22 You might wonder why we import at all since my  
23 business partner owns his own U.S. hardwood flooring  
24 production facility. That facility, by the way, has been in  
25 operation since 1911 and remains one of the largest

1 employers in Shannon County, Missouri. We produced solid  
2 wood flooring there very successfully, but we realized 15  
3 years ago that the production of higher end engineered  
4 flooring, particularly with the textures and finishes that  
5 the U.S. consumers desired would not be possible for us to  
6 produce in large volumes.

7           When the market continued to move towards  
8 engineered flooring, we began distributing a domestically  
9 produced and nationally branded engineered line.  
10 Unfortunately, this company had a distribution policy that's  
11 set up very specific territories and they would not allow us  
12 to sell outside of our assigned area, but we wanted to grow  
13 and expand. And when the -- this U.S. manufacturer would  
14 not permit us to do so, we sought production elsewhere.

15           We began our relationship -- our manufacturing  
16 relationship in China with a medium sized mill. We quickly  
17 realized that we needed our own full time staff at the  
18 factory at all times for reporting on yields, monitoring  
19 quality and controlling and compliance issues, so we hired  
20 staff to tackle that task.

21           We then sent one of our key team members from  
22 the U.S. to live in China and train the team for a year.  
23 This company turned out to be a fantastic partner that we  
24 continued to work with today even though they produce  
25 merchandise subject to retroactive liability.



1                   However, after the original order went into  
2 effect, we realized we needed to limit that liability. As  
3 the Commissioners know, we import material at one duty rate,  
4 but don't learn our final rate until customs liquidates our  
5 entries two to 10 years later. This level of uncertainty is  
6 why we decided to pursue transferring one of our subject  
7 product lines to Layo as they had a permanent zero rate.

8                   We took 18 months to qualify Layo as a compliant  
9 and good quality mill. This process included three trips  
10 into China and one trip for the Layo team to visit us in the  
11 U.S. After deeming them capable, we began to negotiate a  
12 deal on moving one of our lines there. We started out with  
13 two containers of test product and although the product on  
14 its own would have been viable, and landed into the U.S. at  
15 12 percent lower cost, we did not continue.

16                   This is because the American hickory logs are  
17 sourced from other areas in the U.S. than our original  
18 supplier. And therefore, the final appearance did not match  
19 the quality that our clients had come to expect. So we  
20 cancelled the program and kept the line where it originated  
21 despite higher costs and the threat of retroactive  
22 liability.

23                   We did eventually end up working with Layo,  
24 however, and here's why. It is not just because they're a  
25 zero mill. Rather, it's because we needed more material

1 than our other vendors could supply. As the housing market  
2 rebounded and demand rose, we needed more and more  
3 production. However, our main vendor, like most mills, is  
4 not comfortable giving more than a percentage of their  
5 production to any one customer. In our case, that number  
6 was 30 percent and we were quickly getting close to the  
7 limit.

8 We needed to expand but we didn't want to expand  
9 into more product with a threat of retroactive liability, so  
10 we went back to Layo, closely watched their production for  
11 several days, and discovered where their strengths we're,  
12 and then over a year, carefully built a product line that  
13 best fit their capabilities.

14 This allowed to expand our production but limit  
15 our potential retroactive liability. It is that constant  
16 uncertainty that has us here today seeking revocation of the  
17 orders even though as of today, we've all diversified so the  
18 vast majority of our products are outside of the orders.

19 As the orders continued, subject mills began to  
20 pursue different strategies to bring stability back to their  
21 business models. In the last five years, many Chinese mills  
22 have closed, moved exclusively to domestic or European  
23 business, or as in the case of one of our vendors built an  
24 additional production facility outside of China.

25 Over a dozen factories have been started by

1 Chinese producers in Southeast Asia. Our supplier bought  
2 land in Cambodia in October of 2015 and began the process of  
3 opening up a new facility. In one year, they were up and  
4 running and producing a good volume of product with minimal  
5 quality issues to correct.

6 At that time, they began hiring more and more  
7 local workers that they would train and slowly move their  
8 key staff back to China. By the end of next year, the  
9 production would rival that of their original facility in  
10 China. This movement has not been without expense or time  
11 spent on our part. We've had to make 12 trips to Cambodia  
12 to make this transition.

13 We've had to learn how to export lumber and  
14 materials into Cambodia and we have our own full time staff  
15 living there, overseeing this transition. While this has  
16 been taxing, the result has been that we are now moving most  
17 of our product lines that we used to produce in their China  
18 facility to Cambodia at a much lower cost and at the same  
19 level of quality. We will not be moving those product lines  
20 back to China for those reasons.

21 Not only is base pricing out of Cambodia cheaper  
22 due to lower labor costs, exports from that country received  
23 favorable tariff rates to -- compared to China. As we have  
24 continued to grow, our needs for more and more available  
25 production has pushed us to continue to add manufacturing

1 partners. This year, we will add another partner from the  
2 Samling group, Elegant Living, which has both the available  
3 capacity and willingness to grow with us. We, as Dave has  
4 pointed out, count them among the zero mills because they  
5 have no A.D. and a low CVD rate.

6 We will work with them to add more manufacturing  
7 capacity. Our process of adding them as a vendor follows  
8 the same rigorous procedures we use elsewhere. We spend a  
9 year evaluating their commitment to compliance with  
10 regulations such as Lacey and CAR, as well as their whole  
11 production capabilities. After honing in on their strengths  
12 and weaknesses, we built a product line that fits their  
13 capabilities.

14 Lastly, we'll continue to pursue some products  
15 made at subject mills because they aren't being made  
16 anywhere else the world. There are production processes in  
17 wood flooring and China that simply shut the products apart  
18 from anything we can source elsewhere.

19 These mills are offering the latest coloring  
20 systems which began as higher end furniture finishing  
21 techniques that are going to represent the highest end  
22 flooring options in the next five to 10 years. These high  
23 end offerings are not yet produced by the three zero mills  
24 or in any of the Southeast Asia mills. The only place  
25 currently to produce the highest end wood coloring

1 techniques at volumes is in subject China mills.

2           These techniques involve vacuum staining  
3 systems, fine particle dying procedures, and the tannin  
4 washing and reactive staining of nonreactive species. If  
5 you want to be able to offer the cutting edge in wood  
6 coloring and texturing techniques at volumes that make any  
7 sense to us, we currently have to buy those from subject  
8 mills. And by the way, they are very expensive.

9           I hope this gives you a clear picture of our  
10 business model. In summary, if the orders stay or are  
11 revoked, our business will continue in largely a similar  
12 manner. Layo and Samling, two of the zero rate mills will  
13 remain valued partners. Our business with our original  
14 supplier in both China and Cambodia will continue to expand  
15 and I will continue to travel the world seeking the best  
16 possible products for my customer base. Thank you.

17                           STATEMENT OF JOHN TROENDLE

18           MR. TROENDLE: Good afternoon, Commissioners. I  
19 am John Troendle and I represent Crescent Hardwood  
20 Supply, and I will be testifying on behalf of the Alliance  
21 Respondents.

22           Our company is headquartered in New Orleans,  
23 Louisiana, with locations in five states. I graduated from  
24 Loyola University in New Orleans with a B.B.A. in Accounting  
25 and a Minor in Banking.

1           My grandfather started the company and next year  
2           our company will celebrate its one hundredth anniversary.  
3           We sell solid engineered laminate luxury vinyl throughout  
4           the Southeastern United States.

5           Crescent sources vinyl cork from Portugal,  
6           laminate from Germany, engineered wood from Taiwan, Vietnam,  
7           Cambodia, and engineered wood, bamboo, laminate, and vinyl  
8           from China. In China we buy from the two of the three zero  
9           mills, Layou and Yuwa. We also sell material from Brazil,  
10          Panama, Honduras, and Australia. We also purchase  
11          engineered flooring from other sources like Harris Wood and  
12          Century Flooring, a division of Mohawk.

13          We also purchase solids from at least eight  
14          domestic suppliers. Just several months ago, a  
15          representative from Century Mohawk visited us and tried to  
16          convince us to do a private-label program to them. The  
17          products featured had a plywood core structure and we were  
18          ready to buy.

19          Unfortunately, at the last minute upper  
20          management decided to switch the plywood core products to  
21          what they called an HDF core. In my experience, this core  
22          does not react well in high humidity climates and retailers  
23          do not have confidence in this type of product and opt to  
24          sell plywood core products.

25          Given the change, we declined on the U.S.

1 production. I regretted having to make this decision  
2 because it had a three-day ship point versus a 90 to 120 day  
3 turnaround from overseas.

4 My testimony today concerns the huge volumes of  
5 non-Chinese manufactured goods being imported into the U.S.  
6 that I believe will not decrease no matter what the outcome  
7 of the sunset review is.

8 In the last six years, Pacific Rim nations have  
9 emerged as the major exporters of multilayer hardwood  
10 flooring products to the United States. Malaysia, Thailand,  
11 Vietnam, and Cambodia are exporting more volumes each year.

12 I have traveled and toured numerous factories  
13 located in these countries over the last few years. These  
14 factories are producing quality products. At the original  
15 investigation hearings, the Alliance members testified that  
16 if the Commissioners issued an antidumping and/or  
17 countervailing duty order, the importers would begin  
18 sourcing flooring from other countries, especially Southeast  
19 Asia.

20 What we predicted at the original hearing have  
21 become a reality. Many of us sought out non-Chinese  
22 supplies because we can't handle the uncertainty of  
23 retroactive liability. Crescent Hardwood, like many other  
24 importers, shifted production to Southeast Asia.

25 Growth in Southeast Asia has not been stifled,

1 despite the United States' refusal to enter the TPP Treaty.  
2 The factories we deal with in Southeast Asia ship the  
3 majority of the produce to the United States. Crescent  
4 Hardwood's core products now come from this region.

5 One of the most important reasons the majority of  
6 my company's imports will remain in Southeast Asia is the  
7 factories are open to creating new and interesting styles  
8 and looks, something U.S. and non-subject Chinese mills are  
9 not interested in.

10 The U.S. producers in the zero mills are more  
11 interested in volume, pure and simple. The cookie-cutter  
12 approach to mass producing the same product in a few  
13 different colors and sizes, smooth traditional  
14 bread-and-butter colors, are dated looks.

15 The looks that are popular today are influenced  
16 by the European markets: Character, grade, sawn faces, oil  
17 finishes, reactive stains, and hand scraping. I go to the  
18 factories in Southeast Asia for the choices they offer.  
19 They import species from all around the world and provide  
20 the choice of slice, sawn, and rotary peel veneers. The  
21 majority of the engineered flooring produced in the United  
22 States has a rotary peel wear layer which is very economical  
23 to produce but not very appealing visually with its  
24 wide-open grains.

25 Sawn and sliced looks offer more realistic visual



1 appearances because they resemble traditional solid, nailed  
2 down products, and do better in the marketplace. Texture is  
3 important. Mills in Southeast Asia scrape floors by hand.  
4 Hand scraping by an individual leads to a more random look,  
5 as opposed to machine scraping which is repetitive and  
6 artificial.

7 The U.S. companies mostly offer machine scraped  
8 material, or material scraped by prison. Popular finish  
9 looks today are achieved by using reactive stains and  
10 multiple stain coats with oil finishes or UV oil. Southeast  
11 Asia's factories have mastered these techniques. The  
12 industry went from 50 shades of brown to 50 shades of grey  
13 with oil patinas. The factories are open to experimenting  
14 with processes to create interesting new styles and looks.

15 These looks come from partnering with  
16 distributors and importers who bring fresh ideas to them.  
17 The distributors ask designers and retailers what the latest  
18 home decor trends are. Usually they start off as just  
19 fixtures or concepts.

20 The foreign mills located in Southeast Asia are  
21 not going away regardless of what the ITC decides about the  
22 ABD and CBD orders. The cost of moving production from one  
23 supply area is extremely prohibitive and time consuming,  
24 when you successfully produce a product line without  
25 products and you do not want to upset the status quo.

1 I speak for Crescent Hardwood. Our relationships  
2 in Cambodia and Vietnam are long-term commitments. The  
3 factories have made us look very good and offer quality  
4 products. It took up to three years to create the lines we  
5 have, and I will not walk away from them. The mills have  
6 been vetted, trained, and have shown their support for our  
7 business.

8 I suppose I would consider the ABD and the CBD  
9 decision to be a happy accident. Had we not been forced to  
10 relocate production, we would not have had a positive  
11 experience in Southeast Asia.

12 Now to conclude, you wonder why if I'm so happy  
13 in Southeast Asia, why do I want to see the Order go away?

14 Well, it is because of two things. There are  
15 certain products that we can only get made in China. It  
16 might only be a small volume of our business, but we have to  
17 keep these products to be well rounded.

18 I don't want to buy highly specialized, expensive  
19 flooring with the possibility of retroactive liability  
20 hanging over my head. That's it. The bulk of my business  
21 is now outside of China and there's few things I need. I  
22 would like to see the Order go away, and I thank you,  
23 Commissioners, for addressing you today.

24 STATEMENT OF MICHAEL SCHULTZ

25 MR. SCHULTZ: Good afternoon. My name is Mike

1 Schultz. I am Vice President of Global Sourcing and  
2 Compliance at Floor & Decor.

3 Floor & Decor was founded in 2000, and we went  
4 public in April of this year on the New York Stock Exchange  
5 under the symbol FND. We are a high-growth, multi-channel,  
6 specialty retailer of hard surface flooring and related  
7 accessories. Our headquarters is in Atlanta, Georgia, and  
8 we currently have 80 warehouse format retail stores in 20  
9 states, and we employ more than 5,000 associates.

10 Our stores average approximately 72,000 square  
11 feet, and on average each store carries approximately 3,500  
12 skews, which equates to about 1.3 million square feet of  
13 flooring on average.

14 We believe that we offer the industry's broadest  
15 in-stock assortment of pile, wood, laminate, and natural  
16 stone flooring, along with decorative and installation  
17 accessories, positioning us as the one-stop destination for  
18 our customers' hard surface flooring needs.

19 We also appeal to a variety of customers,  
20 including professional installers and commercial businesses,  
21 our pros; our do-it-yourself customers, as well as customers  
22 who buy our products to then have it installed for them.

23 Floor & Decor's growth has included eight  
24 consecutive years of double-digit comparable store sales  
25 growth, averaging more than 15 percent per year; as well as

1 our 20 to 25 percent average new-store openings per year  
2 since 2012. Our sales growth has been across all  
3 categories, including engineered wood flooring.

4 Over the years we have developed direct sourcing  
5 relationships with manufacturers and quarries in over 18  
6 countries, and we source our products from more than 180  
7 suppliers worldwide, many of which we have developed  
8 long-term relationships with.

9 So that's who we are. Now let's talk a little  
10 bit about our products. As a hard-surface flooring  
11 retailer, we must constantly respond to customer demand. We  
12 often collaborate with our suppliers to design and  
13 manufacture products for us to address emerging customer  
14 preferences such as product types, styles and designs,  
15 finishes, country-of-origin, sizes, et cetera.

16 Several of the speakers have discussed the impact  
17 of wood visual substitutes on the engineered wood flooring  
18 business. We have definitely experienced this trend  
19 first-hand. In recent years we have seen tremendous growth  
20 of new, innovative wood visual substitute products. Sales  
21 of these wood visual substitutes are now significantly  
22 larger than the sales of our actual wood products.

23 I would be happy to provide any details after, if  
24 you request it. We also brought some samples of some of the  
25 substitutes, so you're welcome to take a look after our

1 testimony.

2 Now the most important issue of us--for us, and  
3 my main responsibility, is compliance. As a retailer, our  
4 business success depends on our supplier partners. We  
5 require our suppliers to operate to the same high standards  
6 that we operate to. Compliance is the primary consideration  
7 in our decision to do business with a supplier, followed by  
8 product development, quality, and price.

9 Regardless of whether we are the importer of  
10 record or we purchase from an importer, or even if it's a  
11 domestic product, if a supplier or factory does not meet our  
12 compliance requirements then we will not do business with  
13 them.

14 Regulations such as the Lacey Act, California's  
15 CARB ATCM, and the new EPA TOSCA Title VI Regulation, all  
16 add complexity and cost to sourcing of products, both  
17 onboarding new suppliers and ongoing maintenance of existing  
18 suppliers and products.

19 Our supplier compliance program consists of  
20 several additional components for many of our suppliers. We  
21 have a third-party audit program for social accountability  
22 which addresses areas such as worker wages, working hours,  
23 health and safety, and environmental conditions at our  
24 suppliers' overseas factories.

25 We are a member of the Customs and Trade

1 Partnership Against Terrorism, or CTPAT, Program, which  
2 requires us to perform security-risk assessments of the  
3 suppliers in our supply chain.

4 We also have a third-party audit program for our  
5 wood compliance that addresses a factory's quality  
6 management systems, wood legality procedures, wood  
7 chain-of-custody documentation, and compliance with CARB and  
8 EPA formaldehyde emission regulations.

9 Although as an importer and retailer we are not  
10 required by CARB or EPA to perform testing, as part of our  
11 reasonable prudence precautions we work with a leading U.S.  
12 CARB and EPA third-party certifier to regularly test batches  
13 of component material used for production of our products.

14 We also utilize third-party inspectors for  
15 on-site monitoring of our production and traceability of  
16 Lacey Act, CARB, and EPA applicable products, and Floor &  
17 Decor staff frequently visit our suppliers to maintain  
18 relationships, understand the status of the factory, follow  
19 up on corrective actions, and most importantly reinforce our  
20 requirements.

21 Our merchants may be engaged in prequalification  
22 business discussions and product development with a  
23 potential supplier for months and even years before actually  
24 deciding to do business with them. At that point, in some  
25 cases it may then take our supplier compliance team another

1 year or more to develop the supplier before we feel  
2 comfortable including their products in our product line  
3 review process.

4 All of these activities consume considerable  
5 resources and personnel time and money. We have been  
6 engaged with numerous potential suppliers throughout the  
7 world for years whom we have not yet qualified and done  
8 business with because of the importance of our compliance  
9 program.

10 It is also important to note that actually,  
11 despite the Orders, we have changed very little of our  
12 Chinese supply base for engineered wood flooring. This is  
13 because of the amount of time and work it takes to develop a  
14 new supplier to address the necessary compliance and quality  
15 issues.

16 We have worked both before and after the Orders  
17 with a few of the subject Chinese suppliers, including one  
18 who like many others today we consider to be non-subject.  
19 We have also recently moved slowly into our current business  
20 with another of the non-subject Chinese suppliers, but it  
21 has actually taken us years to build that program.

22 In conclusion, if the Orders were to end  
23 tomorrow, we would not significantly shift our suppliers in  
24 the foreseeable future. Again, this is due to the amount of  
25 time and work it takes to qualify a new supplier, as well as

1 the ongoing maintenance required of all of our existing  
2 suppliers.

3 Thank you.

4 STATEMENT OF PAUL ANDERSON

5 MR. ANDERSON: My name is Paul Anderson. I am  
6 president of Metropolitan Hardwood Floors, U.S., Inc., which  
7 is headquartered in Kent, Washington.

8 We employ over 150 American staff in 16 different  
9 states. We distribute our own brands of flooring, which we  
10 produce in multiple countries, including the United States.  
11 I am here to talk about the structure of the industry, and  
12 why having the antidumping and countervailing duty order  
13 revoked is not going to harm the domestic players.

14 I want to focus on how the large,  
15 national-branded companies have decided to position  
16 themselves in the market, and also the role visual  
17 substitutes play in their business. I also want to discuss  
18 the beneficial role imports play within the industry.

19 First, I believe the large Petitioners will not  
20 be injured by subject imports if the Orders are revoked, and  
21 that any injury they may claim they will suffer as a result  
22 of the revocation is because of the choices they have made  
23 during the past years.

24 Their first choice concerns how they've  
25 structured their businesses. They've decided to focus on



1 capturing the largest possible share of the builder market,  
2 often establishing national contracts with buying groups of  
3 builders with favorable rebate structures and promotional  
4 support.

5           These contracts can require builders to agree to  
6 not actively market other brands, including ours. These  
7 large Petitioners have the goal to place their brand, not a  
8 specific product, into the hands of--into people's homes.  
9 This ensures that any combination of their wide range of  
10 flooring surfaces covers the entire home.

11           The impact of this market development is to  
12 eliminate our ability to compete for this critical segment  
13 of the U.S. market against these few large firms. In my  
14 experience, most of the national builders are entangled in  
15 this type of arrangement.

16           Their second choice was to aggressively in and  
17 promote wood visual substitute products. I would like to  
18 start by just talking about their first choice. The  
19 original group of Petitioners include a few smaller U.S.  
20 manufacturers, but now there are only four companies in the  
21 Coalition. Three are giants in the floor covering industry.  
22 They are very smart companies who now surely want to use  
23 every tool available to push out the competition. They  
24 have done this job so well we can't compete for some of the  
25 most important customers.

1           These giant floor covering companies have worked  
2 very hard to create grand identification, but that brand is  
3 not specific to wood, much less to engineered hardwood, or  
4 even to their own U.S. production. They are large importers  
5 as well.

6           Their marketing strategy is to promote their  
7 brand name, not a single product category. They are  
8 prepared to sacrifice one product for overall benefit of the  
9 company. They are focused on capturing volumes of the  
10 entire flooring market, not necessarily just one type of  
11 flooring, which brings me to the second choice.

12           They have aggressively promoted wood visual  
13 substitutes. Visual substitutes are flooring products that  
14 look like wood but are not wood. They are made of rubber,  
15 plastic, or ceramic. They have photograph printed on paper  
16 and sprayed on the tile. The technology has improved so  
17 much that over the last few years even I, after 25-plus  
18 years in this business, may not recognize the substitute at  
19 first glance.

20           Some of the major types of visual substitutes  
21 didn't even exist at the original investigation five years  
22 ago. These substitutes have certain performance and price  
23 advantages over real wood. They may perform better in  
24 certain climates, or be faster to install, or easier to  
25 maintain. Many will provide a high-end look at a lower cost

1 than real engineered flooring.

2 I want to be clear that demand for the wood look  
3 remains extraordinarily strong. However, it is not always  
4 being supplied by engineered wood flooring. Shawn  
5 Mannington and other large brand-name companies have been  
6 instrumental in promoting visual substitutes for engineered  
7 wood flooring. They often market themselves as a one-stop  
8 shop where you can get all types of floor from one company.

9 They have invested tremendously in this  
10 technology and will regularly market their substitutes in  
11 direct competition with their own wood lines. They provide  
12 packages to builders and encourage them to put all types of  
13 flooring into homes as long as it is their brand.

14 In a surprising number of cases, visual  
15 substitutes offer more attractive wood grain patterns than  
16 engineered wood flooring with a rotary veneer face. When  
17 they approach a customer seeking a wood look, they generally  
18 offer a cheaper visual laminate or vinyl product that looks  
19 far better than their own wood floor product, and may have  
20 better performance features.

21 Since the consumer is largely trapped by the  
22 builder who has a rebate contract with a national brand such  
23 as Shaw, customers basically have a choice between Shaw One  
24 or Shaw Two or Shaw Three, and they often pick the  
25 better-looking, cheaper products. Shaw does just fine, but

1 then complains that their engineered flooring can't compete  
2 with subject imports. That's because they design the  
3 system and position the products in a way that cost them the  
4 wood sale.

5 My imports have absolutely nothing to do with it.  
6 Moreover, to the limited extent that imports or product from  
7 subject Chinese producers even arguably competes with Shaw,  
8 or other Petitioners, it may well compete with the visual  
9 substitutes rather than the engineered wood flooring  
10 produced in the United States.

11 We at Metropolitan, like some other imports, have  
12 invested in an American domestic manufacturing facility will  
13 begin production of engineered wood flooring ourselves in  
14 two months. Producing first in China educated us on  
15 production techniques and helped us build up a market demand  
16 that now justifies our own U.S. factory. Plainly, we have  
17 no fear that our investment here in the U.S. will be harmed  
18 by subject imports from China. Actually, I fear more our  
19 ability to compete against Shaw and Mohawk.

20 Be it here in the U.S. or elsewhere in the world,  
21 we identify ourselves as a manufacturer. We control our  
22 production absolutely, specifying every part of the  
23 production. I just do it from someone else's machines in  
24 China.

25 Now beyond being incubators for domestic business

1 in the case of engineered wood flooring, the imports are a  
2 huge benefit to the industry. They are a source of most new  
3 designs and textures, and even technology, and become the  
4 basis for the looks that the Petitioners sell on their  
5 visual substitutes: chemical stains, wire brushing, smoked  
6 wood, et cetera. All these techniques create unique  
7 products that keep the interest in the wood market alive.

8 If it weren't for imports, the real wood people  
9 would be further behind the visual substitutes than we  
10 already are. It is the unique nature of wood that keeps  
11 demand and interest high.

12 In conclusion--

13 MS. LEVINSON: That concludes our direct  
14 presentation?

15 MR. ANDERSON: Pardon me?

16 MS. LEVINSON: I'm sorry, Paul, did you finish?

17 MR. ANDERSON: "In conclusion."

18 MS. LEVINSON: I'm sorry, please--

19 MR. ANDERSON: In conclusion, I want to emphasize  
20 that the U.S. domestic industry is strong. These big  
21 companies are healthy and the smaller companies are doing  
22 fine as well. The Order was placed in 2011, and were based  
23 on economic conditions created by the Recession. Our  
24 economy is healthy now, and both new housing starts and  
25 remodeling markets have rebounded. Money is easier to

1 borrow. Companies are investing in both technology and  
2 marketing. There should be room in the market for large and  
3 small. I respect the Petitioners for successfully  
4 implementing a distribution strategy that suffocates smaller  
5 competitors in a critical segment of the U.S. market. These  
6 are smart companies using every tool available to control  
7 more and more of the market.

8 Thank you for your time.

9 MS. LEVINSON: Thank you. I apologize for the  
10 interruption. This is Lizabeth Levinson. We have concluded  
11 our direct presentation. We welcome your questions.

12 I would like to add before we start to  
13 Commissioner Johanson that you asked a very pertinent  
14 questions about wood looks they're in hotels and I think our  
15 witnesses will explain to you that -- and I know this  
16 because this is also the same in our law firm. A lot of  
17 times these floors look absolutely like they're hardwood  
18 flooring, but they're actually the wood visuals and what  
19 you're seeing in most hotels are the wood visuals, which we  
20 will pass around at the appropriate time. We welcome your  
21 questions please.

22 CHAIRMAN SCHMIDTLEIN: Alright, thank you very  
23 much. Again, I'd like to thank all the witnesses on this  
24 panel as well for being here today to help us understanding  
25 this case -- this review.

1                   I guess I want to start with understanding  
2           better for the various companies that are here today whether  
3           you currently import from subject mills in China and if you  
4           can, what portion of your imports do those account for --  
5           well, let's start with that and we can go in any order you  
6           want. Mr. Cobb, do you want to start?

7                   MR. COBB: A rough percentage I'd just have to  
8           take a guess we're probably in the 25 to 30 percent range  
9           subject.

10                  COMMISSIONER BROADBENT: Okay. And then can you  
11           talk a little bit about -- you're importing from the subject  
12           and then you're also importing from Lao as well, right,  
13           which is currently non-subject. And are there products that  
14           the non-subject can't make? In other words, I've heard some  
15           testimony today from the various witnesses that the subject  
16           companies make the highest-end products, cutting edge and  
17           that's why you're all here because you're interested in  
18           those products. And so one of my questions is do the  
19           non-subject mills currently make those products and what are  
20           those products exactly? I know we talked about color, wood  
21           color, texture.

22                  MR. COBB: You have to understand with a mill  
23           Layo it's a large facility. They have huge volumes and they  
24           are manufacturing at quite a different pace than some of the  
25           non-subject mills that we currently work with.

1           The processes that Dave outlined are some of  
2 these processes we're talking about where you may have a  
3 double-stain process where you're staining the wood once.  
4 You're letting it dry over a day. So you have to stain it  
5 by hand, rack it out, let it dry, come back, stain it again,  
6 and then finish it. Layo is not doing -- to my knowledge,  
7 Layo is not doing that type of processing.

8           CHAIRMAN SCHMIDTLEIN: And mills in Southeast  
9 Asia aren't doing that kind of process. It's only at the  
10 subject mills.

11          MR. COBB: In significant volumes, yes.

12          CHAIRMAN SCHMIDTLEIN: And U.S. producers are  
13 producing that type of -- that variety of --

14          MR. COBB: I could not speak to that in terms of  
15 -- I would not say in significant volumes that I know of.

16          CHAIRMAN SCHMIDTLEIN: That you know of, okay.  
17 Are there any other types? You talked about double  
18 staining.

19          MR. COBB: We can go into a high level of  
20 detail. I'd be happy to do that. So for example, so like  
21 --

22          CHAIRMAN SCHMIDTLEIN: You can put this in the  
23 post-hearing if it's business confidential.

24          MR. COBB: No, I'm happy to touch on it. So in  
25 terms of the process, I mentioned in my testimony a tan and



1 wash and a reactive staining of a non-reactive species.  
2 That sounds confusing. So what you're doing there is --  
3 Dave talked about a reactive stain process on European white  
4 oak. So there's tanning context in the wood. He's applying  
5 a chemical to it that's reacting to the tanning and changing  
6 the color of the wood chemically, which is different than  
7 essentially painting stain on the wood, if that makes sense.

8 CHAIRMAN SCHMIDTLEIN: Mm-hmm.

9 MR. COBB: We're going one step further. We're  
10 extracting the tanning from the white oak. We're putting  
11 the tanning onto a species like maple, which is not  
12 reactive, but it doesn't stain well with a paint procedure  
13 because of the cell structure of the wood. But we'll add  
14 the tanning from the white oak to the maple and then we'll  
15 hit it with the chemical reactive and we'll cause a chemical  
16 reaction in maple that wouldn't have happened unless we had  
17 done that two-step process.

18 CHAIRMAN SCHMIDTLEIN: So that's an example?

19 MR. COBB: That's an example.

20 CHAIRMAN SCHMIDTLEIN: So have your imports from  
21 the subject companies increased over the period of -- since  
22 2011. We see an increase in imports from subject China over  
23 that period.

24 MR. COBB: No, ours have decreased. We  
25 decreased by moving into some more solid wood products,

1 moving some products to non-subject mills and then also  
2 we're moving products to Indonesia or Cambodia.

3 CHAIRMAN SCHMIDTLEIN: So you'd like to get more  
4 from some of the subject mills then --

5 MR. COBB: Yes.

6 CHAIRMAN SCHMIDTLEIN: -- than you're currently  
7 getting.

8 MR. COBB: Correct.

9 CHAIRMAN SCHMIDTLEIN: Okay.

10 Okay, Mr. Sandover, can you answer sort of the  
11 same questions. I know you're currently importing from Lao.  
12 Are you importing from subject mills in China right now?

13 MR. SANDOVER: Yes, approximately 30 percent of  
14 our imports and we haven't -- those sales haven't decreased,  
15 but we haven't spent time doing new product development with  
16 them because of the risk of the retroactive liability. So  
17 we haven't taken the business away and moved out of China,  
18 but we haven't been able to effectively grow that business.

19 CHAIRMAN SCHMIDTLEIN: You didn't increase your  
20 volume from the subject over the course of the POI?

21 MR. SANDOVER: It stayed about the same.

22 CHAIRMAN SCHMIDTLEIN: Okay.

23 MR. SANDOVER: Yes.

24 CHAIRMAN SCHMIDTLEIN: But are you looking to  
25 increase it then if we're able to --

1                   MR. SANDOVER: I would like to add definitely  
2 new colors and new ideas that we could increase it, but  
3 we've just been hesitant.

4                   CHAIRMAN SCHMIDTLEIN: Yes, okay. And you're  
5 not able to add those new colors or new ideas at other  
6 mills?

7                   MR. SANDOVER: Well, for Layo, as an example, is  
8 we buy some pretty basic products from them and we spent the  
9 last year developing the sawn collection with them, which  
10 was a pretty big feat because their number one customer is  
11 Shaw and Shaw eats up a lot of production and it's basic  
12 colors and just fast and furious where this collection --

13                   CHAIRMAN SCHMIDTLEIN: I mean there's three  
14 mills in China that aren't subject and then, of course,  
15 there's a lot of mills in Southeast Asia now or there's the  
16 U.S. mills. So I guess my broader question is really like  
17 can't you go to one of these other various producers?

18                   MR. SANDOVER: We've been developing the color  
19 stain program with Samling. That was 18 months to get the  
20 first wave of colors to the market, so we have room to grow  
21 with them. And then we are in the process of figuring what  
22 products we're going to develop at the domestic facility.

23                   CHAIRMAN SCHMIDTLEIN: You are in the process of  
24 working with the domestic facility.

25                   MR. SANDOVER: Our own.

1                   CHAIRMAN SCHMIDTLEIN: I see.

2                   MR. SANDOVER: Yes, in Wisconsin.

3                   CHAIRMAN SCHMIDTLEIN: Okay.

4                   MR. ANDERSON: I'd like just to add briefly that  
5                   the reason we would stay with the subject mill is when we  
6                   develop these new techniques then it's only known to us and  
7                   we control that product type for a while. To develop it  
8                   within a zero mill and everybody else is shopping there,  
9                   that technology and look becomes available to all our  
10                  competitors.

11                  CHAIRMAN SCHMIDTLEIN: So say that again. You  
12                  stay with --

13                  MR. ANDERSON: So we stay with a small subject  
14                  mill that will develop the technique of staining or unique  
15                  color or metallic finish and then we kind of control that  
16                  for a while. Everybody's trying to figure out how did they  
17                  do that, right, but they don't know because we developed it.  
18                  But if we develop it under the umbrella of the large factory  
19                  that's servicing 20, 30 other importers like Layo does, then  
20                  that technology is Layo. They know it, so they can share it  
21                  with the whole marketplace. We can't control it from  
22                  getting out to all our competitors.

23                  CHAIRMAN SCHMIDTLEIN: Okay.

24                  MR. ANDERSON: So we seek out relationships  
25                  where we can control the technology and that's our reward

1 for being an importer and controlling that supply is if we  
2 develop the winning product we have a little bit of edge in  
3 race when we bring it back.

4 CHAIRMAN SCHMIDTLEIN: And you couldn't control  
5 that through contractual provisions or intellectual property  
6 rights?

7 MR. ANDERSON: We'd have to be a significant  
8 purchaser to control it.

9 CHAIRMAN SCHMIDTLEIN: I see.

10 MR. ANDERSON: Because they would lose our  
11 business if they mistreat us, right? So other people have  
12 to figure out what did they do? How did they make that  
13 product? They'll figure it out in six months, but you know  
14 for a while we have an advantage.

15 CHAIRMAN SCHMIDTLEIN: I see, okay.

16 MR. ANDERSON: Thank you.

17 CHAIRMAN SCHMIDTLEIN: Some of the other company  
18 reps.

19 MR. TROENDLE: The subject product we get, we  
20 get a DDP, so we don't have the retroactive liability is  
21 mainly we're reclaimed heart pine, which is taking timbers  
22 from the U.S., re-slicing them down to 2, 3-millimeters of  
23 mayers and gluing them and finish them. It's a very hard  
24 process because pine is a very sappy log. You've got to  
25 take time. The high volume mills don't have the room to

1 store the material because you buy pine when it's  
2 available. You don't buy pine on the spot market. There's  
3 no forest. It's claim mills and when you can get it and the  
4 availability of the lumber is getting harder and harder  
5 because there's less building. So you buy what you can when  
6 you can and the mill we deal with is very receptive to  
7 holding our materials.

8 And like Paul says, a lot of people wonder where  
9 were get it and guess what, they don't know because they  
10 don't go looking at the non-subject mills because they don't  
11 want the retroactive liability --

12 CHAIRMAN SCHMIDTLEIN: The subject mills I think  
13 you mean.

14 MR. TROENDLE: Yes.

15 CHAIRMAN SCHMIDTLEIN: Okay, yes.

16 MR. TROENDLE: The retroactive liability is  
17 built into my DDP price, so a Yihua, a Layo or Samling is  
18 not interested in that volume. They want to run a line  
19 that's like your table up there. Put the lumber, come out  
20 and box it on the other side. They don't want to stack  
21 lumber. They don't want to store lumber. They want to have  
22 turnover and these are higher, expensive products. I'd say  
23 probably about 5 percent of our business in just reclaimed  
24 heart pine in the south and engineered reclaimed pine.

25 CHAIRMAN SCHMIDTLEIN: And what percentage of

1 your imports are coming from subject mills, roughly?

2 MR. TROENDLE: About 5 percent of our business  
3 is done with the subject mill.

4 CHAIRMAN SCHMIDTLEIN: Oh, just 5 percent of our  
5 imports.

6 MR. TROENDLE: Yes.

7 CHAIRMAN SCHMIDTLEIN: Okay.

8 MR. TROENDLE: Pine is a specialty product.

9 CHAIRMAN SCHMIDTLEIN: And that's all that  
10 you're doing with the subject is this pine?

11 MR. TROENDLE: Correct. We moved all our other  
12 production to Southeast Asia. We were dealing with some of  
13 the others. The problem with the three large Yihua, Layo  
14 and them their lead times after the order came in went from  
15 three months, three and four months, so you had to have a  
16 crystal ball to order. So that means we had to take cash  
17 reserves, tie them up in inventory and it's just not  
18 possible, so you go where you can get a 90-day turnaround  
19 and get a competitive price, plus you save the 8 percent  
20 duty in Cambodia.

21 CHAIRMAN SCHMIDTLEIN: Okay. My time has  
22 actually expired, so we'll move to Vice-Chairman Johanson.

23 VICE-CHAIRMAN JOHANSON: Thank you, Chairman  
24 Schmidtlein and thanks to all of you for appearing here  
25 today.

1 Domestic interested parties argue that importers  
2 prices demonstrate the discipline of the Orders. They claim  
3 that the percent of instances of underselling was higher in  
4 years when the average annual anti-dumping duty rate was  
5 lower and the percentage of underselling was lower when the  
6 anti-dumping duty rate was higher. So for example, they  
7 claim that in 2015 and in 2016 when the anti-dumping rate  
8 increased the percentage of instances of underselling  
9 decreased. What does this tell us about the likely subject  
10 import prices in the absence of the Orders?

11 MR. KLETT: I think Slide 10 to their  
12 presentation this morning illustrates the analysis they did  
13 related to your question and I don't think that it tells you  
14 much and I'll give you a few reasons and we can go into it  
15 more in our post-hearing brief. But basically, it doesn't  
16 take into account what happens with the six categories  
17 individually, so you need to look at that in a more  
18 granular basis. I mean I think their analysis is too broad  
19 brush and a sledge hammer approach.

20 I mean you also need to look at the volumes  
21 associated with the various instances of underselling and  
22 you need to look at how representative the pricing products  
23 are of what's going on in the overall market and you also  
24 need to look at the underselling they're talking about and  
25 you know whether the underselling actually you know had some



1 affect on U.S. producers' prices. The normal relationship  
2 about if and when you have underselling is there any  
3 relationship between the underselling and price trends and  
4 industry performance.

5 So I think it's just too broad an analysis and I  
6 think one needs to look more closely at the detail behind  
7 the numbers to draw any valid conclusions.

8 MR. LEVINSON: I would just add to what Mr.  
9 Klett said that, in part, the higher prices reflect the more  
10 complex products. They're not cookie cutter products.  
11 These are more complex. They require additional labor.  
12 They're particularly specialized and those prices are what  
13 we would expect these products to be priced at because of  
14 the complexity.

15 VICE-CHAIRMAN JOHANSON: Thank you for your  
16 responses.

17 The staff report at page 3.2 identifies new  
18 marketing entrance to the U.S. since the original  
19 investigation. Why doesn't this show, as domestic  
20 interested parties have argued that the Orders are having a  
21 positive affect on the domestic industry's ability to  
22 compete and have enabled it to regain its competitive  
23 footing as they contend at page 3 of their brief?

24 MR. KLETT: I think, in general, Petitioners  
25 were saying that you can attribute any positive affects to

1 the industry to the Order. And given that during the period  
2 of review, we were coming out of a fairly deep recession and  
3 one of my slides showed the increase in apparent  
4 consumption, the increase in remodeling activity, the  
5 increase in new construction activity. That to attribute,  
6 without any additional analysis, any improvements in the  
7 industry, whether it be improvements in production or  
8 increases in capacity or increases in employment or whatever  
9 to the Order without also recognizing the steep increase in  
10 demand in the market for engineered wood product I just  
11 don't think you can make that assertion without recognizing  
12 the underlying strong demand increase in the market at the  
13 same time.

14 VICE CHAIRMAN JOHANSON: With increases in  
15 demand in the market in the United States, how do you  
16 explain U.S. producers' market share actually declining amid  
17 this increasing demand?

18 MR. KLETT: I think you need to look at U.S.  
19 producers their own shipments of U.S.-origin product as well  
20 as their shipments of what they import and look at that in  
21 combination. And you also need to look on the import side,  
22 break that out between imports by U.S. producers and those  
23 by others. And without getting into a whole lot of detail  
24 for propriety reasons, that's one explanation.

25 The other is, as you heard earlier, there's been

1 competition from wood visuals against -- you know with the  
2 engineered wood flooring products. And I think Mike may be  
3 able to actually say something on that based on his own  
4 experience, but even though engineered wood flooring there  
5 was growth, it might have increased with the overall market  
6 due to competition from the wood visuals.

7 MR. SCHULTZ: We've seen all of our business  
8 increase, but as he mention, we have seen a significant  
9 increase in wood visuals. The hard surface flooring  
10 business has really become a fashion business. It's very  
11 hard to replicate a complex stain or a finish on a natural  
12 product. It's much easier to do so on some of the  
13 substitute products, we found, and especially if you add  
14 features that they have not historically had.

15 A lot water resistance is very popular, whether  
16 it be ceramic tile, some of the vinyl products or even our  
17 new waterproof laminate products. So trying to come up with  
18 a design that you really like, but change the color, change  
19 the texture, change the look, you can do that digitally with  
20 an awful lot of products nowadays.

21 VICE CHAIRMAN JOHANSON: Thanks for your  
22 response, Mr. Schultz.

23 Why are shipments of non-subject imports from  
24 China, on average, lower priced than shipments of subject  
25 imports from China? And this can all be seen in the staff

1 report at Table C-1, regarding AUV data. Is this due to the  
2 duty orders? And wouldn't this suggest that if the Orders  
3 are revoked the prices for the two would converge?

4 MR. SCHULTZ: A lot of the products that we've  
5 chosen not to move it's because they're very difficult to  
6 move, as the others have said. If it's a fairly simple  
7 product, you can go to, as they mentioned, some of the zeros  
8 or you can go to other suppliers and literally get it almost  
9 copied. But with an even more higher-end products it is  
10 very difficult and that's what we're definitely seeing, as I  
11 know some of the others are.

12 MS. LEVINSON: Commissioner, I believe one of  
13 our witnesses, Mr. Troendle -- I'm sorry Liz Levinson. I  
14 believe John Troendle from Crescent Hardwood testified that  
15 in his opinion the products being produced by the three zero  
16 mills are more -- he used the term "cookie cutter" as  
17 opposed to the more specialized products that are being  
18 produced by the subject imports and I think that may also  
19 have an impact on the price of the merchandise.

20 MR. TROENDLE: When you visit Layo, they've got  
21 a showroom just like walking into a Floor D cor, except it's  
22 all wood and they say this is what we're doing. You know  
23 when you go to a specialty mill and you have an idea, like  
24 Dan was saying or like with the pine wood I have, it's not  
25 something as easy as they say. You drop it to zero and you

1 shift the product. It takes time to develop these products.  
2 It takes time to move them. You've got to match the color.  
3 You've got to make sure that you're -- you've got to be in  
4 compliance.

5           You know the smaller mills you've got to really  
6 vet them to make sure that they're up to Lacey Standards, up  
7 to all the standards that it takes to import them to the  
8 U.S. So for them to say that within 30 days, they were  
9 getting Pos cancelled and products were coming in from there  
10 that's crazy. It takes too long to move a thing. You  
11 cannot move product lines that simply. There's a whole list  
12 of things because if you have a problem and you get sued  
13 you'd better have information and you'd better have the  
14 stuff. We all go through classes on how to -- on Lacey  
15 requirements and importing and do things to cover ourselves,  
16 so it's not as simple as just issuing a PO.

17           VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.  
18 Troendle. My time is about to expire. I appreciate your  
19 responses -- Mr. Sandover, did you want to add something? I  
20 have a little bit of time left; go ahead.

21           MR. SANDOVER: So with your question that Layo  
22 -- Layo, I would say is one factory that does a lot of  
23 business with big, American manufacturers and they produce a  
24 lot of commodity items. And I think that's where you'll see  
25 kind of a big change, but we're also developing kind of

1 higher end programs with Samling right now trying to get  
2 them up to the same level as the subject factors; but it  
3 just takes longer because they were more commodity minded.

4 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.  
5 Sandover.

6 MR. SANDOVER: And again, we think the price  
7 from Samling will be higher, moving forward.

8 VICE CHAIRMAN JOHANSON: Okay, I appreciate all  
9 your responses.

10 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

11 COMMISSIONER BROADBENT: Thank you. Sorry to be  
12 late and I'll review the transcript and if I ask a  
13 repetitive question you can just refer me back.

14 Please describe the types of finishes and  
15 designs that are only available from subject suppliers in  
16 China.

17 MR. SANDOVER: So I don't want to go into  
18 specifics because some of it is proprietary, but with one of  
19 the samples that's extremely unique that I've left for you  
20 it's a metallic staining process, so there's actually  
21 metallic powder in the stain and that can't be run  
22 effectively on a regular production line. There has to be  
23 certain steps in that process have to be applied by hand.

24 And then there's another chemical stain process  
25 that we do where it's literally the stain is applied by hand

1 with a paintbrush and left out to air dry prior to going in  
2 for regular finishing and that involves like a chemical  
3 reaction of the stain with the tannins and the wood and  
4 that's what gives it the color.

5 COMMISSIONER BROADBENT: And that has to be done  
6 by hand too?

7 MR. SANDOVER: Yes.

8 COMMISSIONER BROADBENT: Okay.

9 MR. COBB: I might add just a few to what Dave's  
10 saying. Some processes, like fuming white oak, for example,  
11 which is a process again where you're changing the color of  
12 the woods are a chemical process of exposing white oak that  
13 has tannins to ammonia in a fuming chamber. That takes  
14 several days and you know we could say we can fume it dark  
15 or light and depending on how long we leave it in there will  
16 change the appearance of the wood.

17 But again, to John's point, you know some of the  
18 larger factories want to put lumber in one end and have  
19 flooring produced come out the other end and a lot of the  
20 visuals that our customers are asking for require processes  
21 that slow that down and so that's why you wouldn't see some  
22 of those same processes at a Layo or a zero mill. It's not  
23 in their nature as much. Now we can develop programs that  
24 fit what they do, but it's not those high-end looks.

25 COMMISSIONER BROADBENT: Okay. And then could

1 you all just review for me sort of the changes in consumer  
2 preferences for different types of MLWS and alternative  
3 flooring products? Changes in consumer preferences any  
4 trends currently going on in what you're projecting for the  
5 future on consumer preferences?

6 MR. SANDOVER: So our company and our decisions  
7 on colors and textures are driven by the design community in  
8 both the U.S. and in Canada. And what we're seeing, moving  
9 forward, is wider, so 10 years ago the demand went from  
10 three and a half being a wide floor to five inch and now  
11 we're finding that seven and a half inch wide floors is a  
12 real European look that it's been our demand for the last  
13 five years and now we're getting pushed to go even wider  
14 with brushing and not only traditional finishes, but oils  
15 and colored oils on the wood.

16 MR. TROENDLE: In my testimony, 10, 15 years ago  
17 you had 50 shades of browns. Today it's grays and oil  
18 finishes, reactive stains, lye washing, reactive acid stains  
19 being wiped on the wood. They're not simple things that  
20 just go down. Like Sam says, some of them have to sit a day  
21 or two days, sit in chambers and it's not a cookie cutter  
22 approach. They take time.

23 COMMISSIONER BROADBENT: Are they taking any  
24 more complicated machinery or is it just more time.

25 MR. TROENDLE: You have area to sit the



1 materials in racks and you know as opposed to just running  
2 it down a line and a UV light curing a stain. And you know  
3 you can't do it -- a lot of guys will say white oak's white  
4 oak. It's not. The white oak you get in the U.S. is  
5 different than the white oak you get in France. Just like  
6 your wine taste different from California to France. The  
7 white oak that comes from France has a lot more tannic acid  
8 and reacts differently than the white oak from the U.S.

9           You don't put wine in white oak barrels;  
10 otherwise, you'll be out of business in less than a year.  
11 You can't keep wine in a white oak barrel, so to say that  
12 just because you're working with white oak, the U.S.  
13 manufacturer can do it. We take it further than that.  
14 We're looking at the species where they're like, like Sam  
15 said, hickory. Hickory along the Mississippi River around  
16 Vicksburg is totally different from the hickory you're going  
17 to get in Indiana. You know regional supply of lumber is  
18 very important and that's why when you saw the charts and  
19 they say consistency, quality, all that we're relying on our  
20 supply chain to keep our products looking good, right, and  
21 not having claims. Thank you.

22           COMMISSIONER BROADBENT: Okay. For those of you  
23 companies that purchase both from domestic and foreign  
24 supplies, can you describe the designs, finishes, and  
25 formats that you purchase from domestic sources and compare

1       them with the design, finishes, and formats that you import  
2       or purchase from subject and non-subject imported sources?

3                   MR. SCHULTZ: We do buy from subject,  
4       non-subject and domestic suppliers. We look for new,  
5       innovative designs that our customers are asking for. As  
6       you heard here, a lot of times, it may be the coloring of  
7       the products, but an awful lot of it is the treatment of the  
8       wood and certainly the finishes on the wood. Definitely a  
9       rustic look is much more popular these days than the more  
10      clean look, although that changes decade by decade.

11                   We have a unique process within our company.  
12      Our merchants go out and look for products worldwide. We  
13      engage all of our store managers, who we call chief  
14      executive merchants, in the product line review process. So  
15      it's not just a particular merchant who goes out and  
16      specifically picks a product and says I'm gonna put it in  
17      all my stores. We pick products, working with the  
18      merchants, and then they offer it to the stores, and they  
19      choose what products they carry in their region.

20                   And as he was mentioning, it's very different in  
21      different regions. What's popular on the West Coast or in  
22      Colorado is gonna be very different than Florida or New York  
23      or any of the other countries. So it really is dependent on  
24      what's popular in that particular region of the country.  
25      And like I said, a lot of the substitutes, it's easier to

1 change that look in a product that's digitally printed than  
2 it is to try to design it from a natural product with stains  
3 and reactives and so forth.

4 MR. KLETT: One thing I heard and I'll just let  
5 the others expand on it, is the difference between rotary  
6 and sawn facing. And how that distinguishes U.S. from  
7 imports.

8 MR. TROENDLE: We source a rotary peel oak in 5"  
9 from Harris Wood in a private label line. And if you look,  
10 this is a piece of rotary peel. I grew up in a house,  
11 rotary peel came around in the late 60s, early 70s, and what  
12 most people grew up looking at was sawn nail-down wood  
13 floors.

14 So in the back of your mind, that's the picture  
15 of a wood floor that you're trying to achieve. So when you  
16 walk into a showroom and you look at a two-foot by two-foot  
17 sample of a wide-open grain like that, and you say, this  
18 doesn't look like my mom's or my grandmother's floor that  
19 I've walked on. And it looks different.

20 The sawn and slice looks achieve this. The  
21 closest you can get with a rotary peel is to do what they  
22 call an offset rotary peel, and very few people do that  
23 because it wastes a lot of the log. So, you know, we stick  
24 with wide. We try to do domestic when we can.

25 You know, we tried to do a product line with

1 Mohawk, but the core -- core is very important. And just  
2 like you're saying, the core that they use up in the  
3 Northeast will fail miserably in New Orleans and the Gulf  
4 South region, because 3 stave core will telegraph through  
5 and do it. HDF or MDF, the technical term is actually MDF,  
6 cores are susceptible to water and that's where the laminates  
7 are. And how many of you know what laminates do, is they  
8 pucker and they can grow.

9 Shaw had introduced a product called epicore.  
10 It failed miserably in the Gulf South region. So you can't  
11 take -- I was so blown away when my rep told me from Mohawk  
12 that they were switching the whole line from a plywood core  
13 to that. I said, well, you're not gonna sell the product --  
14 I'm not gonna be able to sell your product in this region  
15 because I'm gonna have claims. And it just doesn't hold up  
16 to the slightest bit of moisture. It blows apart.

17 MS. LEVINSON: I just wanna clarify that when  
18 they're talking about the rotary peeled, that is the product  
19 that is produced by the domestic industry in large volumes.  
20 And what we just circulated to you, the long piece of wood,  
21 that's the rotary from Armstrong. And that's quite  
22 distinguishable from the products that were circulated  
23 earlier that are produced in China.

24 COMMISSIONER BROADBENT: Thank you very much.

25 CHAIRMAN SCHMIDTLEIN: Okay. I'm gonna come

1 back to this question of the subject imports and what they  
2 are comprised of. And we left off with, I think three of  
3 the witnesses that had testified with regard to them being  
4 mostly specialty type products and high-end products. And  
5 so I'm trying to put this into context.

6           Would you say that all of the imports from  
7 subject countries over the POR are specialty type products?  
8 I mean, I know that individually, you are dealing with your  
9 specialty mill, and you've got your sort of niche product or  
10 your design that you're trying to get from them. But we're  
11 trying to look broadly at all of the imports. So I don't  
12 know if you can speak to this or Ms. Levinson, if you wanna  
13 address it or Mr. Klett. Would you say that over the POR --  
14 Mr. Cobb, can you talk? Okay. So to put it in context,  
15 over the POR --

16           MR. COBB: Sure. Yeah, it's not that there are  
17 not lower-end products being produced by subject mills. We  
18 don't buy anything like that. In fact, it's interesting.  
19 We talked about this yesterday. Several of us. Even the  
20 move to a Layo or a Samling, for example, is not a move that  
21 we would've made otherwise.

22           They are producing huge volumes of -- I wouldn't  
23 call them commodity products, but closer to cookie-cutter  
24 looks and things like that, as well. That's where they  
25 began. I mean these are huge mills producing huge volumes.

1 The move to there, which was a difficult one for us to make,  
2 we needed to make because of retroactive liability, but as  
3 Dave said, both of us testified, it took years for us to  
4 help them develop these more-specialized look, which is  
5 something they were not used to doing. So we took the time  
6 to do that.

7 CHAIRMAN SCHMIDTLEIN: Right. So I'm just  
8 trying to get at, for this subject product, not the  
9 nonsubject, the subject product that was imported over the  
10 POR, and again, I understand that you're just one mill, so I  
11 don't know if you're the best person to answer this, but I'm  
12 trying to get a sense of what your position is, or your view  
13 is, as sort of the respondents, would you say that -- and  
14 what I'm hearing you say is not all of that product is  
15 specialty or high-end, that's produced and imported from the  
16 subject mills. Do you agree with that?

17 MS. BALDWIN: I'm not a buyer, so I'm going to  
18 speak based on my general discussions with different Chinese  
19 mills over the last few years of trips over there. The  
20 mills that produce the more commodity-type or lower-quality  
21 products, generally have found their buyers going away for a  
22 variety of reasons. And of course, the orders are one of  
23 those reasons.

24 CHAIRMAN SCHMIDTLEIN: But we saw imports from  
25 subject go up over the POR. The volume --

1 MS. BALDWIN: I think mostly in the better  
2 quality material. One of the primary reasons all of us are  
3 here, despite the fact that we're now very well diversified  
4 in our purchasing patterns, is the fact of retroactive  
5 liability.

6 For the most part, buying something this  
7 expensive and special, which is certainly, I don't think  
8 anyone could call a dumped product, and being potentially  
9 subject to retroactive liability for something's that  
10 completely outside our control. We have no way of  
11 predicting what the liability will be determined by the  
12 Department of Commerce through their very complicated and --

13 CHAIRMAN SCHMIDTLEIN: NO, I know, ma'am, I'm  
14 just trying to focus on this very specific. I understand --

15 MS. BALDWIN: So, the thing is, we've moved away  
16 from the cheaper items because we won't assume retroactive  
17 liability on something that is so low-quality and not  
18 necessary for our business. And there are, in my area of  
19 specialty, which is compliance, there are a lot of other  
20 barriers now to these smaller mills and lower-quality mills  
21 re-entering the market. Lacey and CARB and the TSCA  
22 regulation by the EPA is going to eliminate almost all of --

23 CHAIRMAN SCHMIDTLEIN: Let me just interrupt  
24 you, 'cause I'm conscious of my time. So for instance, in  
25 the pricing products, and I know Dr. Klett, or Mr. Klett,

1 since you have access to the pricing products, would you  
2 say, of these eight pricing products, which of these would  
3 you consider to be specialty products?

4 MR. KLETT: The red oak, I think Products 1, 2  
5 and possibly 3 are smooth red oak, those are the more  
6 commodity products. I think there's a couple, hand-scraped  
7 hickory, which may be more in the nature of specialty, and I  
8 think there were a couple of birch. So I'd have to look  
9 more closely, but the hand-scraped --

10 CHAIRMAN SCHMIDTLEIN: The hand-scraped, Product  
11 7, is a birch face with a smooth finish. Product 8 is a  
12 hand-scraped --

13 MR. KLETT: I think the hand-scraped would be  
14 more specialty, the smooth would be more in the nature of  
15 commodity. But I think one of the points Ms. Baldwin was  
16 making is that there's an inference that, with the  
17 liability, or the potential liability, you wouldn't expect  
18 an importer to import a commodity product, given that  
19 liability.

20 And the only thing that would, or one thing that  
21 would offset that potential liability is that you had a  
22 specialty product that you could get a sufficiently high  
23 price for, to protect you from that risk. And so I think  
24 that's relevant. And also --

25 CHAIRMAN SCHMIDTLEIN: So why do we see



1 underselling, for instance, in Product 6 then? Because that  
2 is a hickory-faced hand-scraped, distressed, wire-brushed  
3 finish. Rustic or country grade. And you see consistent  
4 underselling by subject imports in that product.

5 MR. KLETT: Yes. And I'd have to look at the  
6 representativeness of that. I'm not sure those are very  
7 significant volumes, and I can go back and look at the  
8 actual importers and producers that sold that product.

9 CHAIRMAN SCHMIDTLEIN: But it's in the millions?

10 MR. KLETT: Yeah. I --

11 CHAIRMAN SCHMIDTLEIN: That's been imported of  
12 that product?

13 MR. KLETT: I can't give you a definitive answer  
14 now. I can try to answer that in the post-hearing.

15 CHAIRMAN SCHMIDTLEIN: Isn't that, though,  
16 inconsistent with this notion that --

17 MR. KLETT: I don't think that this --

18 CHAIRMAN SCHMIDTLEIN: -- that these -- in other  
19 words, I'm trying to look at this in terms of, what can we  
20 expect if we revoke the order, right? And if you've got a  
21 -- what you all have described as a specialty product. It's  
22 a hand-scraped distressed product. It's coming in at a  
23 substantial volume, already under order, and it's  
24 underselling. So wouldn't I expect to see it undersell if  
25 we take the order off? It's already underselling. It's

1 under the discipline of the order.

2 MR. KLETT: And there may be some product like  
3 that. I think it's a question of, as you said, in terms of  
4 how much of the subject is specialty and higher-priced. And  
5 I mean, if you look at Exhibit 12 of petitioners' hearing  
6 exhibits, I mean, on average, the subject are quite a bit  
7 higher-priced. But I understand your point and maybe we can  
8 attempt to address that more in the post-hearing brief.

9 CHAIRMAN SCHMIDTLEIN: Okay.

10 MS. LEVINSON: Commissioner, we will certainly  
11 address that in the post-hearing brief. But I'd also like  
12 to just point out that all these products, because there is  
13 --now are the anti-dumping duty order and the countervailing  
14 duty order, that they're considered fairly traded imports at  
15 this point. This isn't like an original investigation. We  
16 are looking at underselling and saying that that  
17 underselling equates to dumping. Here, there is no dumping.

18 CHAIRMAN SCHMIDTLEIN: Well, that's not what we  
19 looked at in the original. We don't equate underselling  
20 with dumping when we're in a final. We're looking at  
21 underselling to determine what's the cause of a dip in price  
22 or a loss in market share or something like that. But the  
23 Commerce Department determines what the dumping margins are.  
24 That's not -- we don't --

25 MS. LEVINSON: Right. But you --

1                   CHAIRMAN SCHMIDTLEIN: We're not looking at  
2 whether or not that's dumping.

3                   MS. LEVINSON: Yes, that's certainly true. I  
4 didn't mean to say that that's a determination, dumping.  
5 But you have to assume dumped imports in order to be looking  
6 at the injury for causation purposes. And here we don't  
7 have dumped imports.

8                   CHAIRMAN SCHMIDTLEIN: Right. But what we're  
9 looking at -- we're trying to determine what the behavior is  
10 going to be. And all we have is the record in front of us  
11 and we have what the behavior has been under order. So  
12 anyway. My time is up.

13                  MR. TROENDLE: John Troendle, Commissioner.

14                  CHAIRMAN SCHMIDTLEIN: Sure.

15                  MR. TROENDLE: Hand-scraping in the U.S. is  
16 either done by machine or prisoners. The desirable look is  
17 by hand. But we're developing an economy that's gonna  
18 promote people to go to prison to scrape floors for Anderson  
19 and OEM? I mean if it exists, it's because you can't --

20                  CHAIRMAN SCHMIDTLEIN: It's prison labor?

21                  MR. TROENDLE: -- steal a product that comes  
22 from prison. It's not a labor force. It's a punishment.

23                  CHAIRMAN SCHMIDTLEIN: Literally, it's prison  
24 labor here in the United States?

25                  MR. TROENDLE: Correct. We can't bring it into

1 Canada. Shaw was stopped moving material right after the  
2 original order--oh, not Shaw. Anderson or Shaw was moving  
3 product from the U.S. to Canada, and Canada refused to let  
4 the product in because it was scraped by prison labor.

5 CHAIRMAN SCHMIDTLEIN: And is that true of all  
6 -- so you can't get hand-scraped --

7 MR. TROENDLE: Most, all -- and I've already  
8 testified, if you read the transcript, they're using prison  
9 labor. They ship it to South Carolina for prison labor to  
10 scrape.

11 CHAIRMAN SCHMIDTLEIN: All of this --

12 MR. TROENDLE: Are we trying to protect  
13 prisoners?

14 CHAIRMAN SCHMIDTLEIN: Is it all U.S. producers  
15 that do that?

16 MR. TROENDLE: The majority of the scraping in  
17 the U.S. is done by prison labor.

18 CHAIRMAN SCHMIDTLEIN: The majority of the  
19 scraping in the U.S.? Okay.

20 MR. TROENDLE: Or by machines. The machines are  
21 repetitive and artificial. We can submit samples --

22 CHAIRMAN SCHMIDTLEIN: Which again evades the  
23 question then of why these products are underselling. If  
24 the U.S. product is not as high-quality because of the  
25 nature of how it's being done, then why would the subject

1 imports need to undersell?

2 MR. SANDOVER: I'm not familiar with the product  
3 in question and I think that, for someone to answer that  
4 question, would actually have to see the physical attributes  
5 of that product. That could be a very cheap plywood core  
6 that's very thin, and a very thin-sliced veneer that is just  
7 a cheaper product.

8 CHAIRMAN SCHMIDTLEIN: Well, it's a comparison  
9 based on specifications that are exactly the same for each  
10 of the import and the domestically produced product. So one  
11 wouldn't be thinner than the other, I don't think.

12 MR. SANDOVER: There are certain costs for each  
13 of the components and the labor of all of the products and  
14 there's usually a story behind any sale that's abnormally  
15 cheap.

16 CHAIRMAN SCHMIDTLEIN: Okay. Well, we'll come  
17 back to this. Vice-Chairman Johanson.

18 VICE CHAIRMAN JOHANSON: Thank you, Chairman  
19 Schmidtlein. Do you all take the position that imports and  
20 domestic products compete in different market segments as  
21 argued by Lumber Liquidators in Page 5 of their brief?

22 Please explain your position on an alleged  
23 market segmentation and also, if you take Lumber  
24 Liquidators' position, why did you all not make this  
25 argument in your pre-hearing briefs? Because this was the

1 crux of what Lumber Liquidators argued.

2 MR. KLETT: Can you maybe -- I'm not real  
3 familiar with the type of market segmentation that they made  
4 in their brief, so I can't comment on that, but did it have  
5 to do with quality attributes or what --

6 VICE CHAIRMAN JOHANSON: With home construction  
7 versus remodeling?

8 MR. KLETT: Yes. Well, I recall that in the  
9 original investigation, there was an analyses done that U.S.  
10 producers were more concentrated in home construction and  
11 imports and remodeling, and because the home construction  
12 market went down faster than remodeling, that it was an  
13 alternative cause for U.S. producers.

14 We looked at different analyses for purposes of  
15 our brief and I didn't see, and maybe I just missed  
16 something that Lumber Liquidators saw, in terms of the  
17 differentiation in the data with regard to imports going  
18 into remodeling versus U.S. producers going into  
19 construction. So it may be a valid argument. I'll have to  
20 look at Lumber Liquidators' brief, but it was just not  
21 something that we did.

22 MS. LEVINSON: I would second what Mr. Klett is  
23 saying. This is something we'll address in our post-hearing  
24 brief. It wasn't though we didn't have any discussion with  
25 Lumber Liquidators about this particular issue, so --

1                   VICE CHAIRMAN JOHANSON: Okay. I just wanted --  
2 'cause that was the main argument that they made. Now, I  
3 would like to turn to some of the environmental regulations,  
4 which you all discussed at some length in your brief. What  
5 percentage of Chinese suppliers are Lacey and CARB  
6 certified?

7                   MS. BALDWIN: There is no such thing as Lacey  
8 certification. Lacey is a very complicated law, very short  
9 and simple in the sense of it's two pages long. It's very  
10 difficult because it's a strict liability law, but there's  
11 no definition of compliance actually within the law. It  
12 simply states "no illegal material in your supply chain" in  
13 a simplified nutshell.

14                   So there is no such thing as certification and  
15 there isn't actually a real definition of compliance either.  
16 It's an absolute. You either have illegal material, whether  
17 you knew it or not, whether you had any responsibility or  
18 not. It's in the supply chain or it isn't. So there is no  
19 definition or recognized verification. The Department of  
20 Justice doesn't recognize any form of definition of legality  
21 other than what they themselves will judge on a case-by-case  
22 basis.

23                   In the case of CARB, CARB is a California  
24 regulation and it impacts only the components that go into  
25 the material, into the floor, plywood, MDF, particle board.

1 It only governs the raw material. So the majority of  
2 foreign factories are purchasing components from producers  
3 of raw material. Those raw material suppliers must be  
4 certified through a third-party system.

5 CARB has two different parts of the regulation.  
6 One is established emission-level limits for formaldehyde  
7 coming out of the component, and then the second one is an  
8 administrative burden, which is a recordkeeping and a  
9 qualification testing burden that then is passed along the  
10 chain, so you do have an administrative burden as a  
11 manufacturer, then as an importer, as a distributor, and as  
12 a retailer down the line. But the certification is only on  
13 the component. There is no such thing as a CARB-certified  
14 floor. You have CARB-compliant floors.

15 VICE CHAIRMAN JOHANSON: Thank you, Ms. Baldwin.  
16 You spend a lot of time on this, so you seem like an  
17 authority. It's obvious you know these answers pretty well.  
18 And I have another one for you, or for anyone else on the  
19 panel who would like to address it.

20 Respondents have argued about compliance burdens  
21 and costs associated with formaldehyde regulations,  
22 including the California Air Resources Board, the CARB, and  
23 the Environmental Protection Agency Title 6 addition to the  
24 Toxic Substance Control Act. And y'all argue this at Pages  
25 5 and 38 of your brief. I realize that these impact



1 imports, but don't these same regulations apply to domestic  
2 producers as well?

3 MR. SCHULTZ: I'll start. I mean we buy from  
4 both domestic and import. We hold the same standards to all  
5 of our suppliers worldwide. I think a lot of it became the  
6 perception that all Chinese were doing it improperly. That  
7 certainly came about during some of the litigation, so you  
8 have to take a risk assessment on everything you do, and you  
9 apply more risk to barriers where you think you may not be  
10 able to control it.

11 So I think most of the industry, certainly most  
12 of the reputable players have really put in place very  
13 strict programs for both Lacey and CARB and now the new EPA  
14 regulations to try to ensure the compliance of their  
15 product. In the end, the importer or the retailer can be  
16 held responsible. And so it's really left to reasonable  
17 prudent precautions that you take in order to ensure the  
18 compliance of that product.

19 And so every importer or retailer or  
20 manufacturer has to determine what level of reasonable  
21 prudent precautions that they want to apply to their  
22 program. And as you do risk assessment, obviously you have  
23 to apply, where do you feel you have the most risk? You may  
24 implement different levels of compliance in different  
25 regions of the world or in different products or in

1 different areas of production.

2 VICE CHAIRMAN JOHANSON: And the Lacey Act, that  
3 just applies to imports, is that correct? Or that states  
4 the any importer product must comply with U.S. laws, is that  
5 what it is?

6 MR. SCHULTZ: The Lacey Act really says that all  
7 your wood cannot be illegal. And that could include  
8 domestic. You could be taking it from public lands, Indian  
9 reservations. There's been cases of both. It's typically  
10 on the importation of wood, and it's viewed as the  
11 importation of wood, because you actually have to submit a  
12 Lacey declaration for many of the harmonized tariff codes,  
13 especially engineered flooring.

14 We actually have to declare the country, the  
15 harvest, the species, genus and species of all the wood  
16 that's being imported. So that's why it's typically thought  
17 of as an import law, but it does apply to everything  
18 worldwide. And it really says that if it violates any laws,  
19 so it doesn't define which laws and only U.S. laws. It's  
20 currently only a U.S. law, but it applies to any illegally  
21 traded lumber.

22 MS. BALDWIN: If you'd like a lot more detail on  
23 it, I'm definitely happy to discuss it. I don't know how  
24 much you really wanna know about Lacey, but --

25 VICE CHAIRMAN JOHANSON: Well, actually, one

1 question you can answer for me regarding Lacey for me is  
2 that, this regulation applies to wood products. It's been  
3 on the books for about a decade, correct?

4 MS. BALDWIN: 2008.

5 VICE CHAIRMAN JOHANSON: Right. So it's been  
6 about ten years. How well are importers now coping with  
7 this? You all have had time to adjust. I can see the  
8 first year or two being particularly burdensome, but have  
9 companies -- are you not able to comply with this in a  
10 relatively easy manner?

11 MS. BALDWIN: I would never classify complying  
12 with Lacey as easy for a variety of reasons. The complexity  
13 of the supply chain is --

14 VICE CHAIRMAN JOHANSON: But you've been able to  
15 adjust to it?

16 MS. BALDWIN: Certainly it's an integral part of  
17 our system. At Metropolitan with Dave and Paul, two of the  
18 owners of the company that I work for, they've made  
19 compliance part of the purchasing program from the  
20 beginning. I have served as ECO since 2008.

21 And we didn't do this in response to media  
22 reports or enforcement actions. As soon as it came into  
23 play, we were working on it. But it is a very difficult law  
24 because there is no definition of compliance. With dumping  
25 orders as complex and confusing as the system is, there are

1 rules to follow.

2 And working with people, we can try and figure  
3 out exactly what those rules are and check them off. If we  
4 do A, B and C, whether we like them or not, we're following  
5 the law. With Lacey, there isn't an A, B or C that we can  
6 check off in the same way. And as Mike said, the different  
7 levels of compliance, each importer has to determine exactly  
8 what their reasonably prudent precautions would be for their  
9 purchases.

10 It's not easy, but yes, a lot of us have  
11 adjusted in all areas of the industry of wood imports.  
12 Furniture, cabinetry, doors, windows, all of us have to deal  
13 with this, not just flooring.

14 MR. SCHULTZ: And I would say it applies  
15 worldwide, too. So domestic suppliers that are importing  
16 wood to do special exotics and all, they have to deal with  
17 the same thing. They're dealing with the traceability of  
18 the wood, more than just trying to prove that it's illegal.  
19 You really have to trace it back to the source. And that's  
20 very difficult when it comes to wood, especially once you  
21 start to cut the logs down.

22 VICE CHAIRMAN JOHANSON: All right, well, thank  
23 you for your responses. I appreciate it.

24 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

25 COMMISSIONER BROADBENT: Okay. This is on the

1 likely volume if we would revoke the orders. For the  
2 Alliance and maybe Ms. Levinson. On Page 45 of your brief,  
3 you argue that numerous importers and purchasers sought to  
4 minimize the impact of the duty orders by switching from  
5 subject to nonsubject suppliers, but that the time and cost  
6 of doing so would inhibit the reverse trend if the orders  
7 were revoked.

8                   What would be the cost in terms of time and  
9 money of switching from nonsubject Chinese suppliers to  
10 subject Chinese suppliers? And why would those costs be  
11 prohibitive when the previous costs were not? Especially in  
12 light of your other argument that subject imports offer  
13 superior nonprice attributes?

14                   MR. LEVIN: I'm gonna let the industry witnesses  
15 explain the kinds of costs they incurred, because some of  
16 them have testified here today that they did in fact switch  
17 to Layo, for example, as a result of the orders.

18                   MR. SANDOVER: So when we did switch to Layo, we  
19 developed some new products with them from scratch. If we  
20 moved existing colors, one color, just the resampling costs  
21 by itself is between \$5- and \$10,000. So if we move a  
22 collection of fifteen colors, those are a very big expense.  
23 We can't have a sample in a retail store of somebody else's  
24 product and then ship a Layo product.

25                   And then there's photos shoots to lay a big area

1 of the floor out and redo websites and redo all of the  
2 marketing. Moving from one factory to another, there's  
3 gonna be slight modifications in the platform, so it's like  
4 developing a new product from scratch. And we don't really  
5 have the desire to do that or spend that money when we don't  
6 have to right now.

7 MR. COBB: Yeah, and I might just add, similar--  
8 Sam Cobb, Real Wood Floors--similar experience for us. It  
9 took us about 18 months to get a product started with them  
10 from the standpoint of, again, multiple trips and viewing  
11 not only their facility but viewing the raw material supply.  
12 You know, they made a trip to see us, again over several  
13 months, even at the end of the day to determine that,  
14 because of where they buy their hickory logs is different  
15 than where a subject mill bought its hickory logs, the  
16 visual is different. It doesn't matter if the color is  
17 right, and the size and the spec, the lumber itself made the  
18 end product different.

19 So again, it was difficult for us to switch that  
20 product to them. We had to develop a product specifically  
21 that fit what they were working with.

22 MR. SCHULTZ: I would say the other key--sorry,  
23 Mike from Floor & Decor, Mike Schultz. The other key  
24 element is compliance. Any time you switch to a new  
25 supplier, whether it be subject, nonsubject, or even

1 domestic, there's a lot of effort that goes into it.

2 We spend a tremendous amount of money on our  
3 compliance program, especially using third-parties, whether  
4 it be doing audits and follow-up on corrective actions,  
5 traceability, paperwork reviews, as well as our merchants  
6 working on the development of the product, as they've  
7 mentioned.

8 We do a lot of testing of product before we agree  
9 to buy it. There's just a tremendous amount of compliance  
10 and quality and product development that goes into every new  
11 supplier you work with. It is unlikely that, like you said,  
12 other than maybe some very simple products that you can just  
13 say, okay, I want to get it from this supplier and I can  
14 copy it, it's still a launch of a new product and it's, more  
15 importantly, a launch of a whole new supplier.

16 COMMISSIONER BROADBENT: Okay. Let's see.

17 Mr. Sandover and Mr. Troendle, what was the  
18 reaction in the U.S. market after the 60 Minutes  
19 investigation on Lumber Liquidators? Did U.S. purchasers  
20 switch preferences for MLWF? And did these preferences  
21 result in import differences in products from China?

22 MR. SANDOVER: Dave Sandover. So I think  
23 initially there was the Internet and the telephone reaction  
24 from consumers.

25 COMMISSIONER BROADBENT: Right.

1           MR. SANDOVER: Elizbeth fielded probably a hundred  
2 percent of those calls, so she could give you first-hand  
3 information. We--we--at the time that happened, we didn't  
4 make any changes in the factories we were dealing with, or  
5 the products we were selling, because we have a pretty  
6 intense program already that the factories we were dealing  
7 with at that time had been partners for a long time that  
8 were already vetted for compliance.

9           COMMISSIONER BROADBENT: Mr. Troendle?

10          MR. TROENDLE: John Troendle, Crescent Hardwood.  
11 We received a number of calls through our retailers. Before  
12 we created--we would kind of like to come to laminate. In  
13 2009 we put our first products out. The laminate we  
14 started, we're not subject to CARB because of the fact that  
15 we're not based out of California. We're a Louisiana  
16 company. You can't really--you have to be registered in  
17 California and sell in California.

18                 We follow the European E-1 standard that is very  
19 similar. Our product was marked with boxes from day one,  
20 European E-1 Standard. It is very a la carte when you order  
21 the product. You find that they tell you--we pick the type  
22 of core we want, the density of the core. There's white  
23 core. There's brown core. There's green core. And they're  
24 not all alike.

25                 Then you have melamine tops, that tops the tops,



1 on that. We had a few customers that were very adamant that  
2 they thought that they were sick. We offered at our own  
3 expense, we sent the products to--we went into--we paid for  
4 someone to go in the house, remove a board. They taped it  
5 up. We shipped it off to Benchmark, who did the same  
6 testing for 60 Minutes.

7 They reported the findings directly to both of  
8 us. It was very transparent. And we didn't have any claims  
9 within our market. Yes, it did affect the industry. It put  
10 a very big stifle on laminate sales that year, probably  
11 about 30, 40 percent. They have actually begun to rebound.  
12 And then with the visual substitutes of WPC, a lot of people  
13 call it waterproof laminate. And before you had WPC, you  
14 had vinyl click, which was another waterproof laminate  
15 substitute.

16 So people shifted over to those, and those don't  
17 have--those have what they call thalates. You have to watch  
18 out, and we were thalate-compliant three years before Home  
19 depot, Lowe's, and those guys.

20 We are aware of what's out there and what's good  
21 and bad. Companies make decisions, just like Mike said,  
22 because we're liable. Lumber Liquidators evidently made  
23 some poor choices in their product offering.

24 MS. LEVINSON: Elizabeth Levinson. This is  
25 probably perfectly obvious, but I just wanted to point out

1 that the Lumber Liquidator controversy was over a laminate  
2 flooring, not over the subject merchandise. But it did  
3 bleed--you know, the results, the public relations results,  
4 which I think Ms. Baldwin can talk a little bit about.

5 MS. BALDWIN: If I may? Elizabeth Baldwin. So as  
6 Dave said, I did spend several months immediately after the  
7 60 Minutes working with not just our direct customers who  
8 are retailers, but also with the consumers who were either  
9 thinking about buying, or had a product in their home.

10 And we received phone calls about laminate. We  
11 do handle laminate material. And we had the majority of  
12 questions that were based on our laminate lines. However,  
13 we did have a lot of questions about our engineered floor.  
14 And we also had questions about products that don't contain  
15 any wood at all, the vinyl or other products. They were  
16 like, you know, what about the formaldehyde? Is this vinyl  
17 CARB compliant? And I'd have to explain that vinyl is not  
18 regulated by CARB and it doesn't contain any wood.

19 And I also had at least three phone calls from  
20 people asking about solid wood, and asking if that product  
21 was CARB compliant, or what the formaldehyde emissions were  
22 out of the solid wood.

23 So there was a great deal of market confusion.  
24 It did impact laminate most directly because that was the  
25 product that was under discussion. But there was a general

1 bleed over. And I would say, if any of the bleed over was,  
2 it was generally towards an anti-Chinese bias, where the  
3 concept was that if it was from China it would be a  
4 potential issue for concern.

5 And that was probably the biggest impact, and it  
6 just hit every type of floor covering in that way.

7 COMMISSIONER BROADBENT: Alright. Mr. Schultz,  
8 you mentioned that your firm is part of the Trusted Trader  
9 Program with Customs. How prevalent, in your experience, is  
10 illegal logging in China? Is certification for the MLWF  
11 very difficult to trace from China?

12 MR. SCHULTZ: Yes. Mike Schultz, Floor & Decor.  
13 Most of the CTPP Program you referred to wasn't specifically  
14 around the logging. It's more about threats to the U.S. on  
15 imported product and trade.

16 But definitely there is--there was issues with  
17 illegal logging in China. I think it was disclosed who was  
18 taking part in it, and most of the reputable retailers,  
19 importers, manufacturers, took--they've taken a lot of  
20 approaches to try to address that, including all of the  
21 traceability that you do around the product.

22 If you have the piece of paperwork, that's not  
23 enough. You have to go much deeper. And we've been doing  
24 that for years, even before the lawsuits with Lumber  
25 Liquidators on the Lacey Act.

1                   So just a continuation of, in the case of the  
2                   Lacey Act, it's due care that you have to take. On CARB and  
3                   EPA, it's reasonable prudent precautions. And you just have  
4                   to continue to raise the bar on your expectations of  
5                   yourself and all of your suppliers.

6                   COMMISSIONER BROADBENT: Okay, thank you very  
7                   much.

8                   CHAIRMAN SCHMIDTLEIN: Okay. This is for the  
9                   post-hearing. Ms. Levinson, we have this information in the  
10                  staff report for the U.S. companies in terms of their  
11                  imports year by year over the POR. So for the post-hearing,  
12                  could you work with all the companies that you have  
13                  represented on your panel to provide imports form subject  
14                  countries, subject country, for each year. And then for  
15                  both Respondents and Petitioners for each year. I'm curious  
16                  whether or not you were responsible for any of the pricing  
17                  product imports.

18                  MS. LEVINSON: Yes, Commissioner, I will certainly  
19                  be happy to do that.

20                  CHAIRMAN SCHMIDTLEIN: Okay--

21                  MS. LEVINSON: I would like to point out that in  
22                  some instances these people are not acting as an importer of  
23                  record. So they may not be the direct importer of the  
24                  product. So they may not have import statistics, but they  
25                  would have purchase statistics.

1                   CHAIRMAN SCHMIDTLEIN: Okay, that would be  
2 helpful. And then, Mr. Levin, for the pricing products I'm  
3 just curious who is responsible for some of those imports.

4                   So I know we have a breakdown of imports for the  
5 U.S. companies in general, but for the pricing products that  
6 we chose if you could provide that post-hearing.

7                   MR. LEVIN: Absolutely we will, to the best of our  
8 ability, we will put that information in. Certainly.

9                   CHAIRMAN SCHMIDTLEIN: Alright, Great. Thank you  
10 very much.

11                   Vice Chairman Johanson?

12                   VICE CHAIRMAN JOHANSON: Thank you, Chairman  
13 Schmidtlein.

14                   And I would like to return with one more question  
15 regarding environmental matters. In discussing China's own  
16 internal environmental policies, Respondents quote from an  
17 article at pages 43 to 44 of their brief that states that  
18 Guangdong wood-based panel manufacturing enterprises have  
19 not been affected because they have a strong awareness of  
20 environmental issues and have been able to satisfy new  
21 requirements. And that refers back to what was discussed  
22 earlier in the brief where you all state that Chinese  
23 production has slowed due to increased environmental  
24 compliance laws in China.

25                   Do you know what percentage, or what approximate

1 percentage of wood flooring products plants are based in  
2 Guangdong? Or could you get back to us on that?

3 MR. SCHULTZ: This is Mike from Floor & Decor. I  
4 don't know specifically that region, but certainly the  
5 environmental initiatives are going across all China. And  
6 it's across all the different categories. We've seen the  
7 impact on tile as well as all the manufacturing type  
8 products, with a lot of the emissions. They're focused on  
9 cleaning up the environment, especially the pollution. So I  
10 think that's across a lot of China, and we're seeing that  
11 across all the different categories.

12 MS. LEVINSON: Liz Levinson. With our  
13 post-hearing brief we're also going to be submitting some  
14 statements from Chinese producers, so they could certainly  
15 comment on that.

16 VICE CHAIRMAN JOHANSON: Okay, that would be  
17 helpful. Because I understand that new environmental  
18 regulations have affected a number of manufacturing sectors  
19 in China, including apparently wood manufacturers. But the  
20 Guangdong region is a major manufacturing center, so I'm  
21 just kind of curious as to how they--how much is produced  
22 there, as you all indicate that it is not being affected in  
23 that significant a manner as are plants in other parts of  
24 the country. So I look forward to seeing that.

25 And I have just one more question. Respondents

1 have argued that the ultimate decision on Commerce's remand  
2 determination regarding the separate rate for the eight  
3 companies that appealed Commerce's original determination  
4 will be critical to the Commission's review, as you all  
5 argue at page 2 of your brief.

6 When do you all expect to see an IT decision?  
7 And how are we supposed to factor this into our analysis if  
8 the appeal is not concluded during the review?

9 And I have one more thing to add. Most  
10 importantly, in your view how shall we be looking at the  
11 data any differently than is presented in the staff report?

12 MS. LEVINSON: Commissioner, that refers to a case  
13 that actually went up to the Court of Appeals for the  
14 Federal Circuit, was remanded back to Commerce. The merits  
15 of the case were such that, even though all the mandatory  
16 respondents had achieved a zero dumping rate, and were  
17 assigned a zero dumping rate, there was an issue about what  
18 the Department of Commerce would do with the separate-rate  
19 respondents.

20 And typically, or at least there are some  
21 examples, where in such a situation the Department of  
22 Commerce assigns separate rates as zero margin based on the  
23 fact that all the mandatory respondents got zero margin.

24 But in this case, they actually assigned the  
25 separate-rate company a 6 percent. And so that was appealed

1 to the Court of International Trade. The Court of  
2 International Trade said that they've got to do better than  
3 the 6 percent; that they didn't have a rational reason for  
4 explaining the 6 percent. That also went up to the Court of  
5 Appeals for the Federal Circuit. And the Court of Appeals  
6 for the Federal Circuit sent it back to Commerce and said,  
7 Commerce, your usual methodology is, if all the mandatory  
8 respondents get zero--which by the way is extremely unheard  
9 of, unlikely in a Chinese case, that all the mandatory  
10 respondents get zero--so the Federal Circuit said to  
11 Commerce, if you're going to assign all the mandatory  
12 respondents zero, then the separate rate really should get  
13 zero as well.

14 And so it was remanded to Commerce. Commerce in  
15 July of this year redid the calculation and this time said  
16 we're going to go with what the Court of Appeals for the  
17 Federal Circuit said and we're going to assign the separate  
18 rate company, each separate rate company, as zero.

19 Now that is currently before the Court of  
20 International Trade to approve or not approve. And that's  
21 why in my initial statement--and I do believe that Mr. Levin  
22 unwittingly but nonetheless misstated what I said--I said  
23 that it's extremely likely that these eight companies will  
24 either be excluded from the Order, or will be assigned a  
25 zero rate.



1           And I based that on the fact that that's what  
2 Commerce did in its remand determination. The oral argument  
3 for this case is scheduled for November 30th. It may not be  
4 possible to take this into account, but it's part of the  
5 totality of the circumstances.

6           It's ironic that we're even here. Five years  
7 later, we don't really know which companies are correctly  
8 within the Order and which are without the Order. Now I  
9 understand the Commission has got to look at the record as  
10 it exists today, and you may not have a new record--or you  
11 may not have a decision from the Court of International  
12 Trade in time for this case, but nonetheless if this had  
13 been for example a market economy case where three mandatory  
14 respondents selected by the Department of Commerce all  
15 achieve zero in the original investigation--we're not  
16 talking about the administrative review--in the original  
17 investigation, there would have been no dumping order.

18           But here we are five years later, we still have  
19 this dumping order which possibly the court is going to say  
20 the separate rates re out, the mandatory respondents are  
21 out, and as a result of all of that there will still be an  
22 order because of Commerce's very unique methodology of  
23 always assigning what they call the People's Republic of  
24 China countrywide rate, which they've set at 25 percent.

25           But that's a rate that came from the original

1       Petition. That's not a calculated rate. That's just a  
2       punitive rate because they assumed that all companies in  
3       China are government owned and therefore the government  
4       should be assigned the rate from the Petition.

5               And in fact in the sunset review where Mr. Levin  
6       quoted the sunset review that the Department of Commerce  
7       handled by saying that the Department of Commerce said that  
8       in the event of revocation that margins would go up to 25  
9       percent, Commerce is just picking a theoretical rate. There  
10      has been not a single respondent that has been calculated to  
11      have a 25 percent rate.

12             And the 25 percent rate that Commerce refers to  
13      is not a rate that goes into effect. It's purely a  
14      theoretical rate based on the original Petition and the  
15      countrywide punitive rate. But in actuality, as I said in  
16      my initial testimony --- in my opening statement, all three  
17      mandatory respondents were given zero rates. After that,  
18      six additional mandatory respondents were given zero rates.  
19      In the fourth administrative review, 72 separate rate  
20      companies were found to have zero rates.

21             And now the Court of International Trade is  
22      telling us that maybe there shouldn't even be an Order on  
23      this product except against the countrywide rate.

24             MR. KLETT: Commissioner Johanson, this is Dan  
25      Klett. I can answer the second part of your question. In

1 Exhibit CT-5 of our brief we presented some additional data  
2 with regard to imports that I think may provide better  
3 coverage of importations for purposes of market share  
4 analysis.

5 And the reason is that you have available, number  
6 one, some data from Customs. And number two, you have  
7 certain HS items that are specific to engineered wood  
8 flooring. There are maybe I think six HS items under the  
9 plywood category that are hardwood flooring categories. So  
10 it's essentially the subject product.

11 That, combined with proprietary information on  
12 knowing the importer under those categories, can allow you  
13 to identify importers that had not submitted importer  
14 questionnaires and may allow you to get a better coverage or  
15 imports both subject and non-subject.

16 VICE CHAIRMAN JOHANSON: Thanks for your  
17 responses. But at the end of the day, at least as regards  
18 what's going on with the courts, we just have to look at the  
19 record before us, as you understand.

20 MS. LEVINSON: (Begins off microphone)-- Sorry.  
21 Sorry, Liz Levinson. We do understand, of course, and we  
22 understand that the decision from the Court of International  
23 Trade may come out too late for you to consider.

24 VICE CHAIRMAN JOHANSON: Alright. That concludes  
25 my questions. I appreciate you all being here today.

1 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent?

2 COMMISSIONER BROADBENT: Thank you very much.

3 CHAIRMAN SCHMIDTLEIN: No? Okay, that concludes  
4 Commissioner questions. Do staff have any questions for  
5 this panel?

6 MR. CORKRAN: Douglas Corkran, Office of  
7 Investigations. Thank you, Madam Chairman. Staff has no  
8 additional questions.

9 CHAIRMAN SCHMIDTLEIN: Okay. Do Petitioners have  
10 any questions for this panel?

11 MR. LEVIN: Jeff Levin, counsel for the  
12 Petitioners, thank you, Madam Chairman, we have no questions  
13 for this panel.

14 CHAIRMAN SCHMIDTLEIN: Alright, thank you very  
15 much.

16 MS. LEVINSON: May I ask how much time we have  
17 left?

18 CHAIRMAN SCHMIDTLEIN: I was just getting ready to  
19 go to that. So this brings us to our closing statements.  
20 Those in support have 10 minutes from direct, plus 5 minutes  
21 from closing, for a total of 15 minutes.

22 Those in opposition have 9 minutes from direct  
23 and 5 minutes for closing, for a total of 14 minutes. And  
24 we will begin with those in support. And again I'd like to  
25 thank this panel for being here today. We appreciate your

1 time and your effort to travel here and help us understand  
2 this review.

3 I will dismiss you at this time so we can move to  
4 closing statements, and we will start with the Petitioners.

5 MR. BISHOP: Closing remarks on behalf of those  
6 in support of continuation of the orders will be given by  
7 Jeffrey S. Levin of Levin Trade Law and James P. Dougan of  
8 Economic Consulting Services.

9 Gentlemen, you have a total of 15 minutes.

10 MR. LEVIN: Thank you, Mr. Bishop. Thank you,  
11 Madam Chairman, Commissioners. I would like to ask Mr.  
12 Dougan if he can start off with a few points and I will  
13 follow.

14 CLOSING STATEMENT OF JAMES P. DOUGAN

15 MR. DOUGAN: Thank you, Mr. Levin. A couple of  
16 points in regard to things that surfaced in this afternoon's  
17 panel. First with regard to Mr. Klett spoke about ECS'  
18 analysis and our characterization of the changes in volume,  
19 but for the orders. He said that we assume that any  
20 increase in the subject imports was going to displace U.S.  
21 Producers' shipments one for one and that we didn't consider  
22 non-subject imports. That's actually not true. The  
23 analysis that we presented at the hearing today expressly  
24 assumes that a portion of the growth in subject China  
25 imports would come at the expense of non-subject imports and

1 that the remainder would come at the expense of U.S.  
2 producers. That's one of the two scenarios that we  
3 presented in the prehearing brief. The more conservative  
4 one is the one we presented today, the one in the --- the  
5 other one in the brief is even worse for the domestic  
6 industry as I said. And that does assume the one for one  
7 comparison that Mr. Klett referred to.

8 But in terms of what you saw today, that assumes  
9 that a portion of the increase would come at the expense of  
10 non-subject imports.

11 Number 2, with regard to the analysis presented  
12 about the attenuation, you know, this -- there's a lot of  
13 discussion about this in respondent's brief, but there are  
14 also two quotes that I think are very quite noteworthy.

15 One is "the matrix of product type  
16 characteristics does not contain any instances of absolutely  
17 zero sales by either Chinese subject merchandise or the  
18 domestic industry." And another, which is "subject Chinese  
19 and domestic industry shipments competed across all MLWF  
20 products."

21 They do note that the -- and so their argument  
22 was that direct head to head competition, and these were the  
23 words specifically, "between certain product types is  
24 greatly attenuated." But the question before the Commission  
25 isn't just competition between certain product types, but

1 competition between the subject imports and domestic  
2 industry as a whole.

3 And in the original investigation, the  
4 Commission didn't find that the record showed attenuation in  
5 part and largely based on the fact that purchaser's  
6 overwhelmingly reported domestic and subject MLWF to be  
7 comparable on a majority of factors and the record in this  
8 review shows the same thing as shown at slide 9 of our  
9 presentation discussed by my colleague Ms. Peterson.

10 And okay, let's see. The other point is that  
11 the analysis presented by Mr. Klett shows proportions of  
12 imports that fall and domestic producers that -- shipments  
13 that fall into different characteristics. But I would  
14 invite the Commission and we can talk about this more in our  
15 post-hearing brief, if you look at the actual quantities in  
16 that table, this table 19 from the prehearing report,  
17 there's an awful lot of overlap. There are end points over  
18 which there is limited intersection and that's of course  
19 what they're presenting to you.

20 But if you look at the breadth of that table,  
21 there's an awful lot of volume there in the middle, and  
22 that's what we're saying. There's -- competition is not  
23 greatly attenuated. There's a great deal of competitive  
24 overlap.

25 Quickly on the qualification process, the

1 witnesses today were talking about, you know, 18 months to  
2 qualify somebody new. I can leave this to Mr. Levin, but  
3 that seems to fall within the timeline contemplated by the  
4 Commission for a reasonably foreseeable future, where injury  
5 could recur.

6           They've argued that the orders have not been  
7 commercially meaningful, but a lot of the same witnesses  
8 today, they're confidential responses to the purchaser's  
9 questionnaire are presented at Table D-1 to the staff report  
10 show that there has been a significant impact on their  
11 operations. And they all today talked about how they  
12 completely rearranged their supply chains to get around the  
13 order or to comply with it. So that would suggest to me  
14 that it has been commercially meaningful.

15           Again, the next point, much of the imports have  
16 been switched to other Asian nations. That's one of the  
17 points that they've been making. And that that growth  
18 hasn't been stifled by the orders.

19           But Commissioner Broadband asked a very pointed  
20 question if they've switched to these Southeast Asian  
21 producers, why would those costs somehow have been less  
22 prohibitive than the cost to switch back? And they didn't  
23 really have a great answer for that.

24           And to the degree that these suppliers in other  
25 -- in non-Chinese countries have gained a foothold in the



1 market, the formerly subject producers would seek to regain  
2 the share they've lost on the basis of increased competition  
3 by way of price.

4           And by the way, this -- just to refer to Mr.  
5 Klett's Exhibit CT-5 from the Kutak Rock brief, and this has  
6 better coverage of non-subject imports, at the end of the  
7 day, what this shows is that there's greater market  
8 penetration by imports in general and a lower market share  
9 by the domestic industry, which in our view, would make them  
10 even more vulnerable to a recurrence of injury if the orders  
11 are revoked.

12           And as a final point, the builder argument was  
13 raised against this afternoon. And as we pointed out today,  
14 the staff report data show that it's completely overblown.  
15 The degree of the domestic industry's focus to the builder  
16 market is quite small. Thank you.

17           CLOSING STATEMENT OF JEFFREY S. LEVIN

18           MR. LEVIN: Thank you, Jim. I'll wrap up with  
19 just a couple of quick points. I've heard from several  
20 members of the respondent's witness panel the hope and their  
21 expectation that they'll import more from the subject mills  
22 if the orders are revoked. Yes, that is our concern because  
23 these increased imports from subject mills will be dumped in  
24 the United States at margins up to 25 percent.

25           So that pretty much is saying, hey, the door is

1 open. We're waiting for the opportunity to walk through it.  
2 One of the critical arguments that the respondents are  
3 leaning on is that the subject mills produced higher end  
4 products and what they're calling the zero percent mills are  
5 basically cookie cutter type MLWF products. But there's  
6 very few if any examples, hard examples, that were provided  
7 today to support that differentiation.

8 A few things that we heard the Chinese are  
9 producing wider boards, longer boards. Well, the U.S.  
10 industry is doing that now as well. The Chinese subject  
11 mills are producing hand scraped product. Well, the U.S.  
12 mills do that as well. Some of it is hand scraped, some of  
13 it is mechanical scraped. Same thing with the Chinese  
14 mills. Some of it is hand scraped, some of it is  
15 mechanical scraped.

16 We heard that the subject mills are presenting  
17 to the marketplace an MLWF product with a double stain  
18 feature. Domestics do that as well. No difference. We've  
19 heard that they're bringing to market product with this  
20 reactive stain use. No, the domestics not doing so much of  
21 that and there's a good reason for it. The initial process  
22 for doing reactive staining was found to be very cause tick  
23 and hence is subject to EPA regulation. And there what the  
24 domestic industry has done is basically device an  
25 alternative process that mimics the reactive stain look.

1           Ms. Baldwin had stated on the impact of the  
2 Lacey Act that pretty much everybody's adjusted to the new  
3 requirements at this point nearly a decade since the  
4 amendments were first put into place. Well, that would seem  
5 to undermine the argument that there's a regulatory hurdle  
6 for the Chinese mills to have to overcome if they want to  
7 re-enter the market. Doesn't seem like there's going to be  
8 that much of a regulatory hurdle at least on Lacey Act  
9 compliance.

10           I know Mr. Finkell would love to expound upon  
11 the casuals tossed aside use of the phrase prison labor.  
12 And to the degree that this has any relevance, again, as we  
13 did in the original investigation, we'll be happy to go  
14 through the details of this very well reviewed successful  
15 federal program under which workers are paid prevailing  
16 civilian wages.

17           Last point, just to beat a dead horse on this  
18 SRA case, Ms. Levinson was hoping to correct the way I  
19 expressed her presentation of this in her opening statement.  
20 And she reverted back to the fact that even if these  
21 companies are left in, they'll have a zero percent rate.

22           The part that's left out, a few parts that are  
23 left out. First of all, the zero percent rate is a marker  
24 for the dumping rate during the initial period of  
25 investigation, assuming that these companies state under the

1 order as they have been every single day through every  
2 single remand, they will be subject to annual administrative  
3 reviews like any other covered company.

4 That zero percent rate that you've heard  
5 referred to is just what the dumping, the estimated dumping  
6 margin would have been in the initial period of  
7 investigation, not the dumping margin going forward. That  
8 would be determined by an administrative review.

9 Point 2, if these companies are found to be zero  
10 percent, and the mandatories were found to be zero percent  
11 according to Ms. Levinson, that means nobody is dumping. I  
12 will remind respondents' panel I do not need to remind the  
13 Commissioners. There were approximately 88 mandatory  
14 respondents and separate rate applicants in the original  
15 investigation.

16 88 minus 3 accounting for the mandatory  
17 respondents is 85. 85 minus 8, if these companies are  
18 eventually excluded from the order, leaves you 77 companies,  
19 77 separate rate applicants that are certainly covered by  
20 the order and had an SRA rate from the initial investigation  
21 of 3.3 percent. That's even putting aside the untold number  
22 of companies that fall under the PRC wide entity rate.

23 The 25 percent dumping margin that commerce came  
24 up with out of thin air, according to the characterization  
25 of the respondent's panel this afternoon, no, that didn't

1       come out of thin air. That is the PRC wide entity rate from  
2       the original investigation. And if someone wants to take  
3       the time to read through the Commerce Department's final  
4       sunset review determination, you will note that that rate  
5       was chosen because it is the PRC wide entity rate and it is  
6       the only rate on the record that reflects countrywide  
7       dumping without a pricing discipline. This was not a made  
8       up number. The made up -- the number has a factual and  
9       analytical basis.

10                I think that's it for now. We look forward to  
11       addressing a lot of the misstatements or incomplete  
12       statements that I had my witnesses whispering into my ear  
13       over the last two or three hours. And we look forward to  
14       addressing all of that in the post hearing brief.

15                For right now, I do want to say thank you once  
16       again to the Commission, to the investigation staff for the  
17       work and diligence on this review. And in closing, to  
18       reiterate, we respectfully submit that the facts in evidence  
19       indicate strongly an affirmative determination that material  
20       injury will continue or recur should these orders be  
21       revoked. Thank you very much.

22                CHAIRMAN SCHMIDTLEIN: All right, thank you, Mr.  
23       Levin

24                MR. BISHOP: Closing remarks on behalf of those  
25       in opposition to continuation of the orders will be given by

1 Elizabeth R. Levinson of Kutak Rock, as well as -- Dan, are  
2 you joining her?

3 MS. LEVINSON: Yeah.

4 MR. BISHOP: Okay. As well as Dan Klett with  
5 Capital Trade, Incorporated. You have a total of 14  
6 minutes.

7 CLOSING STATEMENT OF LIZBETH R. LEVINSON

8 MS. LEVINSON: Okay. Thank you for all your  
9 very pertinent questions today. I was, you know, certainly  
10 a very, very good panel and I wanted to thank you for having  
11 given me the opportunity to describe what was happening at  
12 the Department of Commerce and before the Court of  
13 International Trade.

14 And I don't disagree with Mr. Levin's  
15 characterization. I think I said that there are two issues  
16 before the court at the Court of International Trade with  
17 regard to the separate rates. And the issues are first  
18 whether the company should be assigned to zero rate. And  
19 second, whether they should be excluded from the order.

20 But both are issues that are alive before the  
21 Court of International Trade. So and both are material, but  
22 unfortunately, we will not have the information in time for  
23 your vote.

24 Subject imports have grown, but so has the  
25 demand for multilayered wood flooring. The petitioners

1 would attribute advantage that they've had over the last  
2 five years to the anti-dumping order. But in fact, if you  
3 look back on the record from the original investigation, at  
4 that time, we were in the middle of a housing crisis in the  
5 middle of a -- the Great Recession.

6 Two years after the decision in this case, which  
7 was 2011, by 2013, that situation with respect to the  
8 domestic economy had begun to turn and you were faced with a  
9 very similar industry in the hardwood plywood case. And the  
10 ITC went negative in that case in large part because the  
11 economy had switched because housing demand had increased  
12 and the demand for renovation had increased.

13 Well, now, you have this -- that same record  
14 that you had in plywood, you have here in the sunset review.  
15 You heard all our industry witnesses talk about the vast and  
16 extensive measures they take to comply with various  
17 regulatory is schemes and also just to assure quality of  
18 their own product. All of them have or at least many of  
19 them who testified talked about how they have employees in  
20 China who are overseeing the production in China.

21 The petitioners to the best of my recollection  
22 did not, the industry representatives did not talk about  
23 compliance efforts that they are under taking to comply with  
24 Lacey and to comply with TSCA. In fact, I think Mr. Levin  
25 as the attorney described some of those, but our witnesses

1 told you first hand Mr. Cobb from Real Wood Floors told you  
2 that he went to Cambodia 12 times. 12 times before he  
3 started buying from his new factory in Cambodia.

4 I don't recall the petitioners' witnesses  
5 talking about compliance. The fact is the market has  
6 reached an equilibrium. Companies have diversified. They  
7 have to some extent adjusted to the anti-dumping order.

8 Well, when Ms. Baldwin made the comment that  
9 they -- in response to a question from Commissioner Johanson  
10 that she said we have it -- and somewhat adjusted to the  
11 order, she wasn't speaking for the whole industry. She was  
12 speaking for here company, which is Metropolitan Hardwood.  
13 So Mr. Levin has taken that out context.

14 The question had arisen of whether importers are  
15 going to move back to China if you revoke the order. That  
16 obviously is very fundamental to your determination in this  
17 case. And we've tried to present considerable testimony  
18 that there are barriers to moving both -- well, cost  
19 barriers and legal barriers.

20 And there may have been an incentive to move at  
21 the time that the ante-dumping order and counter veiling  
22 duty were issued, but there is no such incentive now. And  
23 importing companies won't switch production back to subject  
24 producers from the non-subject producers. The three Chinese  
25 zeros in Southeast Asian producers that they're currently



1 buying, why would they go back to China? Because the  
2 original investment in shifting to non-subject producers was  
3 motivated by the cost disadvantage created by the order.  
4 But ending the orders does not create a cost disadvantage  
5 for the non-subject producers, though there is no  
6 comparable incentive to move back to Chinese subject  
7 producers even in the event of revocation.

8           And I'd like to point out that if even if some  
9 production did switch back, removal of the orders would not  
10 increase total imports. It would only alter who is  
11 producing the product. And if total imports remain  
12 unchanged, the orders are not and cannot be benefitting the  
13 U.S. like product industry.

14           Mr. Klett?

15           CLOSING STATEMENT OF DANIEL KLETT

16           MR. KLETT: Thank you. I have the advantage of  
17 responding to a couple points Mr. Dougan made. And really,  
18 they're just two.

19           First, I want to be clear on what the word  
20 attenuation means. Attenuated competition does not mean a  
21 complete lack of competition. What attenuated competition  
22 means is that you have physical differences in the U.S. And  
23 the imported products and differences in the distribution of  
24 the U.S. And the imported products with respect to those  
25 physical differences.

1                   Now you heard the testimony from our witnesses.  
2           There's also information in your staff report that there are  
3           clear differences between the U.S. producers and importers  
4           with respect to some of the key physical attributes such as  
5           face thickness, species, finished quality, things of nature.

6                   And so, price -- this is not a commodity product  
7           like carbon steel or Portland hydraulics cement. There are  
8           clear physical differences. There are differences in the  
9           distribution of what U.S. producers and imports sell with  
10          regard to those attributes.

11                   So there is attenuated competition. One can  
12          dispute the degree of attenuation, but to say there's  
13          absolutely no -- to say there's no attenuated competition at  
14          all is just flat wrong.

15                   The other point with regard to the coverage of  
16          your imports and Mr. Dougan said, well, it actually helps  
17          them because you know import market share is higher. Well,  
18          first of all, I just think you should have as complete a  
19          record as you can with regard to coverage just as a general  
20          matter. And second, it's not just a question of the actual  
21          absolute market share. I mean, you also -- it also has  
22          implications for market share trends. Thank you.

23                   CHAIRMAN SCHMIDTLEIN: All right, thank you  
24          both. This brings us to the end our hearing. Post-hearing  
25          briefs, statements responsive to questions and requests of

1 the Commission and corrections to the transcript must be  
2 filed by October 23rd, 2017. Closing of the record and  
3 final release of data to the parties will be November 17th,  
4 2017. Final comments are due November 21st, 2017.

5 I'd like to thank everyone again for your time  
6 today. And with that, this hearing is adjourned.

7 (Whereupon the hearing was adjourned at 3:35  
8 p.m.)

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## CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Multilayered Wood Flooring from China

INVESTIGATION NOS.: 701-TA-476 and 731-TA-1179

HEARING DATE: 10-12-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Review

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: 10-12-17

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Signature of the Contractor or the  
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I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

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I hereby certify that I reported the above-referenced proceedings 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 proceedings.

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