

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
INTERNAL COMBUSTION INDUSTRIAL) Investigation No.:
FORKLIFT TRUCKS FROM JAPAN) 731-TA-377
) (Second Review)

Pages: 1 through 204

Place: Washington, D.C.

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Tuesday,
 November 1, 2005

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

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

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

STEPHEN KOPLAN, CHAIRMAN (presiding)
 DEANNA TANNER OKUN, VICE CHAIRMAN
 JENNIFER A. HILLMAN, COMMISSIONER
 CHARLOTTE R. LANE, COMMISSIONER
 DANIEL R. PEARSON, COMMISSIONER
 SHARA L. ARANOFF, COMMISSIONER

APPEARANCES (continued):

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT

CYNTHIA TRAINOR, INVESTIGATOR
KATE LINTON, INDUSTRY ANALYST
GARY BENEDICK, ECONOMIST
CHAND MEHTA, ACCOUNTANT/AUDITOR
DAVID GOLDFINE, ATTORNEY
DOUGLAS CORKRAN, SUPERVISORY INVESTIGATOR

APPEARANCES (continued):

In Support of the Continuation of the Antidumping Duty Order:

On behalf of NACCO Materials Handling Group, Inc.:

REGINALD R. EKLUND, President and Chief Executive Officer, NACCO Materials Handling Group, Inc.
GREGORY J. DAWE, Vice President, Manufacturing, NACCO Materials Handling Group, Inc.
COLIN WILSON, Chief Operating Officer, NACCO Materials Handling Group, Inc.
JON C. TAYLOR, Director, Corporate Strategy and Planning, NACCO Materials Handling Group, Inc.
BRAD HUDGENS, Economist, Georgetown Economic Services, LLC

Of Counsel:

PAUL C. ROSENTHAL, Esquire
MARY T. STALEY, Esquire
GRACE W. KIM, Esquire
Collier Shannon Scott, PLLC
Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

1
2
3 CHAIRMAN KOPLAN: Good morning. On behalf
4 of the U.S. International Trade Commission, I welcome
5 you to this hearing on Investigation No. 731-TA-377
6 (Second Review) involving Internal Combustion
7 Industrial Forklift Trucks from Japan.

8 The purpose of this five-year review
9 investigation is to determine whether revocation of
10 the antidumping duty orders on internal combustion
11 industrial forklift trucks from Japan would be likely
12 to lead to continuation or recurrence of material
13 injury to an industry in the United States within a
14 reasonably foreseeable time.

15 Notice of investigation for this hearing,
16 list of witnesses, and transcript order forms are
17 available at the secretary's desk.

18 I understand the parties are aware of the
19 time allocations. Any questions regarding the time
20 allocations should be directed to the secretary. As
21 all written material will be entered in full into the
22 record, it need not be read to us at this time. The
23 witnesses are reminded to give any prepared testimony
24 to the secretary. Do not place testimony directly on
25 the public distribution table.

1 All witnesses must be sworn in by the
2 secretary before presenting testimony.

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

7 Madam Secretary, are there any preliminary
8 matters?

9 MS. ABBOTT: No, Mr. Chairman.

10 CHAIRMAN KOPLAN: I have one preliminary
11 matter. I understand that we have as guests today a
12 group of students from American University who are
13 attending this morning's hearing and that they are
14 part of A.U.'s Washington Semester program. As I
15 understand it, they are upper-level graduates from
16 seven different countries, and the course that they
17 are taking is international business and trade, and
18 their professor is Dr. Virginia Cutchen. Welcome to
19 Dr. Cutchen and the students. I'll be calling you for
20 questions after we are finished with the panel. Good
21 to have you here.

22 Madam Secretary, let us proceed with the
23 opening remarks.

24 MS. ABBOTT: Opening remarks in support of
25 continuation of orders will be by Paul C. Rosenthal,

1 Collier Shannon Scott.

2 OPENING REMARKS BY PAUL C. ROSENTHAL

3 MR. ROSENTHAL: Good morning, Mr. Chairman,
4 members of the Commission.

5 CHAIRMAN KOPLAN: Good morning.

6 MR. ROSENTHAL: We are all familiar with the
7 biblical story of Joseph, who, after having been
8 betrayed by his brothers, journeyed to Egypt and
9 became a trusted adviser to the pharaoh. Under
10 Joseph's guidance, Egypt prospered. The pharaoh was
11 so grateful to Joseph that he invited Joseph's family
12 to Egypt. In fact, Joseph was a hero.

13 As generations passed, however, the memory
14 and glory of Joseph was forgotten. Later pharaohs did
15 not remember the bountiful conditions fostered by
16 Joseph. They enslaved Joseph's people because they
17 knew not Joseph.

18 I won't recount the rest of the story. I
19 assume you're familiar with it. But 2,500 years and
20 ten commandments later, we are here not to talk about
21 biblical text but about the forklift truck industry
22 and forklift truck dumping. I start, though, with a
23 quote about Joseph not because I have exhausted my
24 store of movie analogies or rock music excerpts or to
25 suggest that dumping orders should last for 2,500

1 years. Rather, the quote is instructive because it
2 reminds us how the passage of time can obscure
3 important fundamental facts and events.

4 In this case, it's easy to look at the
5 forklift truck industry and think that the current
6 condition is how it has always been and always will
7 be, but if you don't remember, or you don't
8 understand, what the forklift truck industry looked
9 like before the antidumping order was imposed, you
10 will not be able to anticipate how the industry would
11 change if the antidumping order were revoked.

12 Prior to the imposition of the antidumping
13 order, the following conditions existed. Imports from
14 Japan accounted for about one-half of apparent U.S.
15 consumption. There was a consistent pattern of
16 underselling by imports from Japan. There was a
17 significant number of sales lost to those imports.
18 The domestic producers were experiencing increasing
19 losses. In fact, several U.S. truck manufacturers
20 went out of business, -- Allis-Chalmers, White, and
21 Pettibone, to name just three -- and two of the
22 largest domestic producers at the time, Caterpillar
23 and Clark, announced that they were going to abandon
24 their U.S. production and begin importing from Korea
25 in order to compete with the Japanese imports.

1 Hyster, the last remaining U.S. producer, was
2 hemorrhaging red ink.

3 Now, interestingly enough, when the dumping
4 case was filed, at the staff conference, the following
5 quote was provided. Here it is: "If Japanese
6 producers were to significantly raise their prices, it
7 would be tantamount to a decision to exit from the
8 United States market. They could not market their
9 product in the United States if they significant
10 raised their prices."

11 So a decision to defend the 50-percent
12 market share, which is what the Japanese imports had
13 achieved by that point, is the opposite of a decision
14 to get out of the market because, as the quote says,
15 there is really no halfway measure; it's either 50
16 percent or nothing.

17 As this quote made clear, the industry was
18 highly price sensitive, and if the Japanese forklift
19 truck manufacturers raised their prices, they would
20 lose market share. Apart from the obvious truth of
21 that statement, what is remarkable about the testimony
22 is that it came from a witness for the Respondents, a
23 well-respected economist who still appears before the
24 Commission, John Riley. Oh, by the way, Mr. Riley was
25 not invited back to the final hearing by his clients,

1 not a great surprise.

2 The Commission, as you know, made a
3 unanimous affirmative determination. To avoid the
4 antidumping duties ranging up to 50 percent, however,
5 all of the Japanese forklift truck manufacturers
6 established assembly operations in the U.S. Imports
7 from Japan since then have essentially dried up. The
8 Japanese transplants now supply their customers from
9 the U.S. assembly operations.

10 So 17 years after the imposition of the
11 antidumping order, one sees Japanese transplants with
12 investments in the United States and virtually no
13 imports. Why, then, can't the antidumping order be
14 revoked? This Commission's hearing is about that very
15 question, and I'll stop my introductory remarks now,
16 and when we pick up, we will begin to answer that
17 question. Thank you.

18 CHAIRMAN KOPLAN: Thank you, Mr. Rosenthal.
19 Madam Secretary?

20 MS. ABBOTT: Mr. Chairman, the first panel
21 in support of the continuation of antidumping duty
22 order has been seated, and all witnesses have been
23 sworn.

24 CHAIRMAN KOPLAN: Thank you. You may
25 proceed.

1 MR. ROSENTHAL: To begin with that answer,
2 I'll refer you to a more recent quote. NFC, or Nissan
3 Forklift Corporation, due to price pressures, moved
4 production of the pneumatic lift in 2004 to one of its
5 underutilized overseas facilities. These forklifts
6 now have the advantage of being brought into the U.S.
7 with a duty rate of free. Nissan Forklift continues
8 to evaluate production at the Illinois plant and is
9 forced to consider moving an additional 15 percent of
10 its production overseas. NFC may have to consider
11 moving the entire plant overseas to underutilized
12 locations in Spain and other locations as well.

13 So what's the context of this quote? Who
14 wrote it? Is Mr. Riley back on the case? No. As you
15 know better from reading our prehearing brief, this
16 quote is actually from the Nissan Company's 2005
17 application for a foreign trade subzone. Actually, it
18 was filed in April of this year. In its application,
19 and as reflected in the quote you just saw, Nissan
20 essentially makes the following admissions: (1) the
21 forklift truck industry continues to be extremely
22 price sensitive; (2) due to the price sensitivity and
23 the cost of doing business in the U.S., Nissan has
24 already moved some production of forklifts from the
25 U.S. to another country; and (3) in order to achieve

1 just a few percentage points in duty savings, Nissan
2 would consider moving more of its U.S. production of
3 forklifts to an offshore location.

4 Those are pretty damning admissions, coming
5 in the face of a sunset review. If Nissan is willing
6 to move production from the U.S. to obtain a
7 relatively small amount of cost savings, it certainly
8 would repatriate all or most of its U.S. production to
9 Japan where it has substantial unused capacity. To be
10 sure, the Japanese industry is not monolithic. That
11 point, we want to make sure you understand.

12 The testimony you'll hear this morning will
13 be very, very clear. If the antidumping order is
14 revoked, all of the Japanese transplants will not
15 immediately abandon their investments and begin
16 shipping their forklifts from Japan, but three of the
17 five Japanese transplants are likely to do just that,
18 and the other two are likely to rationalize their
19 production by repatriating particular lines or models
20 of forklifts to Japan. The result will be a
21 significant volume of imports from Japan that would be
22 unshackled by the pricing discipline imposed by the
23 antidumping order. Many U.S. jobs and the substantial
24 investments by NACCO Materials Handling Group, which
25 you read about in the questionnaire response and in

1 the prehearing brief, would be endangered. The
2 domestic industry would certainly suffer a recurrence
3 of material injury.

4 Now, this morning, we are fortunate to have
5 an impressive lineup of NACCO management today to
6 discuss with you how important it is to maintain the
7 order on forklift trucks from Japan. Our first
8 witness will be Mr. Reginald Eklund, who is NACCO
9 Materials Handling Group's CEO. Mr. Eklund will
10 provide you with an overview of the U.S. market and
11 the current condition of the domestic industry, and
12 he'll explain how important it is to maintain this
13 antidumping order.

14 Next to testify will be Mr. Greg Dawe, who
15 is the vice president of manufacturing for NACCO
16 Materials Handling Group. Mr. Dawe will discuss the
17 changes in manufacturing and technology since the
18 first sunset review and those changes that are
19 pertinent to this Commission's like product
20 determination.

21 Colin Wilson, the chief operating officer of
22 NACCO, will then testify about how the revocation of
23 the order would result in the Japanese producers
24 repatriating all or some of their production to Japan,
25 which would then have disastrous consequences for the

1 domestic industry.

2 And our last witness will be Jon Taylor, the
3 director of corporate strategy and planning, who will
4 testify about how prices would be affected if the
5 order were revoked.

6 Finally, if we have time, I will conclude
7 with a few comments about some of the legal issues in
8 this proceeding. With that, I'll turn to Mr. Eklund.

9 MR. EKLUND: Good morning. My name is Reg
10 Eklund, and I'm president and chief executive officer
11 of NACCO Materials Handling Group. I've held this
12 position for over 10 years, and I have been in the
13 business of producing forklift trucks for over 30
14 years.

15 CHAIRMAN KOPLAN: If you could move that
16 microphone a bit closer to you, it will be picked up.

17 MR. EKLUND: How is this?

18 CHAIRMAN KOPLAN: That is better.

19 MR. EKLUND: Okay. Thank you.

20 I appreciate the opportunity to speak to you
21 about this issue that's vitally important to my
22 company. Our company currently employs over 3,000
23 people in the United States and over 7,000 worldwide.
24 Total assets employed in our IC forklift truck
25 operations in the United States are valued at more

1 than \$350 million. We continue to produce forklift
2 trucks in the United States not only because the
3 antidumping order was in place in 1987 but also
4 because the order was continued in 2000 and is still
5 in place today. In fact, we at NACCO strongly believe
6 that the order is just as important today as it was in
7 1987.

8 This morning, you will hear several of us
9 discuss the \$138 million expenditure that we have
10 recently made on our new, one-through-eight-ton, IC
11 product line. Needless to say, we are very proud of
12 our new range of products; it's absolutely state of
13 the art. Your staff saw the result of some of this
14 investment at our plant in Berea, Kentucky. I want to
15 extend the invitation to all of you or any of you who
16 would like to come and see our Berea plant or are
17 other facilities in Sulligent, Alabama; Greenville,
18 North Carolina; or our headquarters and development
19 center in Portland, Oregon. There is really no doubt
20 in my mind that these operations would be
21 significantly smaller today if the order had not
22 remained in place.

23 Beginning in 2001, coinciding with the last
24 five-year review, we embarked on this multimillion-
25 dollar effort to completely renew our IC forklift

1 product line. This massive effort began at the very
2 early stages with customer research and engineering
3 and design followed by completely retooling our
4 manufacturing infrastructure. This project, as I
5 indicated, contained more than \$130 million of
6 investments.

7 The engineering and design effort deeply
8 engaged the U.S. supply base and today provide a wide
9 range of sophisticated components for this new product
10 line. The result is a forklift truck that, as I said
11 earlier, is state of the art. It's safer, more user
12 friendly, both in terms of pure mechanics of the
13 truck, the software that's incorporated into it. It
14 has application flexibility, service dynamics. This
15 major overhaul of our operation was absolutely
16 essential for our continued success as a U.S. forklift
17 manufacturer.

18 Given the presence of many world-class
19 producers in our industry, we cannot afford to be
20 complacent. We are constantly striving to improve our
21 products and our services while, at the same time,
22 reducing our costs and enhancing our affectivity. But
23 all of these investments would be undermined if the
24 antidumping order was not in place.

25 To understand why I'm so adamant about the

1 importance of the dumping order, I think it is helpful
2 to have an historical perspective to reinforce the
3 points Mr. Rosenthal made just a moment ago. Before
4 the antidumping order was put in place, it was clear
5 to everyone in this industry that the single objective
6 of Japanese producers was to obtain market share at
7 any cost, and they succeeded. They succeeded in
8 capturing the lion's share of the U.S. market by
9 importing good-quality forklift trucks, sold at prices
10 that substantially undercut the U.S. producers'
11 prices.

12 In fact, based on the antidumping
13 investigation and subsequent administrative reviews
14 conducted by the Commerce Department, the Japanese
15 producers' prices were so low that they were selling
16 their own trucks at prices that were substantially
17 below their full cost in Japan.

18 Not surprisingly, this high volume of dumped
19 imports had a very harmful effect on U.S. forklift
20 truck producers. By the time the petition was filed,
21 the Japanese producers had succeeded in capturing
22 nearly half of the U.S. forklift market, and most U.S.
23 forklift producers had gone out of business.
24 Companies, as Mr. Rosenthal indicated, such as Allis-
25 Chalmers, Pettibone, and White, were simply not able

1 to compete against the dumped Japanese forklift
2 trucks. Other companies, like Clark, Caterpillar, had
3 moved offshore to Korea to try to compete.

4 At the time of the original antidumping duty
5 investigation, I was with Yale Materials Handling
6 Corporation. Yale had stopped producing IC trucks in
7 the United States. I applauded Hyster's decision to
8 file an antidumping petition, having experienced
9 firsthand the decline of the U.S. forklift truck
10 industry. Hyster and Yale, too, were on the verge of
11 going out of business, but they managed to escape this
12 fate because of the antidumping case. With the
13 imposition of the order, Hyster and Yale have been
14 able to stay in business and then eventually merged to
15 form NACCO in 1998.

16 Today, we are the last U.S. forklift truck
17 company producing IC products in the segment under
18 review. I want to emphasize that since the imposition
19 of the antidumping order, the market share of the
20 Japanese-brand trucks has not changed substantially.
21 According to NACCO's analysis of the public trade
22 data, the Japanese-brand trucks still account for
23 about half of the U.S. market, about the same as in
24 1987. But what is important, the difference between
25 then and now, that difference is the antidumping

1 order. Japanese producers are no longer able to dump
2 their trucks in the United States, and NACCO has been
3 able to compete on level terms.

4 As I described earlier, we have not only
5 continued in this business, but we have remained a
6 very active participant, continually investing in our
7 people and investing in our plants and adapting our
8 products to market conditions. We have always
9 maintained that we are able to compete when
10 competition is fair, but we would not be able to
11 complete with products that are dumped in the
12 marketplace.

13 As I understand this review process, the
14 Commission will review the impact of the order and
15 will continue this order as long as it is necessary to
16 prevent injury from reoccurring or continuing. In
17 this case, I think that the data that the Commission
18 has gathered speaks for itself. The same Japanese
19 producers that were dumping their products into the
20 United States in 1987 are the same Japanese producers
21 that have moved assembly operations here.

22 Some of these producers have made large
23 investments than others, but each and every one of
24 these companies has maintained a base of operations in
25 Japan. Their principal headquarters remain Japan.

1 The principal research and development operations
2 remain in Japan. The core components are manufactured
3 in Japan, and, most importantly, each Japanese
4 facility has substantially unused capacity.

5 As Mr. Wilson will describe to you in more
6 detail, we believe that each of the Japanese producers
7 would react differently to the order being revoked.
8 Companies with limited investments in the United
9 States would shutter their assembly operations,
10 leaving some depot operations here that would be
11 involved in distribution. Other companies would
12 likely rationalize production, returning some product
13 lines to Japan and also supplementing U.S. production
14 from mainstream product lines from time to time.

15 In either case, however, we believe that
16 unfair trading practices continue. In this respect,
17 market conditions have not changed. The industry
18 remains highly price sensitive and highly competitive,
19 and the Japanese producers have continued to be the
20 price leaders. The principal check on the downward
21 pricing spiral, which began in the mid-1980's, was the
22 dumping order, and the order continues to remain
23 effective today.

24 So to return to where I started, we began
25 our latest modernization efforts in 2001, and that

1 date is important for this proceeding as well because
2 it postdates the Commission's first review for the
3 antidumping. I do know that we would have never
4 undertaken this major innovation if the order had been
5 revoked at that time. If conditions had returned to
6 the way they were in the mid-1980's, we would simply
7 have been unable to undertake these critical
8 investments we began in 2001 and are successfully
9 completing now.

10 So revocation of the order in 2000 would
11 have prevented us from having the capital to make this
12 investment.

13 If the order remains in place, we intend to
14 continue producing lift trucks in the United States.
15 We also intend to make future investments and continue
16 to be innovative and competitive as well. If,
17 however, the antidumping order is revoked, the
18 structure of the U.S. industry, including my company,
19 NACCO, will undergo fundamental change, a change that
20 could eventually result in the end of U.S. production
21 of IC forklift trucks. Indeed, this threat is why I
22 am here today. I urge you not to let it happen.

23 I appreciate the opportunity to appear
24 before you today, and I'll be happy to answer any of
25 your questions.

1 MR. ROSENTHAL: Mr. Dawe?

2 MR. DAWE: Good morning. My name is Greg
3 Dawe, and I'm vice president of manufacturing for
4 NACCO's North American operations, with responsibility
5 for plants in Berea, Kentucky; Greenville, North
6 Carolina; Sulligent, Alabama; and Ramos Arizpe,
7 Mexico. I have held this position for 12 years, and I
8 have been in the lift truck business for over 20
9 years.

10 The main focus of my testimony today will be
11 to discuss our new one-to-eight-ton forklift
12 manufacturing processes in Berea, Kentucky; our highly
13 tooled, component manufacturing operation in
14 Sulligent, Alabama; and our famed production
15 operations in Ramos Arizpe, Mexico.

16 In this review, we are asking the Commission
17 to reconsider the way in which it defines a U.S.-
18 produced forklift truck. In the original
19 investigation and in the review five years ago, a
20 U.S.-produced truck was defined as a forklift truck
21 with a frame made in the United States. Based on the
22 way we used to make frames, this definition made sense
23 at the time. However, now that we look at our
24 operations today, we recognize that the frame
25 production no longer is the epicenter of the truck

1 manufacturing operation. Therefore, most of our labor
2 and capital investment is now concentrated in the
3 assembly operations for our forklift truck.

4 Today, manufacturing operations and NACCO's
5 operations, in particular, are significantly different
6 than during the time of the original investigation.
7 To explain this, I will later review pictures of our
8 Berea, Kentucky, assembly operation that will allow us
9 to walk through these production processes. I have
10 also slides depicting the very significant investment
11 we have made in our Sulligent, Alabama, facility.
12 During the past four years, we have invested \$51
13 million to improve the performance and the
14 competitiveness of our U.S. manufacturing plants.

15 We have significantly expanded our
16 operations in Berea, Kentucky; Sulligent, Alabama; and
17 Greenville, North Carolina, which has allowed us to
18 rationalize our operations and phase out the Danville,
19 Illinois, and the Lenore, North Carolina, plants while
20 maintaining equal or greater capacity throughput in
21 manufacturing.

22 Today, all of our one-to-eight-ton, internal
23 combustion forklift trucks are made in Berea, and our
24 electric-powered forklift trucks are made in
25 Greenville, North Carolina. Most of our major

1 components, including transmissions, drive axles,
2 steer axles, hydraulic cylinders, and mass components,
3 are produced in Sulligent, Alabama. In addition, we
4 have very significant research and development that
5 went into the design of our new internal combustion
6 product line that was completely undertaken in our
7 Portland, Oregon, research and development facility.

8 Now, I would like to call your attention to
9 the Berea, Kentucky, plant. When I talk about the
10 expansion we have made, this outlines the expansion
11 that we did in 2001. We doubled the size of the
12 Berea, Kentucky, operation as a part of our focus of
13 maintaining a commitment to our assembly operations
14 within the U.S. This facility encompasses over half a
15 million square feet of manufacturing space and is
16 located on a site of over 52 acres. In Berea, we
17 employ 600 direct production workers that are directly
18 engaged in the manufacturing of internal combustion
19 forklift trucks, with a total site employment of more
20 than 1,000 people.

21 Now, I would like to review the production
22 process in Berea that begins with our fabrication
23 operations. In this area, we produce all of our mast
24 assemblies, which is the movable mechanism on the
25 front of the truck that lifts and lowers loads. We

1 then go into our assembly operations, which I'll show
2 you in greater detail.

3 This is our entirely new assembly process we
4 have created for the new, one-to-eight-ton design, and
5 then we flow the product out into our area for
6 shipment. We have our stores on site where we bring
7 in material on a daily basis, and then we Kanban that
8 to our assembly lines. So, again, we have a very
9 complete, vertically integrated, manufacturing process
10 within Berea, Kentucky, with the frames being produced
11 in Mexico and brought in on a daily basis.

12 We have three new assembly lines for the
13 one-to-eight-ton area, and we are using advanced
14 technology, such as automated guided vehicles, to
15 begin the assembly process. This is an example of
16 what we are in production with in terms of our AGV
17 system. This is the frame as it begins in our initial
18 assembly process. Again, the basic frame comes from
19 Mexico, delivered on a daily basis.

20 As we go through the process, this, again,
21 is the start of our assembly line where we have the
22 frame coming out of the paint and shot-blast area in
23 Berea, loaded onto the AGV.

24 This is our new assembly line, which is a
25 mixed-model build process where we build both Hyster

1 and Yale trucks, different capacities, all on the same
2 line, sold to order to meet specific customer
3 specifications. We have our Kanban process set up on
4 the right in this area that we directly feed right to
5 the assembly line.

6 The operators control their Kanban process
7 and also have new stations, such as the next slide,
8 which allows us to have mechanical handling of
9 components such as, in this case, it's a part of our
10 overhead guard cover, the C hood that fits onto the
11 truck. We have hydraulic lifts to allow the operators
12 to very easily and safely place that onto the truck
13 and do it in a very high-quality manner.

14 We have put in a computerized system on our
15 assembly process, with stations at each of the
16 assembly lines, that allows the operator to access the
17 specific serial number of the truck they are building,
18 and it brings up on this screen quality checks and
19 verifications that are tied directly to that
20 particular product that allows them to go through a
21 total quality check and verification process.

22 Here is another example of the touch screens
23 that we have that allow us to build much higher
24 quality and reliability into our production processes
25 and improve the quality of the product that goes to

1 our dealers and customers. We have created special
2 handling systems for all of our tools so that
3 everything has its place, and this, again, is a part
4 of the total development process that we have done in
5 Berea associated with the introduction of our new,
6 one-to-eight-ton ICE product.

7 As you can see, we have a significant amount
8 of value added that goes into our assembly processes
9 within Berea. In addition to these operations, we
10 also produce the mast, or front-end portion, of the
11 truck completely in Berea. We have two separate mast
12 assembly lines, one for our one-to-three-and-a-half-
13 ton product and the other assembly line for mast for
14 product up to eight-ton lift capacity. We produce
15 over 1,400 different styles of masts within our
16 operation in Berea. Again, we match the mast assembly
17 directly to the assembly line process so we're
18 sequencing these to meet the customer order.

19 Today, mast production is very similar to
20 what frame production used to be many years ago. Most
21 of our mast operations are performed with manual weld-
22 in assembly. The investment in labor and equipment to
23 produce the masts in Berea constitutes a major portion
24 of our Berea operation in terms of capital employed as
25 well as the number of employees involved in that

1 operation.

2 At the end of our process, we have a full
3 line of Hyster and Yale Class 4, cushion-tire product,
4 and Class 5, pneumatic-tire product, from one- to
5 eight-ton lift capacity. Again, we sell these with
6 both cushion or pneumatic tires, and we use a variety
7 of engines, including gasoline, diesel, and LPG.

8 At this point, I would like to clarify a
9 statement that was made in our brief on page 40. This
10 was referencing the prehearing staff report at page I-
11 31. Our brief and the staff report note that our new
12 design involved production of the 4,000-pound,
13 cushion-tire product line. This is the first model
14 that is being changed with our new design. All of the
15 models are being redesigned, and we will produce this
16 full range of the new, one-to-eight-ton lift truck,
17 internal combustion product line in Berea, both
18 cushion tired and pneumatic tired.

19 Now, I would like to show you examples of
20 the finished product. This is our Class 1, four-to-
21 6,000-pound counterbalance. This is a product that
22 was made in Berea.

23 This is our new, Class 4, cushion-tired,
24 four-to-7,000-pound product.

25 This is the new, Class 4, seven-to-12,000-

1 pound ICE cushion for Hyster.

2 This is the Class 5, which is a pneumatic-
3 tired product, seven to 12,000 pounds.

4 This is the Class 4, 13,000-to-15,500-pound,
5 cushion-tired ICE product.

6 This is the equivalent Class 5, pneumatic-
7 tired product.

8 This full range will be launched in Berea
9 within the next 18 months as a part of our overall
10 plan to revamp our one-to-eight-ton ICE.

11 Now, I would like to shift our attention to
12 our Sulligent, Alabama, plant. This facility
13 encompasses 300,000 square feet and employs over 500
14 people. As I mentioned earlier, most of our highly
15 machined components are made in Sulligent, including
16 transmissions, drive axles, steer axles, hydraulic
17 cylinders, and mast components. These slides depict
18 our transmission assembly line, and it shows the
19 significant investment we have in assembling our
20 transmissions and drive axles in Sulligent, Alabama.

21 We have a significant number of CNC
22 computer, numerically controlled machining centers
23 within our operation that manufacture and machine
24 housings, gears, and other highly complex components,
25 and these are just a few examples of these machining

1 centers.

2 This is a manufacturing line which shows a
3 bank of machining centers, again, producing various
4 components that are used within transmissions and
5 drive axles. This is another view of another row of
6 these machines.

7 We have recently implemented some state-of-
8 the-art, automated material supply systems to help
9 improve the delivery of our components to our various
10 machining centers. We have seven heat-treat furnaces
11 that are used specifically in the area of gear and
12 shaft manufacturing.

13 This is another view of our all-new,
14 transmission assembly line for the new, one to five
15 and a half ton. This shows the significant investment
16 we're making in quality. We 100-percent test all of
17 our transmissions at load and at temperature.

18 This is an example of air testing that we
19 perform on all of our hydraulic cylinders.

20 This is a new gravimetric lab that's a part
21 of our hydraulic cleanliness initiative to improve the
22 hydraulic cleanliness of our systems, both in
23 transmissions, drive axles, and cylinders.

24 This is another view of the inside of the
25 lab where we have very special equipment.

1 This is a gear analysis checking machine
2 that we use in the setup of gear manufacturing
3 processes.

4 This is a dimensional analysis machine we,
5 again, use to measure castings, forgings, and so on to
6 ensure high quality and precision in all of our
7 operations.

8 This is our metallurgical lab where we do
9 our analysis of incoming material, as well as machine
10 components.

11 We have an operator certification program
12 dedicated in Sulligent that allows us to ensure we
13 have the right type of tools and equipment and
14 instructions for people, and we have a lot of
15 involvement of our management team working with people
16 directly on the shop floor to ensure safety, quality,
17 and high performance.

18 As you can see, the Sulligent plant
19 represents a very substantial portion of NACCO's
20 capital investment in our internal combustion product
21 line. In addition to these two facilities, our plant
22 in Greenville, North Carolina, manufactures electric
23 trucks. Some of our Americas Division administrative
24 staff, including myself, are located in Greenville.
25 We also have a significant investment, primarily in

1 terms of staff, at our research and development
2 operations located in Portland, Oregon. This is also
3 the site of our corporate headquarters. We have over
4 130 design and development engineers in Portland who
5 have been very instrumental in our latest
6 manufacturing restructuring efforts. Our facility in
7 Portland covers over 100,000 square feet and is
8 situated on 78 acres.

9 In addition to these operations, we
10 fabricate frames and other weldments in our Mexico
11 facility. This facility is about 175 square feet and
12 employs 300 production workers, with a total site
13 employment of approximately 350 people. The
14 operations in Mexico use robotics and laser technology
15 to perform the principal welding and cutting
16 operations. This facility fabricates frames for both
17 our internal combustion and our electric truck product
18 lines. The basic, unpainted frame is shipped from
19 Mexico to either Berea or Greenville to begin the
20 process of manufacturing a complete lift truck.

21 As you can see from this presentation, the
22 main location of our internal combustion assembly
23 processes and production operations is Berea,
24 Kentucky. While years ago, production would have
25 centered around where the frame was produced, frame

1 production now has become highly automated and no
2 longer represents the epicenter of our production
3 operations. The principal manufacturing operations
4 now center around mast fabrication and the major truck
5 assembly processes that I have reviewed with you
6 today.

7 Additionally, our major capital investments
8 for internal combustion forklift trucks are in Berea,
9 Kentucky, and Sulligent, Alabama, with our largest
10 production workforce located in Berea. We know the
11 trucks we make in Berea, which have an overwhelming
12 portion of them produced using domestic content, are
13 U.S.-produced trucks.

14 On a personal note, during the 1984-to-1993
15 period, I worked at my former employer, Clark Material
16 Handling Company, in Lexington, Kentucky. As you
17 know, Clark made the decision to move nearly all of
18 their internal combustion lift truck manufacturing to
19 Korea due to the very aggressive pricing behavior
20 employed by the Japanese competition. Clark's action
21 was not successful. Their market share today is less
22 than 5 percent, compared to over a 40 percent market
23 share they enjoyed in the U.S. prior to the unfair
24 trade practices exhibited by the Japanese competitors.
25 In 1993, I took the advantage of joining NACCO

1 Materials Handling Group. I did this primarily due to
2 NACCO's commitment to maintain a significant
3 manufacturing presence in the U.S.

4 I appreciate the opportunity to appear
5 before you today and would be pleased to answer any
6 questions you may have. Thank you.

7 MR. ROSENTHAL: Mr. Wilson?

8 MR. WILSON: Good morning. My name is Colin
9 Wilson, and I am the chief operating officer for NACCO
10 Materials Handling Group. I have held this position
11 only since October 2005, but before this, I was
12 present of the Americas for NACCO Materials Handling
13 Group, responsible for all operations in North and
14 South America. I've been in the forklift truck
15 business for 18 years, since 1987, and have worked in
16 the United States for more than 10 years.

17 I am here today to testify about what the
18 implications would be to the U.S. market if the
19 antidumping order on forklift trucks were to be
20 revoked. Since the Japanese producers have
21 transferred assembly operations to the United States,
22 you might ask, why do we care? Why does NACCO
23 Materials Handling Group care about the antidumping
24 order on IC forklift trucks from Japan remaining in
25 place? The answer is simple: We firmly believe that

1 the Japanese producers would transfer some or all of
2 their U.S. assembly operations back to Japan and
3 resume dumping IC forklifts into the U.S. market in
4 very short order.

5 The likely surge of low-priced imports from
6 Japan would return the U.S. market to conditions that
7 existed prior to the imposition of this order. By
8 that, I mean significant price underselling and
9 financial deterioration that would threaten the future
10 of NACCO's forklift operations certainly in North
11 America.

12 I recognize that there may be a natural
13 inclination to believe that since the Japanese have
14 transferred their operations here to the United
15 States, that is, since they have already made their
16 investment in the United States, that they would be
17 quite likely to stay here and would rather do that
18 than to repatriate, even if the order were to be
19 revoked.

20 We strongly disagree with this contention.
21 For the reasons I will discuss, the Japanese producers
22 would likely consolidate their operations to achieve
23 better efficiencies in their manufacturing facilities
24 if the order were to be revoked. The Japanese
25 producers would shut down or restructure some or all

1 of their assembly operations in the United States and
2 repatriate those operations to Japan. They would do
3 this so they can fully utilize excess capacity we know
4 they have and can prove that they have in Japan and
5 thereby improve production efficiencies in their
6 Japanese IC forklift operations.

7 I would like to make several points in this
8 regard. First, it is our understanding that the
9 assembly operations of the Japanese countries in the
10 United States are operating at low or nonexistent
11 profit margins, even though these operations only
12 carry incremental overhead expense. It is important
13 to remember that these assembly operations were
14 established to avoid making antidumping deposits, not
15 for the purpose of reducing manufacturing costs.

16 If the requirement for antidumping duties
17 were to be revoked, it is very likely that the
18 Japanese producers would reevaluate these
19 manufacturing decisions and make changes based on
20 improving production efficiency and providing
21 increased employment in Japan.

22 Repatriation back to Japan would bring about
23 significant economic benefits to the Japanese
24 producers because they could consolidate their
25 operations, reduce manufacturing costs, thereby

1 improving their financial situation and protect the
2 most likely increased employment in Japan. Companies
3 that are making losses or operating at near-break-even
4 levels here in the United States by operating
5 overlapping facilities, could improve their financial
6 position by eliminating duplicative operations.

7 We believe that the Japanese producers would
8 take those steps so as to improve their economic
9 position.

10 Second, the Japanese producers have existing
11 capacity in Japan to move their U.S. assembly
12 operations back to that country with minimal
13 investment. So this is not a situation in which a
14 foreign producer moved its investment from its home
15 market to the United States. Instead, the Japanese
16 producers have continued production operations in both
17 markets, duplicating, not replacing, their assembly
18 operations.

19 NACCO's own analysis, using statistics
20 compiled by the Japan Industrial Vehicle Association,
21 or JIVA for short, shows that the Japanese IC forklift
22 truck industry operated at about 74 percent capacity
23 utilization in the year 2004. This low capacity-
24 utilization rate is primarily as a result of the
25 Japanese producers not being able to find other export

1 markets that would fully use the production capacity
2 that had been previously devoted to the U.S. market.

3 Based on 74 percent capacity utilization,
4 the Japanese producers have sufficient capacity in
5 Japan to supply their U.S. subsidiaries with the
6 substantial share of their current level of U.S.
7 shipments without adding capacity in Japan.
8 Furthermore, we believe that with very minimum
9 expense, Japanese manufacturers could remove
10 production bottlenecks and increase their domestic
11 capacity.

12 Additionally, many of the components used in
13 the assembly of forklifts in the United States by the
14 Japanese producers are still sourced from Japan.

15 Third, the investments that the Japanese
16 companies have made in the United States are not so
17 substantial or so significant so as to prohibit
18 repatriation of some or all of their product lines.
19 First, the Japanese producers operate their U.S.
20 facilities with minimal overhead costs. We believe
21 that none of the Japanese companies have established
22 regular corporate headquarters operations in the
23 United States, nor have they established significant
24 research and development operations here in the United
25 States. Instead, they have maintained all important

1 management functions in Japan.

2 Additionally, a major portion of the
3 Japanese producers' capital investments remain in
4 Japan and were not transferred to the United States.
5 In particular, most of the high-value components used
6 to make forklift trucks are still manufactured in
7 Japan. These include components such as
8 transmissions, steer axles, drive axles, hydraulic
9 cylinders. These are very product-specific components
10 that are specifically designed and engineered to be
11 used in their forklift trucks. The facilities used to
12 manufacture these highly tooled components require
13 extensive investment in equipment and labor. The
14 manufacture of these specialized components requires
15 greater oversight by engineers and management, so the
16 manufacture of these products requires not only more
17 capital investment but also more investment in people
18 in terms of expertise and training.

19 The nature of the investment by the Japanese
20 parents in the United States contrasts directly with
21 the investments made by NACCO Materials Handling
22 Group. As Mr. Dawe just described earlier, NACCO
23 produces these same highly tooled components at its
24 factory in Sulligent, Alabama. NACCO has made very
25 significant investments in this facility over the past

1 five years. The Japanese producers have not made
2 comparable investments in the United States.

3 As this makes clear, repatriation by the
4 Japanese would require no disinvestment of these types
5 of operations; there is nothing to disinvest.

6 Along these same lines, it is also important
7 to consider the types of components that the Japanese
8 do source in the United States. These typically
9 include more common, less-specialized components, such
10 as counterweights -- that's the big weight that goes
11 on the back of the lift truck; tires, batteries, and
12 seats. These products are typically sourced from a
13 wide variety of outside suppliers. Most are now
14 located in the United States, but these products could
15 also be sourced from many other countries,
16 particularly Japan.

17 So repatriation of a completed truck would,
18 again, require no significant disinvestment with
19 respect to these components.

20 As I also noted earlier, research and
21 development is a major ongoing expense in the forklift
22 industry because each model series of a product needs
23 to be updated about every five to seven years in order
24 to remain competitive in the marketplace. As Mr. Dawe
25 indicated earlier, NACCO maintains a 77-acre

1 development center in Portland, Oregon, which conducts
2 research and development for principally the subject
3 goods.

4 There are 150 highly skilled employees at
5 this site who are dedicated to the design and testing
6 of new models to replace or upgrade the comparable
7 products that are currently produced. They also
8 design and test components that are to be produced in
9 NACCO facilities or to be purchased from vendors that
10 may be used across a number of models.

11 For the Japanese assemblers, all research
12 and development is performed in Japan. Also, in
13 considering the type of investment that has been made
14 by the Japanese producers in the United States, it is
15 important to distinguish between investment in
16 manufacturing and investment in warehouse and
17 distribution operations. We are confident the
18 Japanese producers would not engage in any
19 disinvestment of their distribution and warehouse
20 markets. They want to remain in this market;
21 therefore, there will be the requirement to import
22 trucks, to warehouse those trucks, and to distribute
23 those trucks to dealers and to customers.

24 The United States is one of the world's
25 largest markets. These investments would certainly

1 remain in the United States to allow the Japanese
2 producers to market their products that they import
3 from Japan.

4 To summarize my point on repatriation, even
5 though Japanese producers transferred a portion of
6 their assembly of the subject goods to the United
7 States, they have maintained the management, the
8 research and development function, much of their
9 supply base, and much of the high-value component
10 reproduction in Japan. With significant unused
11 capacity already present in Japan, Japanese producers
12 could easily repatriate the assembly function back to
13 that country if the antidumping order were to be
14 revoked.

15 As the Commission is aware, there are five
16 Japanese producers that maintain assembly positions in
17 the United States: Kamatsu, Mitsubishi, Nissan, TCM,
18 and Toyota. The degree to which these producers would
19 repatriate their forklift operations back to Japan if
20 the order were to be revoked would likely depend on
21 the level of investments these producers have made in
22 this country. Kamatsu, Nissan, and TCM have made
23 minimal investment here. We believe that revocation
24 of the order would encourage these producers to
25 shutter their assembly operations here and return

1 their production to Japan.

2 We estimate that repatriation for these
3 products would commence in less than one year.
4 Indeed, as we've already heard, Nissan has already
5 begun to rationalize their production and to move out
6 of the United States. In a recent foreign trade
7 subzone application, Nissan indicated that it has
8 moved some of its forklift production offshore and is
9 contemplating further rationalization by moving
10 production of an additional model offshore in order to
11 become more competitive.

12 All three of these producers are likely to
13 move their production back to Japan to create cost
14 efficiencies in production and component resourcing,
15 increase capacity utilization and employment levels of
16 the Japanese parent, and provide a pricing advantage
17 in the U.S., which is an already very competitive
18 market.

19 The other two producers, Toyota and
20 Mitsubishi, have made more substantial investments in
21 the United States, and they made these investments
22 after the order was imposed. Although it is unlikely
23 that these producers would rationalize all production
24 back to Japan, it is likely that they would
25 rationalize specific product lines if the order were

1 to be revoked.

2 Toyota and Mitsubishi also produce electric
3 forklift trucks in the United States and thus would
4 have the ability to rationalize production so that all
5 similar and generally smaller lifting capacity
6 electric and IC cushion products could be produced in
7 the United States while the pneumatic products,
8 especially of the high-capacity trucks that are
9 generally not also made as electric trucks, would be
10 shifted back to Japan.

11 Revocation of the order would likely result
12 in a substantially greater portion of electric
13 production in the United States that would allow
14 Toyota and Mitsubishi to use their production
15 facilities in the U.S. more efficiently and
16 consolidate the production of all pneumatic IC trucks
17 to Japan.

18 In addition, Toyota and Mitsubishi could
19 supplement high-volume sales in the U.S. with orders
20 from their Japanese parent, even if not all product
21 lines were repatriated. In other words, overall
22 capacity to produce one particular model line could be
23 increased because a producer could supplement large
24 orders with excess production from Japan imported at
25 low prices; that is, the Japanese producers could

1 achieve substantial benefits from the revocation of
2 the duties, even with minimal repatriation.
3 Consequently, Toyota and Mitsubishi would have many
4 strong incentives to resume shipments of certain
5 product lines from Japan if the order were to be
6 revoked.

7 For all Japanese producers, repatriation of
8 some or all of their product lines would allow them to
9 fully utilize their otherwise unused production
10 capacity in Japan and consolidate operations in Japan
11 to lower overall costs. By rationalizing production,
12 these producers can obtain significant economies of
13 scale. The repatriation would be accompanied by a
14 significant surge in imports.

15 Given the history of significant price
16 underselling and the high dumping margins of the
17 Japanese producers, these increased imports would
18 certainly enter the United States at dumped prices.
19 We see this happening elsewhere in the world. This
20 surge of lower-priced imports would return the U.S.
21 forklift market to conditions that existed prior to
22 the imposition of the order.

23 Our company, having experienced the impact
24 of these unfairly traded imports once before, well
25 remembers the hardships suffered at the hands of

1 unfairly traded imports from Japan, and we recognize
2 that the ability to remain in business in the United
3 States depends on the continuation of this antidumping
4 order.

5 Thank you for your time. I would be happy
6 to answer any questions you may have.

7 MR. ROSENTHAL: Mr. Taylor?

8 MR. TAYLOR: Good morning. My name is Jon
9 Taylor, and I'm the director of corporate strategy and
10 planning for NACCO Materials Handling Group. I have
11 been in this position since November of 2001 and have
12 been in the forklift business since 1990.

13 We agree with Nissan that the U.S. forklift
14 market is an extremely price-competitive market.
15 Forklift trucks are often used in industries and
16 applications which make purchasing decisions primarily
17 based upon price. The majority of our sales are
18 through our independent dealer network, with an
19 increasing percentage sold directly to national
20 accounts. In both types of sales, the Japanese-owned
21 producers have placed substantial price pressures on
22 NACCO to lower our prices to levels where little or no
23 profits have been realized.

24 Pricing trends in this market have generally
25 remained flat, except for the past year when the

1 industry incurred very significant cost increases due
2 to price increases of steel, rubber, and other raw
3 materials. Despite these unprecedented cost
4 increases, we have not seen commensurate price
5 increases from our Japanese-owned competitors. Our
6 Japanese-owned competitors continue to undersell us in
7 the U.S. market in order to gain market share. We
8 believe this indicates that there has been no change
9 in the behavior of Japanese manufacturers to accept
10 sales at low or unprofitable prices to achieve market
11 share increases.

12 If the order were to be revoked, we would
13 expect to return to the conditions that existed prior
14 to the imposition of the order when there was
15 significant downward pressure on prices and steady
16 erosion of domestic producers' market share.

17 As you have heard, we believe that these
18 Japanese-owned producers would repatriate some or all
19 of their operations back to Japan and resume dumping.
20 This would have a significant adverse impact on the
21 pricing of forklifts here in the United States. Our
22 profits would decline and cause us to reduce
23 production, scale back our investment in research and
24 development, terminate employment, and eventually
25 close down facilities.

1 A good barometer of what would occur in the
2 U.S. market if the order were to be revoked is the
3 South American market. The Japanese producers
4 currently sell in South America at prices that are
5 significantly below those in their home market or the
6 United States. For example, Toyota's price for the
7 8,000-pound, pneumatic forklift truck in Argentina is
8 estimated to be around \$25,500, while for the same
9 time period, the same truck sells for around \$31,500
10 in Japan. In Chile, we believe Toyota sells their
11 4,000-pound, IC, pneumatic trucks for around \$12,600
12 while in their home market they sell an equivalent
13 truck for \$16,600.

14 Through this aggressive pricing, the
15 Japanese producers have been able to obtain
16 significant market share in South America. We believe
17 the Japanese producers account for 48 percent of the
18 South American market in 2004, compared to 45 percent
19 in 1999. They have achieved this market share by
20 aggressively underselling other competitors.

21 Publicly available importation records in
22 Chile from June of this year indicate that the smaller
23 Japanese producers import their products at prices as
24 much as 11 percent below Hyster's import prices. We
25 also find the pricing practices of our Japanese

1 competitors to be very aggressive in Asian markets.
2 In Thailand, this August, Nissan's 5,000-pound IC
3 trucks were quoted at less than \$17,000 delivered,
4 including freight and duty. This compares to their
5 current street price in Japan of almost \$19,500.
6 These aggressive pricing practices would apply to the
7 U.S. market if the order were to be revoked. The
8 Japanese producers are able to sell at such low prices
9 in South America and Asia because many manufacturers
10 use these markets to absorb excess production capacity
11 in Japan.

12 We believe the Japanese producers have not
13 changed their pricing behavior; they have simply
14 changed their production operations as a result of the
15 antidumping order. The antidumping order, therefore,
16 remains critical to ensure that pricing discipline
17 continues.

18 Although I used South America as an example
19 of what the Japanese producers would do if the order
20 is revoked, the U.S. market is still the most
21 attractive market in the world. In addition to being
22 the largest market, prices in the United States are
23 generally higher than in other markets.

24 Demand for forklift trucks is highly
25 cyclical and tends to track trends in the

1 manufacturing sector. The economic recovery in the
2 manufacturing segment has led to strong growth in the
3 industry over the past year and a half. Although
4 there has been an increase in demand, price increases
5 have not risen commensurate with the increase in raw
6 material costs, and, therefore, we are still
7 experiencing a significant cost-price squeeze. We are
8 extremely vulnerable to the resurgence of unfairly
9 priced forklifts from Japan that would result from the
10 revocation of the existing order.

11 The recurrence of dumped imports would have
12 a negative impact on NACCO. Our survival is dependent
13 on not only considering our costs of production but
14 also on our ability to fund research and development
15 programs necessary to maintain a competitive product
16 line. Consequently, a break-even return cannot be
17 considered adequate to sustain future product
18 development and production. We simply cannot sustain
19 any decline from current pricing levels. We would not
20 have the financial resources to support our investment
21 in research and development over the long term if the
22 Japanese-owned producers were able to resume dumping
23 and repatriate some or all of their production back to
24 Japan.

25 We, therefore, urge the Commission to

1 maintain the dumping order on forklifts from Japan to
2 ensure that the Japanese producers trade at fair
3 prices in the U.S. market. Thank you.

4 MR. ROSENTHAL: In the minute or two
5 remaining in our time, I just want to briefly
6 highlight two legal issues of concern in this
7 proceeding. The first has to do with like product,
8 and the second one has to do with adverse inferences.

9 The first, the like product issue, you've
10 seen outlined in our brief. As you know, the
11 Commission has the authority to change the like
12 product definition in a sunset review if you find that
13 the circumstances warrant it. As we have explained in
14 our testimony this morning and in our brief, the
15 conditions have changed with respect to the technology
16 and, as Mr. Dawe refers to, the shift in the epicenter
17 of production. It has shifted away from the frame to
18 other parts of the forklift truck. So we urge the
19 Commission to revisit the like product definition and
20 eliminate that phrase in the like product definition
21 that refers to frame production in the U.S. As I
22 said, the facts justify it. The technological changes
23 have fully supported our argument, and we urge you to
24 adopt it.

25 The second issue I want to briefly touch

1 upon has to do with adverse inferences. We recognize
2 that the Commission has the prerogative to have a full
3 review any time you want to, even when the Japanese
4 producers do not decide to contest the case, but one
5 of the things that you do have the authority to do,
6 and we urge you to exercise that authority, is to make
7 adverse inferences when the Respondents in this case,
8 or the would-be Respondents, do not supply information
9 that you need to make your determination.

10 Now, you've sent questionnaires to several
11 of the Japanese producers, and they have not
12 responded, and others who have responded have not
13 responded fully. What you have is a lack of response
14 on critical areas concerning capacity utilization and
15 pricing and intentions from several of those Japanese
16 producers. So whatever you think about conducting a
17 full review in this case, what I submit is that you
18 must make an adverse inference with respect to those
19 issues with respect to the Japanese producers.

20 I refer you to the Court of Appeals Federal
21 Circuit decision in Matsushita, a 1984 decision, in
22 which, interestingly enough, our firm was involved,
23 and the Japanese producers of color televisions had
24 asked for a changed-circumstance review under 751(b)
25 of the statute. Their lawyer showed up at the hearing

1 and said all sorts of nice things about how the
2 Japanese would never ever dump again in the United
3 States market. The Commission said, You know what? I
4 would like to get some more information directly from
5 your clients. I would like to actually see some data
6 that would support those arguments. That was never
7 forthcoming.

8 So the Commission made an adverse inference
9 in that case, and when the Court of International
10 Trade overturned the Commission's decision, you
11 appealed that to the CFC. The federal circuit said,
12 You know what? The Commission is right. If the
13 Japanese are going to come here and say, we're not
14 going to behave badly if revocation takes place, you
15 have the right to ask for information to back up that
16 claim. If it's not forthcoming, you can make an
17 adverse inference. We urge you to do that in this
18 case here.

19 Thank you. We are happy to answer
20 questions. I just want to add that, in addition to
21 the witnesses you've heard this morning, my
22 colleagues, Mary Staley and Grace Kim from Collier
23 Shannon and Brad Hudgens from Georgetown Economic
24 Services are also available to answer your questions.
25 Thanks.

1 CHAIRMAN KOPLAN: Thank you, and thanks to
2 the panel for its direct presentation. We will begin
3 the questioning with Commissioner Pearson.

4 COMMISSIONER PEARSON: Thank you, Mr.
5 Chairman. Greetings to the panel. Greetings also to
6 the students who are with us. Let me just comment
7 that in most hearings we have two sides represented.
8 This hearing is somewhat different in that we have
9 only parties supporting continuation of the
10 antidumping order. Those parties that might be
11 expected to support revocation of the order have
12 chosen not to come. The down side is that you won't
13 get to hear both sides. The up side is that this
14 hearing might be a little shorter than it otherwise
15 would be, so you might not have to be here for quite
16 as long.

17 Mr. Rosenthal, I was caught a bit off guard
18 by this material on the desk with the reference to the
19 pharaoh who knew not Joseph. Initially, I thought
20 that you had showed up for the wrong hearing because I
21 was reminded, as I thought about it, that when the
22 sons of Jacob were preparing to make their second trip
23 to Egypt to buy more food, Jacob told them -- they
24 couldn't figure out how to deal with this cantankerous
25 Egyptian official who had given them so much of a hard

1 time on the first trip, and, of course, this official
2 wanted them to bring their brother, Benjamin, with
3 them on the second trip.

4 Dad really wasn't keen on that, and so in
5 order to try to deal with this Egyptian official,
6 Jacob suggests, What you really ought to do is take
7 some of the produce of the land, the fine things of
8 the land, down there. So they took with them, as I
9 recall, some myrrh, some balm of Gildead, and
10 pistachios.

11 So I look at this, and I think, you know,
12 this was the perfect lead-in for the pistachio hearing
13 that we had just a few weeks ago.

14 The other thought that I had was, you know,
15 if the Hebrews had only been able to provide the
16 Egyptians with some good forklifts, the pharaoh might
17 have been more willing to let them go. Enough of
18 those musings.

19 I'm one of the new pharaohs, and so I
20 haven't been through this stuff before, so I will
21 leave some of the heavy lifting to my colleagues, and
22 I'll, instead, ask this question: At least two of the
23 firms of Japanese origin are related to companies that
24 manufacture automobiles in the United States.
25 Certainly, Toyota and Nissan would be in that

1 category.

2 To the best of my knowledge, those
3 automobile operations were set up with no inducement
4 from an antidumping order to cause them to come to
5 this market. They did it because they saw some value
6 in manufacturing here. Why is the situation different
7 in forklifts? Are there no advantages to
8 manufacturing forklifts in the United States?

9 MR. EKLUND: I think, oftentimes, the lift
10 truck business is compared to the automotive business,
11 and it's quite different. For one, the range of
12 product in terms of being clustered in a small price
13 circle is quite different. In automobiles, you have a
14 whole range from a \$12,000 Neon to a \$50,000 BMW. In
15 forklift trucks, the pricing box is relatively small,
16 and so we're dealing with margins and shares that we
17 measure in tenths of a percent. And then, probably
18 more importantly, since the industry is not comparable
19 in terms of size, the economies of scale are quite
20 different, and so you can get very significant
21 economies of scale from a singular location, where
22 with automobiles, there is no way that a single plant
23 could produce product for the global market.

24 So automobiles, certainly they can get
25 economy of scale, Toyota and Nissan, in their

1 facilities here. They can't get that scale in a
2 product where the volumes are as small as forklift
3 trucks.

4 COMMISSIONER PEARSON: Any other comments on
5 that issue?

6 I can certainly see why the Japanese
7 manufacturers shifted forklift production and assembly
8 to the United States in response to the antidumping
9 order. They obviously wanted to be a part of this
10 market, and if they were going to play here, they had
11 to come here, so they have done it in spades. Yet
12 it's not clear to me that cone they have invested here
13 and are serving the domestic market, which I
14 understand is the largest market for forklifts in the
15 world, why they would pull out -- I understand your
16 testimony was that they wouldn't all pull out, but To
17 the extent that there might be some rationalization of
18 their production, is that necessarily a bad thing, and
19 is it different than what NACCO is doing in terms of
20 balancing its production globally of forklifts and of
21 certain parts of forklifts? If you could comment on
22 that, please.

23 MR. EKLUND: As Mr. Wilson indicated, there
24 are three lesser players where --

25 CHAIRMAN KOPLAN: You need to stay with your

1 microphone.

2 MR. EKLUND: Closer?

3 CHAIRMAN KOPLAN: Yes.

4 MR. EKLUND: Okay. As Mr. Wilson indicated,
5 there are the three lesser players: TCM, Nissan, and
6 Kamatsu. I think there is just a very high
7 probability that they will consolidate their
8 operations to their singular, underutilized plants in
9 Japan, and yet Mitsubishi and Toyota -- Mitsubishi,
10 the jury is out there. Their investment is greater
11 than the other three, but they are not vertically
12 integrated in any great way. And then Toyota.
13 Certainly, Toyota and Mitsubishi will consolidate
14 their product lines to streamline their production
15 facilities so they will have selected models that they
16 are producing in Japan and selected models here, and
17 then, as Colin indicated, it will also give them
18 incremental capacity to take on significant orders and
19 big deals. They will have that flexibility.

20 I think the basic difference here is the
21 issue of dumping, and it will give them the
22 opportunity to sell under market, using their Japanese
23 capacity and profit base to undersell the market here.
24 So that's really the uniqueness of the situation.

25 Why would they do that? Well, population is

1 very important because it drives the parts business,
2 which is important. Population, the number of
3 machines that you have in the marketplace, the margin
4 structure on the parts side is much greater than --
5 it's the razor and blade situation, so they want to
6 drive their population up. They have demonstrated
7 this type of behavior in other areas of the world, and
8 with one of the producers, Toyota, they have publicly
9 declared that they have aspirations to have a third of
10 the global market, and they are managed by someone in
11 the Toyota family who has aspirations for himself that
12 are being driven or calibrated through his success in
13 running the lift truck market.

14 So they have -- let me put it this way --
15 become much more disorderly since he has taken control
16 of the business. That's kind of a long answer to your
17 question.

18 MR. WILSON: I would also like to add, as
19 Mr. Eklund said, we really look at the Japanese as two
20 tiers. We have the upper tier with Mitsubishi and
21 with Toyota, and we have what we call the second tier
22 with TCM, Kamatsu, and Nissan. We have absolutely no
23 question that TCM, Kamatsu, and Nissan will
24 repatriate. Nissan can't wait to get out of the
25 United States, as the free trade zone application

1 states. Once they move their production back to
2 Japan, Toyota and Mitsubishi won't have any choice but
3 to do the same thing because as the lesser Japanese
4 import products at low prices, which we expect them to
5 do, Toyota and Mitsubishi would be uncompetitive in
6 this market, so they would have to follow suit.

7 COMMISSIONER PEARSON: My light has changed.
8 Thank you for the responses. I'm not sure that you've
9 completely yet answered the question of how what these
10 other firms would do is different than what NACCO has
11 been doing in trying to have a global presence and
12 rationalization or production, so perhaps we'll go
13 back to that. Thank you.

14 CHAIRMAN KOPLAN: Thank you, Commissioner.
15 I would just say, as you respond to
16 questions, if you would reidentify yourselves for the
17 record, it's easier for the reporter, particularly the
18 people in the second row.

19 Commissioner Aranoff?

20 COMMISSIONER ARANOFF: Thank you. I want to
21 say good morning to the panel and thank you for being
22 here with us this morning. I agree with Commissioner
23 Pearson that we haven't quite gotten the answer to
24 some of his questions yet, so I'm going to continue
25 pursuing that line of questioning.

1 One of the points that you were making, Mr.
2 Eklund, was that because of the economies of scale in
3 this industry, it doesn't make that much sense to
4 assemble in multiple locations, and yet what we see
5 here is essentially, although not as big as the auto
6 industry, a global industry where the large players
7 are, in fact, assembling product in sort of the big
8 three usual places: in Europe, in Asia, and in North
9 America. And you certainly make a compelling argument
10 that some of the Japanese-brand companies set up shop
11 in the U.S. because of the antidumping order, but most
12 of the large players have also set up shop in Europe
13 where it's my understanding that there are no trade
14 remedies in effect.

15 How do you respond to that? Why are they
16 sticking in Europe? In fact, in Nissan's FTZ
17 application, they do say, to the extent that they are
18 considering rationalizing and leaving the U.S., they
19 talk about a plant in Europe, not in Japan.

20 MR. EKLUND: I think that's a very good
21 question, and I'm sorry I didn't fully answer it the
22 first time.

23 When you look at our manufacturing
24 structure, we have really focused on a manufacturer,
25 or at least assembly and market-of-sales strategy. So

1 we have facilities that are sprinkled around the
2 world. We have one facility in northern Ireland that
3 produces for the global market. Other than that, the
4 production is really primarily home market focused.

5 What is unique about the Japanese approach?
6 Well, for one, their facilities around the world are
7 really tied basically back to their home operations in
8 Japan. That's the central feeder unit as far as
9 design, highly tooled components, and they are really
10 exporting the basic elements of the machines from that
11 location.

12 The only two manufacturers of any substance
13 in Europe are Toyota, which has a facility in France,
14 and Nissan, which has a facility in Spain. I'm not
15 really that familiar with the Toyota facility. I am
16 familiar with the Nissan facility, and it produces a
17 very unique machine that has special design
18 characteristics for the European market, and that's
19 really why they have that singular operation.

20 MR. ROSENTHAL: Commissioner Aranoff, I just
21 wanted to respond to two things real quickly. First,
22 if the Nissan foreign trade subzone application had
23 said, we're going to move our production back to
24 Japan, it would have been denied outright. So I
25 assume they were represented by counsel when they

1 filed that application and that they weren't
2 delusional enough to say, we're going to repatriate
3 our production back to Japan, especially when a sunset
4 review was being contemplated.

5 That all said, left to their 'druthers,
6 there is no question, given their excess capacity in
7 Japan and their better cost structure there, they
8 would move there, not to Spain, and Spain wasn't a
9 definite destination; they said it was an option.

10 Second, and I want to go back to this
11 response, both yours and Commissioner Pearson's, there
12 is nothing wrong with rationalizing production around
13 the world, as Hyster and NACCO have done. If the
14 Japanese want to do that, they are perfectly free to
15 do that.

16 The problem that we have here with the
17 repatriation and the rationalization we've described
18 is that it would be accompanied by dumping, which the
19 Commerce Department has determined is going to happen,
20 and even if you didn't have the Commerce Department
21 determination, in the sunset review, you can listen to
22 the testimony of Mr. Taylor, who said that essentially
23 the Japanese have been dumping from their Japanese
24 base in South America and Thailand. So if there were
25 not a dumping order, we would say, do what NACCO has

1 done, do what others have done. Find the best place,
2 most low-cost location, to manufacture your product
3 and export it. The problem is, that will be Japan for
4 those three lesser companies for all of their lines,
5 and for some of their lines, Toyota and Mitsubishi,
6 and that will cause a recurrence of injury here in the
7 U.S. market.

8 COMMISSIONER ARANOFF: I appreciate that
9 answer, and it makes me want to follow up on one
10 thing. There was some discussion -- I can't recall if
11 that was Mr. Wilson -- it was Mr. Taylor. You were
12 talking about these low-priced sales in South American
13 markets by some of the Japanese producers. Do you
14 know whether those products were produced in their
15 Japanese facilities or in their North American
16 facilities?

17 MR. TAYLOR: We believe they were produced
18 in their Japanese facilities.

19 COMMISSIONER ARANOFF: Okay. I know that
20 there was some indication in our staff report that
21 some of the Japanese-brand companies that are
22 assembling in the U.S. are selling product within the
23 Americas, outside the United States.

24 MR. TAYLOR: Now, I can't say for certain
25 that every one of them is from their Japanese

1 facility. What we have found is that for the subject
2 trucks, the IC trucks, which is a global product, and
3 it's unique in the industry in that the IC trucks are
4 global -- they are the same, more or less, across the
5 world -- when those products are sold into South
6 America or other third-party countries, they are
7 primarily sourcing them out of Japan. The other
8 products, the electric product, warehouse product;
9 they may very well be sourcing those out of the United
10 States, just as we do. We source our electric product
11 and warehouse products out of our U.S. factories into
12 South America and into Asia, and I think they would do
13 a similar thing.

14 Two other points I wanted to make which I
15 just touched upon was the global nature of the subject
16 product is one of the very reasons that we believe
17 they would repatriate back to Japan. Unlike the rest
18 of the forklift truck market, the IC products are very
19 global in nature. The specifications are pretty
20 similar regardless of where they are sold. Therefore,
21 it makes a lot of sense to consolidate that into one
22 production facility and get all of the economies of
23 scale. The rest of the product line, electric trucks
24 and warehouse trucks, are unique to each of the three
25 major markets; therefore, they can't get that economy

1 of scale by taking it back into Japan because they
2 would have to produce three different models in the
3 Japanese factories.

4 So it makes sense to us that the global
5 product, they would bring back to Japan; and the
6 nonglobal products, they would continue to produce in
7 the United States.

8 Another reason that we will be repatriation
9 would happen is that they would actually have a
10 financial incentive to do it because today they pay
11 duties, as indicated in the Nissan foreign trade zone
12 application, pay duties on importation of components
13 that they bring in to finish the trucks in the United
14 States. If they bring that in as a completed truck,
15 they pay zero duties, so they would, in fact, reduce
16 their costs just by eliminating those duties and
17 bringing it back to Japan as a completed truck and
18 importing into the United States.

19 Those two reasons alone lead us to believe
20 that there are very strong financial incentives for
21 them to repatriate.

22 COMMISSIONER ARANOFF: Okay. Thank you very
23 much for that. Let me turn to another aspect of this.

24 Mr. Dawe, does your company -- you make most
25 of your own components, you've indicated. Do you sell

1 components to other domestic producers?

2 MR. DAWE: No, we do not. All of the
3 components that we manufacture within our operations
4 are used within our products.

5 COMMISSIONER ARANOFF: Okay. Then maybe Mr.
6 Dawe or Mr. Wilson, you've indicated that domestic
7 producers other than your own company generally
8 purchase their components, that they don't manufacture
9 them here in the United States. What components, to
10 the best of your knowledge, and how many of these
11 various companies -- I know it's going to differ --
12 buying domestically versus importing, either from
13 their parent company in Japan or elsewhere?

14 MR. DAWE: Well, let me address from our
15 perspective within NACCO Materials Handling. We do
16 analysis of what we call "core" and "noncore"
17 components. We do not manufacture every single
18 component that goes within our lift trucks. We buy a
19 lot of castings because we do not own foundries. So
20 we will buy a lot of castings from domestic U.S.
21 producers, as well as global producers, if our
22 domestic capabilities do not exist in terms of price
23 competitiveness, in terms of quality, in terms of
24 capability, and so on.

25 So we go through that core and noncore, and

1 we'll decide, as a company, where we need to invest
2 our resources to manufacture. For example, we
3 manufacture a lot of our gears that go into our
4 transmissions and drive axles. There are certain
5 gears -- for example, you get into clutch packs and
6 differentials -- that we will purchase those from
7 other suppliers because that is their particular area
8 of expertise, not only in manufacturing but in design
9 and development.

10 So we will try to leverage with our
11 suppliers what their capabilities are with our
12 capabilities, and as I've described, we believe where
13 our core competencies are really reside in the area of
14 some of the key driveline components -- transmissions,
15 drive axles, hydraulic lift cylinders -- and the
16 significant amount of value added that goes into
17 assembling the forklift truck in today's environment.

18 COMMISSIONER ARANOFF: Okay. Thanks. There
19 is, obviously, more to your answer, but my time is up,
20 so I'll have to come back to this question. Thank
21 you.

22 CHAIRMAN KOPLAN: Thank you, Commissioner.
23 Thank you to the witnesses for their answers to our
24 questions thus far.

25 I want to just start by observing -- Mr.

1 Rosenthal, I appreciate, this morning, that you have
2 taken the wraps off some of your brackets because, for
3 example, on page 7 of your brief, you bracket the word
4 "Mexico," you bracket the words "Mexican frame," which
5 makes it a little difficult to try and frame some
6 questions, so to speak. But I see, this morning, you
7 are speaking freely, and the witnesses are speaking
8 freely, about the operation in Mexico, so I don't have
9 to be as careful, obviously.

10 Now, let me stay with you, if I could. In
11 your prehearing brief at page 8, you argue that, and I
12 quote, "the underlying reasons for relying on the
13 location of the frame production for establishing the
14 domestic like product during the original
15 investigation in the first review are no longer
16 valid." This morning, you've talked about
17 technological changes that have taken place.

18 If NACCO's frame operations still had the
19 United States as their main locus, would you still
20 argue that I should redefine the domestic like
21 product? I ask that because, in the first review, the
22 Commission stated, at page 8 of our views, and I
23 quote: "While there having some changes to the frame
24 production process and the minimal levels of domestic
25 value added by domestic producers of forklift trucks

1 since the original investigation," we then went on and
2 concluded by stating that we didn't find a reason to
3 revisit our original determination of like product.

4 So, at this point, I'm still not convinced
5 that I should be revisiting this. If you hadn't moved
6 to Mexico, and it was still being done here, would
7 this be an issue today?

8 MR. ROSENTHAL: I think it would be. First
9 of all, there is still frame production by NACCO in
10 the United States.

11 CHAIRMAN KOPLAN: There is what?

12 MR. ROSENTHAL: NACCO still produces frames
13 in the United States, so it's not --

14 CHAIRMAN KOPLAN: But the bulk is elsewhere.

15 MR. ROSENTHAL: The bulk has moved
16 elsewhere.

17 CHAIRMAN KOPLAN: Right.

18 MR. ROSENTHAL: What is important is that
19 even since the last sunset review, the pace of change
20 has accelerated, and you heard Mr. Eklund describe
21 how, beginning really in 2001, the entire
22 manufacturing, design, production of their one-to-
23 eight-ton-capacity forklift truck has been completely
24 revamped. So the technological changes that you cite
25 in the first sunset review have simply accelerated.

1 Now, the frame is really a much smaller, less central
2 part of the production process and design process than
3 it ever was before.

4 So the short answer is there is a reason for
5 change. One of the reasons why we think it's
6 important to reflect that in the like product
7 definition is that if you simply just look at the
8 questionnaire responses that you've gotten, and you
9 compare the data, when you look at domestic frame
10 production versus nondomestic frame production, you
11 can see how skewed your understanding of the industry
12 and investment in the U.S. would be if you only went
13 with the data based on frame production. You end up
14 having what I would regard as an absurd result where
15 you've got --

16 CHAIRMAN KOPLAN: I appreciate all of this,
17 but my point is that if it hadn't shifted outside the
18 country, would I be looking at the same new definition
19 that you're proposing now, and I don't follow why you
20 would feel the need to do that if it hadn't moved
21 outside the U.S.

22 MR. ROSENTHAL: I guess then you would only
23 have one set of data to look at, and because the --

24 CHAIRMAN KOPLAN: But it would all still be
25 wrapped together into one product.

1 MR. ROSENTHAL: That's correct, but because
2 it did move out of the country, you get a skewed look
3 at the data, and it totally distorts what I would
4 regard as the economic realities on the ground.

5 MR. EKLUND: If I could add --

6 CHAIRMAN KOPLAN: Sure.

7 MR. EKLUND: -- one point in terms of change
8 and what has changed. If you look at the product
9 years ago, the frame was a very integral part of the
10 overall design, and the focus of the product was the
11 frame. Today, the frame is really a skeleton to hang
12 the components on. Where, years ago, the frame was
13 used to isolate the operator and to lend ergonomics to
14 the machine, today you isolate the drive train from
15 the operator, and so the design of the frame doesn't
16 have the same level of import as it did years ago, and
17 the frame, in itself, is much simpler.

18 CHAIRMAN KOPLAN: I appreciate all of that,
19 but it's still an integral part of the design, not
20 carrying as much weight, so to speak, but it's still
21 one product that includes a frame.

22 MR. ROSENTHAL: All true, but it is no
23 longer the defining part of the truck as it was 17
24 years ago. That's the difference.

25 Look, we argued for this way back when, and

1 the main reason we wanted to do this was we wanted to
2 make sure that people understood, first of all, that
3 the frame was central at the time, and we didn't want
4 to have an ability for others to circumvent the order,
5 put up minimal assembly operations here, and do very
6 little in the way of manufacturing. What's happened
7 is that the frame is no longer that big a deal when it
8 comes to investment, centrality of the definition of
9 the truck, and, indeed, if it were, that would still
10 be done in the U.S. That is now a small part of the
11 overall investment, a small part of the labor
12 involved; and, therefore, it's distortive to have that
13 little phrase there concerning the frame.

14 CHAIRMAN KOPLAN: So when you say a small
15 part of the labor involved, was one of the
16 considerations the fact that hourly wages are
17 different in Mexico than in the U.S.?

18 MR. ROSENTHAL: Interestingly enough, the
19 answer is no, and I'll let the industry folks tell you
20 exactly what went into that calculation.

21 CHAIRMAN KOPLAN: Before I turn to them,
22 just so that I follow up the start that I had with
23 you, for purposes of your post-hearing, if you could
24 revisit this issue both ways. In other words, assume,
25 for argument's sake, that the like product definition

1 does not change. How does that change your argument?
2 I understand your argument, having made the assumption
3 that we will revisit it, but for argument's sake, just
4 assume that and show me why the results should be the
5 same.

6 MR. ROSENTHAL: We'll do that. If I could
7 allow one of the industry witnesses to respond on the
8 Mexico frame issue, --

9 CHAIRMAN KOPLAN: Sure.

10 MR. ROSENTHAL: -- that would be important.

11 MR. DAWE: This is Greg Dawe. Allow me to
12 respond to that. There are several factors at play
13 that evolved into this new strategy, I call it, with
14 frame manufacturing. It goes back to what Mr. Eklund
15 said.

16 We have dramatically changed the design of
17 our frame. It used to be we had a basic frame and a
18 module that were hooked together and formed the basic
19 chassis of the truck, and this was done for the reason
20 of dampening vibration, protecting the operator, and
21 so on. And through a lot of the research and
22 development work that we've done, we have been able
23 change that and eliminate basically what I call the
24 "upper module" portion of the frame and really have
25 done work on our driveline that stabilizes that

1 operator more.

2 So we have significantly changed the concept
3 of our frame design. As we've done that, we've
4 recognized the ability, again, through our
5 core/noncore competency and group technology, to be
6 able to take our frames and manufacture those in one
7 location rather than in multiple locations that
8 allowed us to significantly reduce the investment
9 required to do that going forward, the amount of
10 space --

11 CHAIRMAN KOPLAN: Let me just ask you a
12 quick question because I see my light is about to go
13 on. Have the Japanese kept pace with the changes you
14 have made in frame production? Are you way ahead of
15 them, or were they ahead of you, and did you catch up?

16 MR. DAWE: I would say a combination of
17 both. It depends on the type of product and so on. I
18 think that, honestly, today, we're slightly ahead of
19 them in terms of our capability.

20 CHAIRMAN KOPLAN: I'm talking about frames.

21 MR. DAWE: Yes.

22 CHAIRMAN KOPLAN: You're slightly ahead of
23 them.

24 MR. DAWE: Yes, I think so, in terms of our
25 technology and approach.

1 CHAIRMAN KOPLAN: Did you make this shift
2 because you were trying to catch up or move ahead of
3 them? I mean, have they been doing the same thing?

4 MR. DAWE: In some models, they have been;
5 in other models, they haven't. The approach we've
6 taken is we are transitioning all of our models to a
7 more common approach that allows us to rationalize,
8 then, not only the IC frames, one to eight ton, but
9 also do that with our electric frame production,
10 which, again, we produce today in Mexico.

11 CHAIRMAN KOPLAN: Was the facility in Mexico
12 constructed before or after our first sunset review?

13 MR. DAWE: Help me with the first sunset --
14 it was before.

15 CHAIRMAN KOPLAN: So it was in existence
16 when we voted the first time.

17 MR. DAWE: Yes. We first started production
18 on that in 1999, late 1999.

19 CHAIRMAN KOPLAN: You started production in
20 '99.

21 MR. DAWE: Initial.

22 CHAIRMAN KOPLAN: That was at the time of
23 our first sunset review.

24 MR. ROSENTHAL: I know your red light is on,
25 but I want to quickly get to answer your question, if

1 possible, on why Mexico -- do you want to come back to
2 that?

3 CHAIRMAN KOPLAN: I think I'll pursue it in
4 the next round because my red light is on.

5 MR. ROSENTHAL: Okay.

6 CHAIRMAN KOPLAN: I'll turn to Vice Chairman
7 Okun.

8 VICE CHAIRMAN OKUN: Thank you, Mr.
9 Chairman, and let me join my colleagues in welcoming
10 the panel here today. I price your willingness to
11 testify and the answers that you're giving us this
12 morning.

13 Let me, I guess, stay with the like product
14 question. I guess I'm one of the old pharaohs, Mr.
15 Rosenthal. I'm not quite sure how to interpret that
16 since I did vote in the first review, but not the
17 oldest pharaohs in the original review, and I had a
18 chance to go back and look at that, as I always do
19 before we conduct these sunsets, to think about the
20 question about domestic like product and whether we
21 should change it because it does strike me, in reading
22 this phrase that the original Commission put in about
23 the frame being the focus on the domestic production,
24 but it doesn't look like many cases we do anymore and
25 that, in fact, Commissioner Brunsdale's views on value

1 added became kind of where the Commission went in most
2 of these things.

3 But it did appear that they struggled with
4 the nature of a global production, which the
5 Commission often does, and as we're going through the
6 briefings for this case, we think about DRAMs and E-
7 PRONs and other things where you have components
8 manufactured in many places and then a lot of R&D
9 going on in the United States and assembly operations
10 and what does it mean to be a domestic producer.

11 So I think it's a question that I, at least,
12 will consider, keeping in mind, however, that we have
13 the opportunity to consider because we're conducting a
14 full review, not because this question was raised on
15 whether we should conduct a full review or not, and
16 that this issue was raised after the Commission itself
17 decided. Perhaps we had ESP and knew that there were
18 changes that were not pointed out to us before the
19 adequacy vote, so I'm looking at it.

20 I've looked at your brief and the testimony,
21 and I'm just trying to struggle with what it means.
22 So I wonder, for post-hearing, Mr. Rosenthal, you can
23 take a look at some of the other cases where we have
24 taken more of a value-added approach and tell me how
25 this is more or less like those. You talked about a

1 couple of cases, but I think there are a number of
2 where we have looked at that.

3 But the other thing that I think the
4 original Commission did not have and that we would
5 struggle with here is let's say we accept the
6 definition that takes out the frame component, and
7 we're looking at -- tell me exactly, in terms of if
8 you take it out, should we go back and look at this
9 more as what is domestic production? In other words,
10 should we be looking at the normal six factors, just
11 say it's a forklift truck as the scope defines it, and
12 we would then turn to the domestic production question
13 and look at source and extent of the firm's capital
14 investment, technical expertise, value added,
15 employment levels, quality and types of parts sourced
16 in the U.S., and any other costs and activities in the
17 United States directly leading to production of like
18 product?

19 Is that the type of analysis you would see
20 us doing if we were to change the like product
21 definition?

22 MR. ROSENTHAL: In short, the answer is yes,
23 and let me just explain that and go back a little bit.
24 You're absolutely right that Commissioner Brunsdale
25 and others, during the time of the original

1 investigation, struggled with this issue. There had
2 only been a couple of cases like E-PRONs prior to this
3 case coming about, and there was a difficult
4 conversation, if you will, about whether value added
5 really was the way to go or whether you, the
6 Commission, we should alight on a particular part of
7 the product that was the defining characteristic.

8 Now, in this case, we decided that that was
9 the best way to go because this assembled product was
10 easy to screw driver together, and we wanted to make
11 sure that if the Japanese were going to come to the
12 U.S., they made a significant investment. At that
13 time, to make a significant investment meant really
14 investing in frame manufacturing. That's changed, as
15 you've heard, and I think that the better part of
16 valor and the better part of wisdom is to say, since
17 that is no longer the case, go back to what I regard
18 as a more traditional analysis, although not an easy
19 one in any given case.

20 That all said, I think, in this case, what
21 you'll find is virtually all certainly NACCO and
22 virtually all of the transplants, I think, would be
23 considered to be, in terms of value added, legitimate
24 U.S. producers, not necessarily when you look at
25 things like research and development and other indicia

1 that you look at, but certainly most of them have
2 enough value added.

3 Some of them have that value added really to
4 avoid an anticircumvention investigation that we
5 started back in the late eighties after this came
6 about, and what they did was they acquired, and this
7 partially answers some of the questions by
8 Commissioner Aranoff -- what they did was they
9 required the low-technology, noncritical components
10 here in the U.S., like tires, counterweights, things
11 that were easy to get, engines that are kind of
12 worldwide, things that were easy to get that really
13 did not take a lot of commitment to manufacturing here
14 -- all that said, I don't think the outcome will be
15 any different if you take out the frame part of the
16 definition. I don't think you're going to conclude
17 that NACCO is not a domestic producer if you decide to
18 leave the frame definition in, and that goes a little
19 bit to Commissioner Koplan's question, and we'll
20 answer more fully. I think, either way, you're going
21 to say NACCO is a domestic producer, and you'll say
22 that some of the other Japanese transplants are, and
23 then you'll have to go through your other analysis.

24 VICE CHAIRMAN OKUN: Okay. Well, then,
25 obviously, we'll see that in your post-hearing brief,

1 the analysis on the factors on domestic production,
2 and then, as I thought it would be, you would then be
3 focusing on whether to exclude any of the transplants,
4 whether appropriate circumstances exist to exclude
5 them.

6 I wanted to ask you one thing because I've
7 heard a couple of the industry witnesses talk about
8 it, which is, in this case, the transplants' parents
9 are in Japan. Do you think the statute or legislative
10 history has asked the Commission to look to whether
11 that matters for whether someone is considered a
12 domestic producer? Does it matter?

13 MR. ROSENTHAL: I don't believe it does. I
14 think what matters is the locus of your research and
15 development activities, where your overhead exists. I
16 think the point of the parent issue was just that some
17 of the companies came here and had minimal
18 investments, the smallest amount of investment you can
19 get and still get out from underneath the dumping
20 order and avoid a circumvention finding.

21 So by having the parents in Japan, by having
22 research and development in Japan, and having a lot of
23 your costs in Japan, what we're getting at is there is
24 a sense that it's easier, more efficient, better for
25 some of these companies to go back and repatriate

1 their production to Japan. If they had legitimate
2 manufacturing here, it doesn't matter where their
3 parents are located.

4 VICE CHAIRMAN OKUN: Okay. Then just in
5 terms of the appropriateness of excluding, Mr. Wilson,
6 you've talked about kind of this first tier and second
7 tier, and I think that's kind of the basis of what I
8 hear, that you agree that the different Japanese
9 transplants will have different incentives if the
10 order were lifted.

11 In terms of that with regard to whether it's
12 appropriate to exclude them, do you think that is an
13 appropriate focus of whether to exclude them, what
14 their incentives will be post-order?

15 MR. WILSON: No. I don't think the original
16 approach you took in the original sunset review ought
17 to be the same one here.

18 VICE CHAIRMAN OKUN: You don't want my
19 approach, I assume. (Laughter.) You're trying to
20 convince the new pharaohs that they should follow some
21 of my other colleagues as opposed to mine.

22 MR. WILSON: I meant you generally, the
23 Commission, not you personally, Commissioner.

24 VICE CHAIRMAN OKUN: Okay. Just so we're
25 clear on that.

1 MR. WILSON: By the way, I guess I should be
2 grateful that we had an opportunity to talk about like
3 product here because we have a full review, but I
4 would have been just as happy to have the expedited
5 review and not get into this detail.

6 VICE CHAIRMAN OKUN: Then we wouldn't know
7 about all of the changes in the industry that you've
8 talked about. We'll have a much better record.

9 Let me, then, turn to how the market works
10 because one of the other interesting things, I
11 thought, in reading the report was with regard to
12 pricing and how you sell your product. I wanted to
13 explore that a little bit more, and I don't know --
14 whoever would like to handle it from the industry,
15 which is what I saw in there is this is an industry
16 where you have a lot of dealer relationships, and that
17 is primarily where you're selling, and I thought one
18 of the interesting things that were in there was that
19 these guys just don't change suppliers very much.

20 My yellow light is on, but can you talk a
21 little bit about that in terms of if the order were
22 lifted, would you see any change among that, or the
23 ones who are going to rationalize their industry --
24 Kamatsu is going to come in and take orders from
25 Toyota because those dealers are going to see an

1 advantage to going to Toyota or NACCO?

2 MR. WILSON: Colin Wilson. Different
3 manufacturers have different philosophies with respect
4 to distribution, and dealers, some dealers prefer to
5 represent a single line of products, and some dealers
6 prefer to represent multiple lines of products.
7 Dealers use the lift truck as just part of a selling
8 proposition. They are trying to meet the needs of
9 customers for materials handling, so what they need is
10 a good, reliable lift truck supplier who can work with
11 them in terms of helping them to provide benefit-of-
12 value solution for the end customer.

13 One of the things we pride ourselves on is
14 very, very strong relationships with our dealers. Our
15 dealers, in the main, are very happy to be exclusive
16 dealers representing only Hyster or only Yale, and we
17 work with them and invest more in our dealers than, we
18 believe, than all of our competition. We have
19 actually had some dealers come to us that used to
20 represent Japanese brands, and they all say how much
21 more they get from us in terms of support, to work
22 with them in terms of providing them with the tools in
23 order to be able to be more successful in the
24 marketplace, and also working with them in terms of
25 putting solutions together for our customers.

1 If the product was to be repatriated to the
2 United States, I think it would change the nature of
3 distribution somewhat, but all of the dealers would
4 still want to represent manufacturers. I think one of
5 the key differences is that we wouldn't have the
6 ability, because of our changed economics, to be able
7 to support our dealers in the way we currently support
8 them. So I think there may be some shifting of dealer
9 alliances.

10 VICE CHAIRMAN OKUN: Okay. My red light has
11 come on, but I have some additional questions, and
12 I'll -- those in my next round. Thank you, Mr.
13 Chairman.

14 CHAIRMAN KOPLAN: Thank you.
15 Commissioner Hillman?

16 COMMISSIONER HILLMAN: Thank you, and I,
17 too, would join my colleagues in welcoming you and
18 thanking you for taking the time to be with us this
19 morning.

20 Mr. Rosenthal, perhaps if I can follow up a
21 little bit on a couple of the vice chairman's
22 questions just to make sure I've got exactly what your
23 position is on some of these domestic industry and
24 related party issues.

25 First, do you question the fact that each of

1 the Japanese-owned facilities here in the United
2 States has sufficient production-related activities to
3 qualify as a domestic producer?

4 MR. ROSENTHAL: I do not question that.

5 COMMISSIONER HILLMAN: All right. Then, in
6 evaluating the related parties, would you suggest that
7 there is a basis to treat, whether it's just Toyota or
8 whether it's what you describe as the top tier versus
9 the second tier of Japanese producers, differently
10 than the others based on factors such as their level
11 of investment in U.S. facilities or their financial
12 performance?

13 MR. ROSENTHAL: I believe they should all be
14 treated the same. They all have incentive, if the
15 order is revoked, to begin importing all or part of
16 their product line from Japan.

17 COMMISSIONER HILLMAN: Well, let me just
18 make sure I understand that because, again, in the
19 first review, some of us took out the Japanese
20 producers on this theory that they would not, in
21 essence, import in competition with their own
22 production here in the U.S. But as you look at the
23 levels of production by the Japanese transplants and
24 their current market share, there is a part of me that
25 wonders whether, in fact, what would happen is their

1 imports may not compete with their own U.S.
2 production, but it would most likely compete with
3 other Japanese transplant production within the United
4 States. Would you agree with that, and if so, should
5 that change the way in which we look at this related
6 parties issue?

7 MR. ROSENTHAL: Let me state what I think I
8 heard you say. Let me put it another way. What will
9 happen is that the lesser-tier companies -- Nissan,
10 TCM, et cetera -- will, I think, in the first year,
11 begin to import all of their lines from Japan,
12 starting the first year. They won't be competing
13 against their own production in the U.S. because they
14 won't have any production in the U.S. in very short
15 order.

16 The other companies, Mitsubishi and Toyota,
17 will have some of their lines continue in the U.S.,
18 and they will have other lines that were being
19 produced in the U.S. or assembled in the U.S. go back
20 to Japan. They will bring in those lines. They won't
21 be competing against their domestic production of
22 those lines because they won't be producing those
23 lines in the U.S., but they will be competing against
24 the other domestic production of NACCO and the imports
25 from TCM and Nissan and Kamatsu. Does that help at

1 all?

2 COMMISSIONER HILLMAN: Your response,
3 though, suggests to me that you think Toyota and
4 Mitsubishi will move the same trucks back to Japan so
5 that they will be producing a certain cadre, if you
6 will, of trucks here in the U.S. and a different cadre
7 in Japan, so that both of them are making the same
8 decision in terms of what would be produced in the
9 U.S. and what would be produced in Japan because,
10 otherwise, presumably, the Mitsubishi exports out of
11 Japan would, in fact, be competing with Toyota's
12 production here as well as NACCO. So help me
13 understand why they would make the same decision as to
14 which trucks would be made in the U.S. versus which
15 would be made in Japan.

16 MR. WILSON: This is Colin Wilson. I don't
17 think Mitsubishi and Toyota would have a choice. This
18 is a very price-competitive market. We measure
19 differences in prices in tenths of a percent. Tenths
20 of a percent have significant impacts on
21 profitability. If we were to lose one percent of
22 price across our product range on everything we sold,
23 it would cost us \$10 million, and if you've seen the
24 financials of NACCO Materials Handling Group, that
25 would have a material impact on our profitability.

1 If Nissan, TCM, and Kamatsu were to
2 repatriate their pneumatic-tired trucks, which are the
3 global products, back to Japan and then start
4 importing those trucks duty free in the United States
5 at low prices, Toyota and Mitsubishi, who have similar
6 cost structures here in the United States, similar
7 margin structures, would be uncompetitive with the
8 U.S.-produced product. So in order to remain
9 competitive in this market, they would have to move
10 their pneumatic-tired products back to Japan.

11 They are significantly invested in this
12 country, and I believe they will maintain investment
13 in this country, but I think it will change. What
14 they use that investment for or the scale of that
15 investment, I think, will be reviewed. But I have no
16 doubt whatsoever that should the order be revoked, the
17 first wave would be the lesser Japanese moving back to
18 Japan. The second wave will be the top tier because
19 they won't have any option but to do that in order to
20 compete in this market.

21 COMMISSIONER HILLMAN: Okay. I hear what
22 you're saying. I hear it. You're saying it is
23 largely, if you will, that the cadre of what's going
24 to move is going to be the pneumatic, higher-weight-
25 carrying trucks.

1 MR. ROSENTHAL: No, higher volume, which is
2 the lower-capacity trucks.

3 COMMISSIONER HILLMAN: I'm sorry. Okay.

4 MR. WILSON: The truck that is sold the most
5 worldwide is the 5,000-pound, pneumatic-tired, IC
6 engine truck, and that is a global truck.

7 COMMISSIONER HILLMAN: That's what you're
8 saying. It's the pneumatic, that kind of truck that
9 you think is --

10 MR. WILSON: Yes. It will be that and a
11 smaller brother or sister of the 3,000-pound product.
12 Those are the top two global products.

13 Mr. Rosenthal asked me what percentage they
14 account for. I can't say specifically, but I would
15 say on the order of 25 to 30 percent of global demand
16 is that product, at least, and those products would be
17 repatriated back to Japan to use the underutilized
18 capacity there.

19 COMMISSIONER HILLMAN: Okay. Part of what
20 I'm also trying to understand, in terms of this issue
21 of why I should necessarily think that everybody is
22 going to just pick up and move back to Japan -- you
23 touched on the fact that they are still producing the
24 higher-value-added components within Japan. Again, we
25 have a lot of the data in our record that tells us

1 where everybody is sourcing their frames, their masts,
2 their hydraulics, their engines, transmissions, drive
3 and steering axles, and other components, so we have
4 that data.

5 I have to say, it's not clear to me that it
6 is as monolithic as you're describing it or as clear
7 to me that Japan is where a number of these companies
8 are, in fact, sourcing the majority of those three, --
9 the hydraulics, the transmissions, and the drive and
10 steering axles -- which is what I heard you saying is
11 the value-added component and that we should look to
12 this as a suggestion for the fact that they would, in
13 fact, move to Japan, as if they are still getting
14 those value-added components from Japan.

15 Well, that's true for some. It's certainly
16 not true for all of them so --

17 MR. WILSON: I think you hit the nail on the
18 head. It's true for some but not for all. Not all
19 Japanese are equal as far as what they do here in the
20 United States. Nissan imports virtually everything
21 out of Japan. They are on record as saying that.
22 When you get to people like Toyota, they are more
23 invested. They source some products from Japan or
24 some components and manufacture some here.

25 Mr. Eklund went through how many people that

1 we have in North America in manufacturing. On
2 Toyota's Web site, they talk about how many people
3 they have invested, people they employ in
4 manufacturing, and it's a fraction of what we have
5 because they import a lot of the components that go
6 into their truck. They have 680 people associated
7 with manufacturing, compared to our over 2,000 people.
8 So, again, not all Japanese are equal.

9 So I think, to repeat myself, Mitsubishi and
10 Toyota, to a greater extent, do more manufacturing
11 here in the U.S.; the lesser Japanese, less
12 manufacturing, but it will be a domino effect. Once
13 the lesser Japanese move back to Japan, the top two-
14 tier manufacturers won't have a choice but to follow,
15 if they want to remain competitive in this market.

16 COMMISSIONER HILLMAN: One of the things
17 that was touched on that I'm trying to put into
18 context, which is the issue of what I guess I had not
19 really picked up on, is the inverted tariff, the
20 notion that the finished truck comes in at a zero
21 percent duty, and the components come in -- you can
22 help me -- at what tariff rate generally? If anybody
23 can help me understand why, in this product sector, do
24 we have an inverted tariff.

25 MR. TAYLOR: Jon Taylor speaking. The rates

1 that we see, they vary, most of them, around 5 percent
2 up towards 10 percent, and some zero components as
3 well. If you look at the Nissan application, I think
4 Nissan alone said that the duties they pay would be in
5 the six to \$800,000 range, if I'm recalling correctly.
6 So that's an indication of how important it is to
7 them. We believe Toyota and the other manufacturers
8 would be many times that.

9 COMMISSIONER HILLMAN: And do we know why
10 there was an inverted tariff on this product?

11 MR. ROSENTHAL: I can't say that I know all
12 that negotiating history.

13 COMMISSIONER HILLMAN: Is that a significant
14 factor in the decisions of where you or others source
15 components as opposed to finish your assembly?

16 MR. TAYLOR: I would say it is significant,
17 as evidenced by Nissan's application. Toyota made a
18 similar application quite a few years ago. They,
19 obviously, had placed importance upon it. It's a
20 fairly significant cost to us as well.

21 COMMISSIONER HILLMAN: Was it a factor in
22 deciding where you put your frame assembly operations
23 because presumably, under the NAFTA, those come in
24 duty free, I would assume.

25 MR. DAWE: This is Greg Dawe. The answer to

1 that is no. Our decision on the frames spun off of,
2 again, our ability to rationalize the design,
3 eliminate the upper module, and using the group-
4 technology approach, put all of those fabrications
5 together in one facility. We did not, at the time,
6 have sufficient floor space in either Berea or
7 Greenville to put all of those fabrications together,
8 and the primary drivers of going to Mexico was the
9 cost of land, cost of building construction, the cost
10 of raw materials.

11 The impact of labor on our decision was
12 very, very small simply because we are employing all-
13 robotics technology and CNC machining in Mexico
14 because of quality improvement and because of
15 throughput improvement. So the overall cost of our
16 frame, from a direct labor point of view, is
17 relatively not significant. Those were the other
18 drivers that caused us to look at Mexico, since we
19 knew we needed to create a new operation to handle all
20 of these fabrications together.

21 COMMISSIONER HILLMAN: All right. I
22 appreciate that response. Thank you.

23 MR. TAYLOR: I think I should just add --
24 I'm sorry -- Jon Taylor here -- that I believe duties
25 on frames are zero, so in terms of that issue, it

1 wouldn't be a factor.

2 COMMISSIONER HILLMAN: I appreciate that
3 addition. Thank you.

4 CHAIRMAN KOPLAN: Thank you.

5 Commissioner Lane?

6 COMMISSIONER LANE: Good morning. Mr.
7 Rosenthal, I can't pass up this opportunity. I'm
8 going to say that I knew Joseph, and I don't think
9 you're Joseph.

10 (Laughter.)

11 COMMISSIONER LANE: And I'm glad we brought
12 the Bible into this because, as the last questioner,
13 if I run out of questions to ask about this record,
14 maybe I'll turn to the Bible. Would that be okay?

15 MR. ROSENTHAL: That's all right, as long as
16 you can't filibuster.

17 COMMISSIONER LANE: I won't. I don't
18 believe in filibustering.

19 COMMISSIONER LANE: I would like to
20 straighten out some testimony that, I think, Mr.
21 Eklund or Mr. Dawe gave about your number of employees
22 who work on ICI forklift trucks. I believe Mr. Eklund
23 indicated that you had 3,000 employees, and Mr. Dawe
24 testified that you had 483 employees in Alabama alone.
25 The staff report, at Table C-3, which is BPI,

1 indicates a number of production and production-
2 related employees that do not cover all of the 3,000
3 employees. Could you tell me how many ICI forklift
4 production and production-related employees you have
5 at each of your forklift facilities? And also, if
6 that does not account for all of your NACCO employees,
7 please tell me what lines of business or job
8 categories the other employees are engaged in.

9 MR. EKLUND: My testimony indicated that we
10 have 3,000 employees in the United States, and that is
11 all-encompassing. That includes the headquarters
12 group, the production facilities, the marketing staff,
13 and also our parts distribution center employees as
14 well. As far as the breakdown of production employees
15 by location, I'm going to have to ask Mr. Dawe if he
16 has that data.

17 COMMISSIONER LANE: Okay. Mr. Dawe?

18 MR. DAWE: Yes. In terms of the Berea
19 operation, of the 600 direct labor people, and by
20 that, I define those as people that are physically
21 assembling and building the components and trucks each
22 day, all of those people today are related to the one-
23 to-eight-ton IC program, and of the total site
24 employment at Berea of about 1,100 people, all of
25 those people are also associated with the support of

1 the one-to-eight-ton IC, and those additional people
2 above the 600 are people that are in our current
3 design engineering area. They are the management team
4 in Berea. They are quality engineers, materials
5 management, logistics people. But all of those people
6 on site in Berea, the 1,066 people, are all associated
7 with the one-to-eight-ton ICE.

8 When we look at the Sulligent, Alabama,
9 operation, Sulligent, as I said, makes the
10 transmissions, drive axles, and so on, all of that
11 business is associated with the one-to-eight-ton ICE
12 program. However, Sulligent also makes drive units
13 for electric products. The hydraulic lift cylinders
14 that they manufacture in Sulligent go on both IC and
15 electric product.

16 So I can give you a rough estimate that if
17 we were just to isolate the people in Sulligent, then
18 I would say about 60 to 70 percent of the total
19 employment in Sulligent is related to the one-to-
20 eight-ton, ICE type of product line, but that's kind
21 of difficult because the people who are running
22 hydraulic cylinders, they don't know whether they are
23 going into an IC product or an electric at the end of
24 the day. But just in terms of rough volume
25 throughput, I would estimate 60 to 70 percent of

1 Sulligent is associated with one-to-eight-ton IC
2 support.

3 In the case of Ramos Arizpe in Mexico, the
4 answer is probably closer to 40 or 50 percent of the
5 Ramos Arizpe, Mexico, operation is related to the one-
6 to-eight-ton ICE program, with the rest of their
7 products, very similar products -- frames,
8 fabrications -- going to the electric truck side of
9 our business.

10 MR. WILSON: Colin Wilson. If I can add to
11 what Mr. Dawe said, if you're looking at total head
12 count in the United States associated with ICI
13 products, we also have around 400 people in marketing,
14 selling and marketing both the ICI and the electric,
15 and I would say it was at least 50 percent dedicated
16 to the ICI product. And then also at our parts
17 distribution depot where we are supporting the
18 products in the Americas market, both ICI and
19 electric, again, more than 50 percent of a head count
20 there could be, on a pro forma basis, dedicated to
21 ICI, and I would say a total head count of 250 people,
22 so more than 125.

23 So when you add it all up together, and you
24 add the people in the Portland office in Oregon, which
25 basically are all dedicated to the ICI product line,

1 of the 3,000 or so people, I would say around two-
2 thirds, in total, would be supporting the ICI product.

3 COMMISSIONER LANE: Okay. So are you saying
4 that you have more U.S. ICI workers than reflected on
5 Table C-3 of the staff report?

6 MS. STALEY: Commissioner, if I could just
7 answer that question, the number of production-related
8 workers in the staff report is very narrowly defined
9 and pretty much would just be those workers in Berea
10 that Mr. Dawe referred to, the 600 actual production-
11 related workers, and then a portion of the workers in
12 Berea and Sulligent.

13 So in the questionnaire response, it's very
14 narrowly defined, and it doesn't include the engineers
15 and the other management type of people that support
16 those workers. That's why there seems to be this
17 difference, but it's all the same numbers; it's just
18 how you count the people and what box you put them in.

19 COMMISSIONER LANE: Okay. Thank you, Ms.
20 Staley.

21 Mr. Eklund, you indicated that NACCO had
22 assets of \$350 million. What is your asset level
23 dedicated to manufacture of ICI forklift trucks?

24 MR. TAYLOR: That's from page 26 of our
25 submission. It is specifically the ICI truck assets.

1 It excludes the assets that we believe are associated
2 with the electric and warehouse trucks.

3 COMMISSIONER LANE: Okay. Thank you.

4 Mr. Rosenthal, do you believe that NACCO is
5 vulnerable to material injury, and if you believe that
6 NACCO is vulnerable please tell me what factors in the
7 records support a finding of current vulnerability for
8 NACCO?

9 MR. ROSENTHAL: Yes. I do believe NACCO is
10 vulnerable. The factors in the record that point to
11 that are several.

12 One, continuing price competition in the
13 U.S.; continuing underselling; a large unused capacity
14 in Japan by the Japanese companies; continuation of
15 dumping not only as found by the Commerce Department,
16 but as evidenced by Mr. Taylor's testimony about sales
17 in Asia and Latin America; the statement referred to
18 by Mr. Eklund that Toyota's forklift chairman has
19 decided to achieve a third of the world market in
20 forklift trucks and that's up by about eight
21 percentage points if he achieves his goal.

22 Well, the United States' market is one of
23 the most attractive markets for that. Those are
24 several of the factors that lead me to conclude that
25 the NACCO is vulnerable.

1 COMMISSIONER LANE: My follow-up question is
2 if we look at all of the producers in the United
3 States and do not exclude them as related parties do
4 you believe that the same conditions of vulnerability
5 exist for them?

6 MR. ROSENTHAL: Actually, in a highly
7 competitive market anyone who maintains a U.S.
8 manufacturing base is going to be vulnerable. They're
9 going to all have different degrees because some of
10 them will move back to Japan and abandon the U.S.
11 production. They won't care about their
12 vulnerability.

13 Anyone with a U.S. cost base is going to be
14 vulnerable to dumped imports from Japan if this order
15 is revoked. I would add one other factor I didn't
16 mention before and that's the relatively low
17 profitability of the industry. I think that everyone
18 is suffering from that.

19 COMMISSIONER LANE: Thank you.

20 Mr. Chairman, my time is up.

21 COMMISSIONER KOPLAN: Thank you,
22 Commissioner.

23 Commissioner Pearson?

24 COMMISSIONER PEARSON: Mr. Dawe, you made
25 reference to something that I think was referred to as

1 kanban techniques and I had seen this term in the
2 staff report and didn't understand it then either, so
3 perhaps you could explain to me what kanban is all
4 about?

5 MR. DAWE: Kanban is a process by which you
6 have signals that will signal if a station is getting
7 close to running out of a certain component. There's
8 a signal that will go back to either a central store
9 area or what we call a rip area which is a production
10 process that draws automatically basically material
11 from that to keep your line replenished.

12 We also work on kanban with our supplier
13 base that we will send them signals and oftentimes we
14 either get daily deliveries of components or
15 components could be delivered once a week on a kanban
16 signal and so on. It's a pole manufacturing system.

17 MR. WILSON: If I could add to that. I
18 mean, in the old days in order to build a lift truck
19 you had a list of parts, and you went to the
20 storeroom, and you put the parts together, and took
21 them to the line and assembled the product. The way
22 we manufacture products today is totally different.

23 It's a pole system as Mr. Dawe said.
24 Basically what happens, you forecast demand and then
25 you have the parts available for whatever product

1 comes down a line. All the kanban, it's a two bin
2 system so that when the first bin is empty the signal
3 goes to the storeroom to replenish that bin and the
4 second bin comes down.

5 Then you use that second bin and by the time
6 you've used the second bin the first bin is
7 replenished. That is kanban.

8 COMMISSIONER PEARSON: When was that
9 procedure adopted by NACCO?

10 MR. DAWE: It was adopted over the last
11 three to four years at different levels within
12 different plants. Not all commodities or components
13 are on kanban due to either their size or the nature
14 of the replenishment supply chain, but I would say
15 especially with the one day ton introduction we're
16 using that technology or process much more
17 effectively.

18 COMMISSIONER PEARSON: A lot of what you've
19 discussed this morning regarding your manufacturing
20 techniques makes me think that labor productivity in
21 NACCO for the manufacture of these forklifts must be
22 increasing quite a bit. Has that been what you've
23 seen?

24 MR. DAWE: We are getting better and better
25 in terms of our performance, and integrating some of

1 the software systems with our hardware systems, and
2 people and improving our performance. The answer is
3 yes, and that's what we must do to remain competitive
4 in this business.

5 COMMISSIONER PEARSON: That's what I thought
6 which makes it hard for me to understand the
7 productivity data that we have in our summary tables.
8 Of course this would be a question more directed to
9 Mr. Hudgens I suppose, but you could look in all the C
10 tables and you see productivity in a down trend.

11 This is labor productivity measured as units
12 produced per thousand hours. This of course is not
13 just for NACCO, but for the entire industry. That
14 trend runs counter to what we have seen in other
15 investigations regarding manufacturing in the United
16 States.

17 Do you have any explanation for what might
18 be going on? I mean, are we measuring it poorly or is
19 there something endemic to this industry that's
20 leading to worse labor productivity over time?

21 MR. TAYLOR: John Taylor here, and I'll let
22 Greg answer part of it, but I think there's a couple
23 of circumstances you should look at in evaluating the
24 productivity or affectivity as we measure it.

25 Since we are going through a very

1 significant product introduction stage there is a
2 natural decline in affectivity as you phase out one
3 product and phase in another product and that will
4 temporarily suppress the affectivity we achieve in the
5 plants.

6 We have very high expectations for the new
7 product and as it matures and the entire product line
8 comes out over the next 18 months we expect to see
9 that improvement begin to flow through our financials
10 and our results and we're positive about that.

11 The second piece I think you should keep in
12 mind is because the period that we're looking at we
13 experienced a very significant downturn in the market.
14 The industry fell 30/40 percent in 2001/2002 and
15 stayed down quite low for an extended period of time.
16 As you go through that sort of downturn you can't
17 respond as quickly to changes in demand to changes in
18 your workforce.

19 So, again, that will temporarily suppress
20 our productivity over that period.

21 COMMISSIONER PEARSON: Thank you for that
22 point. Frankly the decline in the economy early in
23 this decade is reflected. I mean, we see that
24 reflected in the productivity numbers. They start
25 relatively high, they fall off as the economy falls

1 off and then they never really come back. That's
2 where the surprise is.

3 MR. TAYLOR: In our circumstances it's
4 because it coincided with the introduction of the new
5 products. When we started to come out of that deep
6 decline it was the same period when we were doing the
7 changeover in new products, so we have not yet
8 recovered that productivity that we lost during the
9 downturn.

10 Again, over the next 18 months we expect to
11 see that sort of recovery.

12 COMMISSIONER PEARSON: Would the same
13 phenomenon apply to other manufacturers in the United
14 States? I mean, the need to update the products to do
15 the switch from one model line to another? Are they
16 all wrestling with that?

17 MR. TAYLOR: I think every producer replaces
18 their products over a certain cycle. The unique thing
19 that we have done that I don't think any other
20 competitor has done is we decided to replace the
21 entire line from the one to eight ton, eight different
22 models in essentially a very short time period, all at
23 once.

24 For that reason it's more extended with us
25 than I believe you would find. They presumably aren't

1 introducing eight models over a two year period, they
2 may have one model in that same time period. So you
3 would see I would expect less of an impact for them.

4 MR. WILSON: This is Colin Wilson. I mean,
5 the other thing one of major competitors here in the
6 United States is Toyota. What Toyota do, they develop
7 their product in Japan and then have that product in
8 production in Japan for a period of time before they
9 introduce it into the United States, so by the time
10 they've introduced it basically, you know, it's all
11 figured out.

12 I mean, all the investment has been made,
13 all the testing, all the production processes and
14 they're simply transplanted here into the United
15 States. So Series 7 I think was out in Japan for --
16 I'll ask Mr. Eklund -- 12/18 months before we saw it
17 come into the Americas.

18 COMMISSIONER PEARSON: That would explain a
19 possibility of higher labor productivity in the United
20 States for Toyota relative to other manufacturers, but
21 that doesn't necessarily help us understand the trend
22 that we seem to be seeing in the data for the industry
23 as a whole.

24 MR. HUDGENS: Brad Hudgens. We'll do a
25 company-by-company analysis in posthearing brief, but

1 also when you aggregate the data you're also going to
2 have to take into consideration the different levels
3 of production. Each producer does not -- since some
4 producers are more assembly operations their
5 productivity rates are going to be higher than others,
6 so in the aggregate it can skew the entire trends.

7 We'll do a company-by-company analysis in
8 the posthearing brief.

9 COMMISSIONER PEARSON: Thanks. I appreciate
10 the answers because whenever I see something in the
11 data that really are running counter-intuitive I think
12 something must be going on here. Either that or I
13 really don't understand it. That also happens.

14 MR. WILSON: This is Colin Wilson just with
15 a follow on point. One thing to remember is the labor
16 cost is the minor part of the cost of the truck. By
17 far and away the biggest component in terms of total
18 cost is purchase content. You know, the material that
19 goes into the product.

20 Now, we do manufacture more of our truck
21 than our competitors, but I believe purchase content
22 is around about 70 percent of the total cost of the
23 lift truck.

24 MR. EKLUND: And labor is only about seven.

25 COMMISSIONER PEARSON: Direct labor --

1 MR. EKLUND: Direct labor. Right.

2 COMMISSIONER PEARSON: -- employed by NACCO.
3 But there would be some labor built into the value of
4 the purchased content, the --

5 MR. EKLUND: Absolutely. Absolutely.

6 COMMISSIONER PEARSON: I'm curious about the
7 Japanese market for forklift trucks and since NACCO is
8 involved in that market in the joint venture you
9 probably know something. Are forklift prices higher
10 in Japan than in the United States?

11 MR. EKLUND: We have pretty good insight
12 into the Japanese market prices with our 50/50 joint
13 venture and I think Mr. Taylor indicated some examples
14 of the Japanese pricing. It's hard without doing a
15 comprehensive study to be precise, but today the U.S.
16 market prices are just a bit higher than the Japanese
17 domestic prices.

18 Certainly the pricing in the export markets
19 is lower and the European pricing is roughly
20 comparable to U.S. pricing. I mean, it's a little
21 difficult with currency, again, to get a precise
22 evaluation, but I think that will give you a general
23 benchmark of where they stand.

24 I mean, Japan and the U.S. I guess from an
25 export market perspective would have premium pricing.

1 COMMISSIONER PEARSON: Okay. Thank you.

2 Mr. Chairman, my light's changed.

3 CHAIRMAN KOPLAN: Thank you, Commissioner.

4 Commissioner Aranoff?

5 COMMISSIONER ARANOFF: Thank you. I want to

6 go back for one moment to the issue that I was
7 discussing in the first round of questions about the
8 issue of the varying incentives of some of the
9 Japanese producers to repatriate their production.

10 One of the issues that you raise in your
11 brief was to state that subject imports have a
12 transportation cost advantage over domestic producers
13 which seem to be based on the assumption that they
14 ship to customers who take delivery at U.S. ports on
15 the theory that ocean freight is less expensive than
16 inland freight.

17 I wanted to explore that a little further.
18 How often do customers actually take delivery in ports
19 as opposed to at inland locations, and I guess my
20 basic question is is there really a cost advantage
21 here if you're shipping from a port to a customer
22 somewhere in the middle of the country versus from
23 your Kentucky plant to a customer?

24 MR. EKLUND: Well, I can say that it's
25 highly unusual for a customer to take delivery of

1 equipment at a port unless he for some reason happens
2 to be located at that port. As far as the balance
3 between the cost of inland freight I should think it
4 would have rough equivalency for everyone.

5 I can't see how there would be inland
6 freight advantages. I can't quite follow the logic to
7 be frank.

8 COMMISSIONER ARANOFF: Mr. Rosenthal, maybe
9 you want to go back in your posthearing brief and take
10 a look at what the brief says about transportation
11 costs in light of what Mr. Eklund has said and maybe
12 rephrase the argument.

13 MR. WILSON: This is Colin Wilson. A lot of
14 it depends upon where the customer is. I mean, if
15 you're looking at transporting a 5,000 pound efficient
16 type truck from our Berea facility out to the west
17 coast the per unit transportation cost I believe is
18 around \$1,500 or \$1,600 per unit, but if you're
19 bringing a container in from Japan for the same
20 product onto the west coast total cost for the
21 container which may have five lift trucks in it is
22 maybe \$3,000 or \$4,000.

23 So on a per unit basis, you know, to that
24 particular location it can be cheaper to import from
25 Japan than it can be to take it from the manufacturing

1 facilities which are predominantly on the east coast.
2 Toyota are in Indiana, TCM are in South Carolina,
3 Komatsu in Georgia, we're in Berea, Kentucky.

4 So there would not be enough advantage if it
5 was to a dealer in say Kentucky or to a dealer in
6 South Carolina, but it would certainly be an advantage
7 importing directly from Japan if it was to be to the
8 west coast.

9 MR. ROSENTHAL: That's what I was going to
10 say in our posthearing brief.

11 COMMISSIONER ARANOFF: Terrific. Thank you
12 very much. Let me go to a different question, and
13 this one having to do with the production capacity of
14 the Japanese producers. You suggest in your brief
15 that the Commission use some 1991 production data as
16 proxy for capacity of the Japanese producers. Now,
17 that's 14 years ago.

18 My question to you is why should the
19 Commission accept production figures from so long ago,
20 the good proxy for capacity, and are you aware of any
21 other investigation in which we've taken that
22 approach?

23 MR. ROSENTHAL: The main reason why we used
24 that data was that was the peak of the market. It
25 shows what the Japanese producers could do at the peak

1 and there haven't been any closures or any downsizing
2 of the Japanese companies' operations since then.

3 Indeed as Mr. Wilson indicated before in
4 some respects that capacity is probably understated
5 because if they actually had the business or wanted to
6 with a little bit of small investment they could
7 unblock some of the areas in their production process
8 that are somewhat sticky and increase their capacity
9 quite a bit, so that is why we used that number.

10 It is the best information available. As to
11 the question of have you gone back and looked at
12 information of this sort, the answer is this is a
13 unique circumstance. You're not getting the
14 information from the Japanese producers.

15 Either they haven't replied, or they replied
16 in such a way as to provide you with useless
17 information and so you're looking for the best
18 information available. The JIVA statistics are the
19 best information that we've been able to get.

20 COMMISSIONER ARANOFF: Okay. Appreciate
21 that. One more question on capacity.

22 In trying to get a sense of sort of the
23 meaningfulness of any unused capacity in Japan
24 depending on how we decide to measure it is this the
25 kind of industry where it's important to the

1 profitability of the business to produce as many units
2 as possible in order to deal with fixed costs or is
3 this the kind of industry where the fixed costs of the
4 equipment are small relative to the cost of all the
5 inputs so that it perhaps doesn't make as much of a
6 difference?

7 MR. EKLUND: This is Reg Eklund. No. This
8 is the type of industry where covering fixed costs is
9 incredibly important, so important that when you're
10 doing analysis as far as the marketplace and deals you
11 have a very good sense of your fix in variable cost
12 structure and there are companies that are looking at
13 variable cost plus on incremental volume.

14 That's exactly what the Japanese will be
15 doing. The fixed cost overhang that they have is very
16 significant. So if you can go variable cost plus five
17 percent it certainly much better than not taking the
18 deal where you have no coverage at all of fixed costs.

19 As Mr. Wilson indicated earlier, you know,
20 some of the Japanese competitors, they're not going to
21 have a choice as far as what the economic drivers are
22 because it's going to be clearly evident when they go
23 through the calculations.

24 Realistically as the prices drop we're going
25 to have to look at some type of a restructuring

1 ourselves because we won't be able to carry any
2 incremental fixed costs as well, so we have to make it
3 go away. There are no choices. So you're just spot
4 on as far as the type of industry that it is.

5 COMMISSIONER ARANOFF: Thanks very much.
6 One issue concerning pricing. You indicated at page
7 33 in your brief that prices increased after the entry
8 into force of the anti-dumping duty order, but that
9 prices fell after these so-called transplant
10 operations were established.

11 Are you essentially saying that prices are
12 about the same today as they were prior to the entry
13 of the order, and if so doesn't that suggest that
14 revocation of the order wouldn't be likely to have an
15 adverse affect on prices?

16 MR. ROSENTHAL: No. I'll start with that
17 and then I'll explain why. What happened after the
18 order went into place immediately prices did increase
19 because the Japanese could not shift from Japan, and
20 pay the duties and be price competitive. After they
21 began to move their assembly operations to the U.S.
22 they could then supply the market with their product
23 and resume pricing at competitive levels with NACCO.

24 What you had is essentially rough
25 equilibrium at relatively competitive and low levels

1 for a long time. You've seen the data on pricing,
2 you've certainly seen the data on profitability. You
3 can see that nobody, and this is public knowledge, is
4 doing particularly well in this market given the
5 nature of the competition.

6 The reason why NACCO is here today is that
7 things are going to get worse if you revoke this order
8 because the order has been a tremendous restraint on
9 the Japanese pricing behavior.

10 If they are no longer restrained by this
11 order they will resume shipping from Japan and you can
12 believe that all of them will go back or just a few,
13 but all you need is a few, especially the lesser ones,
14 and they will introduce the lower prices into the U.S.
15 market and as Mr. Wilson indicated the other companies
16 will be forced to follow.

17 By the way as you just heard from Mr. Eklund
18 it's not just going to be Toyota and it's not going to
19 be just Mitsubishi, it's going to be NACCO and the
20 question is whether NACCO competes and can compete
21 given its existing cost structure from the United
22 States or whether they have to then employ their
23 resources in their 50/50 joint venture in Japan to
24 compete with the lower priced product coming in from
25 Japan.

1 So this order has been incredibly effective.
2 There have been some over the years I can say, you
3 know, the jury is out, maybe not so effective. This
4 has been incredibly effective in changing the Japanese
5 behavior. If this order goes away the prices are
6 going to go to hell in a handbasket and every domestic
7 producer no matter how defined is going to be forced
8 to follow that price spiral downward.

9 COMMISSIONER ARANOFF: Thank you. I
10 appreciate that answer, and I see that my time is up.

11 CHAIRMAN KOPLAN: Thank you, Commissioner.

12 Mr. Rosenthal, on page 29 of your brief you
13 claim "as clearly indicated in Nissan's FTZ
14 application its operations in the United States are by
15 no means so firmly established that they would
16 preclude the repatriation of production operations to
17 Japan."

18 You include as Exhibit 1 the full
19 application submitted on April 7, 2005; however, I
20 reached a different conclusion when I reviewed Exhibit
21 1. First the application was actually submitted by
22 the Greater Rockford Airport Authority, the grantee
23 for the foreign trade zone.

24 Second by letter dated February 17, 2005,
25 Franz Olson, deputy director of operations and

1 facilities for them, on behalf of the Airport
2 Authority stated the reason for the filing. "The
3 enclosed application is submitted as part of our
4 efforts to promote economic development within the
5 northern Illinois region."

6 "Subzone status will help Nissan forklift to
7 lower its costs of manufacturing and distribution of
8 its products. The enhanced competitiveness created by
9 cost savings will translate into economic
10 opportunities for the Nissan forklift facilities, its
11 domestic customers and for the U.S. economy."

12 My question to you is whether the Foreign
13 Trade Zone Board has acted upon the Airport
14 Authority's application.

15 MR. ROSENTHAL: To my knowledge the Foreign
16 Trade Zone Board has not. That's number one. I
17 probably could respond to the rest of your question or
18 the --

19 CHAIRMAN KOPLAN: Do you know when they are
20 expected to act?

21 MR. ROSENTHAL: There is no deadline for
22 them to act as far as I know. There's no statutory
23 timeframe.

24 CHAIRMAN KOPLAN: Okay.

25 MR. ROSENTHAL: But Chairman Koplan, it is

1 customary for the subzone or the zone authority to
2 make this application. That's nothing unusual. Of
3 course these applications are filed really on behalf
4 of the manufacturer in that subzone, and no one is
5 going to do it unless they thought that they would
6 enhance the subzone activity.

7 What's interesting about that, and this is
8 why I don't think you should reach a different
9 conclusion than the one I've offered you, is that the
10 alternative that is stated in those papers is if why
11 they need the subzone is to stay competitive. If they
12 don't get the subzone -- I didn't make this up, I
13 didn't write this -- they're contemplating moving more
14 of their production offshore.

15 They admit they've moved some, they threaten
16 if you will or they imply that they will have to move
17 more unless they can achieve these duty savings. They
18 need these to be competitive. That is what that says
19 to me. I don't see how you read it any other way.

20 MS. STALEY: Commissioner Koplan, if I can
21 add to that, the dumping duties are much higher than
22 the duties that they believe that they would save if
23 they were granted the subzone status and so the
24 implication is that if they could save the entire
25 dumping duty which is much higher than the Customs

1 duties that are in this application then they would
2 certainly in terms of cost savings want to repatriate
3 that product back to Japan since the dumping duties
4 are so much higher than the regular Customs duties
5 that they are trying to save on a few isolated
6 products.

7 The dumping duty applies on the entire truck
8 and the Customs duty savings apply on a few certain
9 components that they're using to produce the truck in
10 Japan.

11 CHAIRMAN KOPLAN: I thank you both for your
12 answer.

13 Mr. Hudgens, Mr. Wilson testified I believe
14 that Nissan imports virtually everything it uses to
15 assemble its ICI forklift trucks here, but when I look
16 at the proprietary information in the tables
17 particularly Table E6 on page E8 of our prehearing
18 report and Table 3-13 on page 3-29 of the report I
19 come out with a different result.

20 For the posthearing could you look at that
21 for me and respond or reconcile that?

22 MR. HUDGENS: I will. I would also like to
23 note that there are some discrepancies in the
24 questionnaires.

25 The question on componentry content is asked

1 in several different types of questions in the
2 questionnaire and some companies they have noted that
3 they source it completely from the U.S., but in
4 another question regarding the same type of
5 componentry they note that they've imported that from
6 Japan, so we'll note those discrepancies as well.

7 CHAIRMAN KOPLAN: Thank you. I would
8 appreciate that.

9 Mr. Eklund, on page 33 of NACCO's brief it's
10 acknowledged that "imports of ICI forklift trucks from
11 Japan have virtually ceased since imposition of the
12 order." It stated that "following the imposition of
13 the order prices for domestic forklift trucks
14 temporarily increased due to the highly competitive
15 nature of the U.S. market including the establishment
16 of the transplant operations."

17 "These price increases were not sustained.
18 Currently therefore while domestic demand for
19 forklifts is strong prices have remained stable at low
20 levels." It appears to me that you're claiming the
21 price competition caused to a significant extent by
22 the transplants is resulting in price depression
23 shouldered by NACCO. Am I correct?

24 MR. EKLUND: Absolutely.

25 CHAIRMAN KOPLAN: Okay. If that's so I need

1 to resolve how much of a net difference there will be
2 if the order is revoked and Komatsu, Nissan and TCM
3 cease production here as you argue and move their
4 operations back to Japan as your brief predicts.

5 Similarly I pose the same question assuming
6 for argument's sake that Toyota and Mitsubishi would
7 partially repatriate product lines to Japan as your
8 brief also predicts. I'm trying to figure out what
9 the net difference would be if they're already having
10 this kind of an affect here now with their domestic
11 production.

12 MR. EKLUND: Well, if -- you know, I can't
13 offer up a number. If they're unrestrained I'm very
14 secure, but their pricing is going to be modified.
15 Exactly how much I'm unsure.

16 CHAIRMAN KOPLAN: But they are having a
17 significant affect on you now in terms of what appears
18 to be as you've acknowledged price depression and
19 that's the transplants are having that affect.

20 MR. EKLUND: That's correct.

21 MR. ROSENTHAL: Commissioner Koplan, if I
22 could just add to this, this is a highly competitive
23 market. The advantage that the order has quite apart
24 from the avoidance of future price decreases if it's
25 revoked is that everyone who is here in the U.S. has a

1 similar cost structure.

2 They've got to pay OSHA, they've got to pay
3 for labor and environment, and raw materials here in
4 this environment and so prices have stabilized at low
5 levels. There is competition, but at least they are
6 competing against one another with a similar cost
7 structure.

8 The troublesome part is what happens if they
9 no longer have to do that. So things are not great
10 now -- and this goes to the question also that
11 Commissioner Lane asked about vulnerability -- things
12 are not great now, the fear is how much worse are they
13 going to get?

14 Now, Mr. Eklund couldn't put a number on it,
15 but there is absolute certainty that the prices will
16 go down as the transplants shift operations to Japan.

17 CHAIRMAN KOPLAN: I appreciate that. Let me
18 come back to something I just asked a moment ago. I
19 want to follow-up and go back to your opening remarks.
20 You made reference to the fact that Nissan Forklift
21 Corporation of North America has indicated that "if it
22 cannot mitigate competitive disadvantages at its U.S.
23 operations it may have to move the manufacturing of
24 another forklift model overseas."

25 "This may result in a shift of an additional

1 15 percent of production overseas." I think that's
2 actually on page 2 of your brief. Your implication is
3 that this will take such production to Japan; however,
4 the Rockford Airport Authority's FTC application goes
5 on to say if the designation is a subzone NFC's cost
6 of production will decrease.

7 This in turn will allow NFC to reconsider
8 moving additional manufacturing overseas and increase
9 the possibility of moving the Mexico pneumatic line
10 from Mexico back to the U.S. That's in the executive
11 summary. So when Nissan is referring to manufacturing
12 overseas it doesn't appear that they're referring to
13 Japan, but instead rationalizing production worldwide
14 the same way NACCO has with its frame production.

15 MR. ROSENTHAL: As I said in response to the
16 question by Commissioner Aranoff the submission there
17 mentioned Spain and mentioned Mexico. I don't think
18 they'd be stupid enough to suggest that they'd go back
19 to Japan because if they did that then the Foreign
20 Trade Zone Board would turn them down flat.

21 So I would -- the essential point there is
22 not where they will go, it is that they will go
23 someplace else.

24 CHAIRMAN KOPLAN: Could that someplace else
25 be Mexico just as you said?

1 MR. ROSENTHAL: Someplace else could be
2 Mexico --

3 CHAIRMAN KOPLAN: Okay.

4 MR. ROSENTHAL: -- it could be Spain, but
5 I'm telling you the likelihood is given the
6 information that we have and what you have on the
7 record where they have excess capacity and where they
8 would like to rationalize the production is Japan.

9 Your decision today or when you make it is
10 you're going to be betting whether or not the
11 predictions of the industry folks sitting before you
12 are correct or whether the Japanese who have not
13 appeared before you and expressed their intentions and
14 put their determinations under oath are the ones to
15 rely on.

16 I don't see -- if I might continue and now
17 that we have a full investigation I'd like to get on
18 record. The Japanese are not here saying that if this
19 order is revoked we are going to maintain production
20 in the United States and that we will not move our
21 lines back to Japan.

22 If you had that testimony under oath then
23 we'd have a really interesting decision about whether
24 you have a record to justify revocation of the order.

25 I submit and I go back to the Matsushita

1 decision report because you do not have that and you
2 have this other testimony and all this record on the
3 other side that you do not have the basis to revoke
4 even if Nissan says in the foreign trade zone
5 application we may go to Mexico or Spain. Thank you.

6 CHAIRMAN KOPLAN: I appreciate your
7 response.

8 Vice Chairman Okun?

9 VICE CHAIRMAN OKUN: Thank you, Mr.
10 Chairman.

11 Just of the FTZ application, interesting
12 discussion.

13 Mr. Taylor, you had mentioned that Toyota
14 had applied for one earlier. Is that correct?

15 MR. TAYLOR: Yes.

16 VICE CHAIRMAN OKUN: Do you know what
17 happened on that and what that was for? Just curious.

18 MR. TAYLOR: I believe it was revoked, and
19 it was in the early 1990s and it was for their
20 forklift truck plant. I'm not sure what location.

21 MR. ROSENTHAL: I'll clarify. Toyota
22 applied, it was rejected and NACCO opposed that at the
23 time because it did not want Toyota to be able to
24 lower its cost of manufacturing in the U.S. by getting
25 to pay zero duties on its imported parts when none of

1 the other domestic manufacturers such as NACCO would
2 enjoy that advantage.

3 VICE CHAIRMAN OKUN: Was it for specific
4 components?

5 MR. ROSENTHAL: It was for location as
6 opposed to components. It was for their facility in
7 Illinois I believe. Indiana. Sorry.

8 VICE CHAIRMAN OKUN: Okay. As we look at
9 the global nature of, again, going through the *E*
10 appendix on where the different companies are sourcing
11 their material for it I just want to go back in terms
12 of how this relates to the like product argument just
13 with this one aspect which is if the value added is
14 not in the components, whether it's not the frame
15 anymore or it's not an engine that's being brought in
16 from someplace else and something else being brought
17 in from China or Canada, do you think the Commission
18 is on solid ground just saying that an assembly
19 operation is the right thing to look at for this
20 industry?

21 MR. ROSENTHAL: The way you put the question
22 actually is very interesting because I think as I
23 recall our conversation now or the discussion we have
24 to be careful about how we define the term *value*
25 *added*.

1 When the Commission has traditionally looked
2 at value added approaches or if you look at something
3 like CBI and look at 35 percent as the threshold that
4 number or that approach has simply said where is the
5 labor being done, where are the parts being purchased
6 and they look at the total value as opposed to when we
7 talked originally about the frame as the defining
8 object, the defining characteristic of the forklift
9 and now it's the transmissions or other parts where
10 most of the intellectual and investment value gets
11 placed.

12 I think that the traditional approach is you
13 just add up where everything is purchased, if it's a
14 certain amount. That's normally the way the
15 Commission has done it as opposed to looking at value
16 from a critical component perspective.

17 I would argue that the approach that you
18 normally take is sensible here, but you need to be
19 mindful that where a transmission is produced and the
20 value created there is not the same qualitatively as
21 where you buy a tire, or a counterweight, or even an
22 engine because those are in essence commodities that
23 aren't necessarily all that difficult to produce for a
24 forklift truck.

25 I'm not sure if I'm being helpful there, but

1 I want to make sure we're talking about the same thing
2 when we talk about value being added.

3 VICE CHAIRMAN OKUN: I appreciate those
4 further comments on that. Page I-30 of the prehearing
5 report discusses NACCO USA's relationship with
6 Sumitomo-NACCO Materials Handling Company, a producer
7 and exporter of forklift trucks in Japan.

8 I don't know Mr. Eklund or who would be able
9 to talk about that, but just help me understand in
10 terms of what that company how it operates, where it
11 serves and what types of forklift trucks it produces
12 in its plant there.

13 MR. EKLUND: Yeah. This is Reg Eklund.
14 NACCO has a 50/50 joint venture with Sumitomo.
15 Sumitomo, it's a company that's been in place for
16 quite a number of years, over 30 years. Their role
17 primarily is the domestic Japanese market and then to
18 supply products for the Asian market from an export
19 perspective and also they serve with selected products
20 Latin America.

21 The company has been in place for some
22 period of time enjoying some success. As far as the
23 domestic market is concerned I stated earlier that the
24 price structure there is reasonably attractive. The
25 export markets where we're competing against exports

1 coming out of Japan by the other competitors is a bit
2 different story.

3 It offers us an opportunity for incremental
4 capacity as there is incremental capacity in that
5 plant that has an overhang from the boom days of Japan
6 just as the other Japanese manufacturers have. It
7 would be one of the elements that we would have to
8 consider relative to the result of this hearing.

9 VICE CHAIRMAN OKUN: Would you have any
10 sense in comparing the Sumitomo-NACCO plant vis-a-vis
11 the other parents, the Toyota plant or others in
12 Japan, in terms of how they compete in the Japanese
13 market both in size and in export markets --

14 MR. EKLUND: Yeah. That's a good question.
15 As far as share in the domestic market certainly
16 Toyota is the most significant. They have more than
17 40 percent share of the domestic Japanese market.

18 Komatsu is number two, TCM focuses more on
19 the higher capacity machines and Sumitomo-NACCO and
20 Mitsubishi are pretty much equal as far as their
21 volumes in the domestic market at this point to give
22 you a sense of where they stand.

23 VICE CHAIRMAN OKUN: Appreciate. That was
24 helpful.

25 Then, Mr. Taylor, I wanted to go back on one

1 thing that I was curious about and I think you
2 answered, but I just want to make sure I understand it
3 which is to the extent that the Japanese transplants
4 in the U.S. produce nonsubject electric forklift
5 trucks and continue to do so despite not having an
6 order on them to produce them here I think you had
7 said in response to a question that it was because
8 they needed more customization I think.

9 I want to make sure I understand why the
10 Japanese parent company isn't just sending those over
11 here and letting them increase their capacity on the
12 ICI side in rationalization, why that's different, and
13 if you could comment just on that with regard to the
14 customization that goes on with the ICI side when you
15 talk about how mass you have here and those different
16 things, how it's different, because I wasn't sure I
17 understood that completely.

18 MR. TAYLOR: I think the main reason for
19 producing electric product in the U.S., I mean in all
20 three of the major global markets is the electric
21 product is significantly different in each of the
22 three markets whether it's the specifications, the
23 design, the type of electronics used in it.

24 Our U.S. electronic product line, we sell a
25 little bit of it in Europe, but it's a very tiny slice

1 of it. We have to have a significantly different
2 product line in Europe. Same thing goes for Japan.
3 The Japanese electric product cannot be sold in any of
4 the other major markets.

5 There are unique features whether it be the
6 electrical voltage or the size and design of the
7 products and the Japanese electric product is very
8 distinct from any of the other three markets, so they
9 don't have that global economy to the scale that they
10 can gain on the IC product. That is the main reason.

11 VICE CHAIRMAN OKUN: Okay. With regard to
12 the IC product in terms of anything like a mission,
13 standard issues or tires I think I saw mentioned in
14 the staff report, things that make the Japanese market
15 different, I mean, to pick up and take a product
16 that's being produced in Japan and send it here what
17 changes need to be made if any?

18 MR. TAYLOR: I think the primary difference
19 would be the engine emissions and we believe that
20 could be solved within a six to 12 month period. It's
21 not a significant barrier for them to change the
22 emissions that they have on the trucks produced in
23 Japan to bring to the United States. That would be
24 the main difference.

25 VICE CHAIRMAN OKUN: Is there information on

1 the record on why you believe that to be the case? I
2 may have missed something, but I don't know if it
3 relates to your joint venture or industry.

4 MR. DAWE: If you look at Toyota, Toyota
5 makes their own engines out of their automotive sector
6 so they will drive their development to take care of
7 that in very short order. They lift truck engines are
8 a hybrid off of an automotive engine, so they have the
9 ability to make that transformation very quickly.

10 Same thing, Nissan uses a lot of their own
11 engines from the automotive sector.

12 VICE CHAIRMAN OKUN: How about for the so-
13 called second tier producers, Komatsu?

14 MR. DAWE: Mitsubishi. I mean, they'll use
15 a lot of their own --

16 VICE CHAIRMAN OKUN: Is Komatsu, TCM?

17 MR. DAWE: Yeah. Komatsu and TCM may take a
18 little bit longer, but as Mr. Taylor said the
19 technology is readily available in Japan through their
20 major engine manufacturers which are almost all tied
21 in to a car manufacturing operation.

22 VICE CHAIRMAN OKUN: Appreciate those
23 further responses. My red light's come on. Thank
24 you.

25 MR. TAYLOR: I could just add -- I'm sorry

1 -- that we do know from our own internal experience as
2 we've gone through the different stages of emissions
3 requirements it's been an investment bias, but it
4 hasn't been a long time for us to get from one stage
5 of the emissions requirements to the next, and we are
6 able to do that in less than a year, so we assume that
7 the Japanese manufacturers would be able to do the
8 same.

9 CHAIRMAN KOPLAN: Thank you.

10 Commissioner Hillman?

11 COMMISSIONER HILLMAN: While we're on the
12 topic of emission standards just to make sure I
13 understand it the staff report indicates that emission
14 standards are becoming more stringent and that we're
15 going to go to these new CARB standards applying in
16 2007. How has that changed and how does it affect the
17 market in terms of both your production and others
18 production?

19 Is it much the same answer that you gave to
20 Vice Chairman Okun in terms of responding to these new
21 emission standards?

22 MR. EKLUND: Well, I mean, we all must meet
23 the standards, Japanese producers and NACCO, anyone
24 that sells in this market. It certainly is an
25 investment, it increases the cost of producing the

1 machine, but it's not a barrier that with the
2 appropriate level of investment that the industry
3 cannot meet.

4 COMMISSIONER HILLMAN: Okay. So it isn't
5 going to require a major change in engine technology?

6 MR. EKLUND: It's more -- well, the standard
7 in 2007 really takes the current standards where you
8 have to meet those requirements on a one time basis to
9 a level where the standard must be met on a steady
10 state, running the machine over time. So it's really
11 taking the current standard and increasing the
12 timeline if you will.

13 Our engineers and other engineers in the
14 industry have the capability of moving it to that
15 level.

16 COMMISSIONER HILLMAN: If I can go back to a
17 couple of the issues in terms of the issue of the
18 likelihood of going back to Japan.

19 Part of what I'm looking at in this record
20 is the fact that a number of the Japanese transplants
21 that are here also have operations in Europe and
22 elsewhere and yet that I can see on the record we have
23 not necessarily seen them bringing their production in
24 from Europe or elsewhere into the United States in
25 light of this, so I'm trying to understand if they

1 didn't go to Europe already in light of this order in
2 terms of bringing in product why would it be different
3 if this order were revoked?

4 Why would you go back to Japan? If you
5 haven't been deciding to fill the U.S. market either
6 from your production here in the U.S. or your
7 production in Europe why should I assume this
8 revocation of the order is going to be causing them to
9 do something in Japan that they're not already doing
10 in Europe?

11 I mean, we heard testimony earlier that at
12 least with respect to Spain there were some unique
13 machines there. Not heard that with respect to other
14 operations elsewhere.

15 MR. TAYLOR: Well, I think one answer that
16 we would find is that Europe is not a low cost
17 production area either. The cost of labor and other
18 requirements within the European market are as high or
19 higher than they are within the United States, so
20 there's not the cost savings that they would find by
21 moving it back.

22 The other I think answer is that they're not
23 able to globally consolidate within Europe. They've
24 gone to Europe because of certain circumstances.

25 There are duty barriers in Europe that

1 require them to produce within Europe, there's also
2 some products as we've discussed in warehouse and
3 electric that are unique so they produce there, but
4 when it comes to if they had the opportunity to gain
5 the global economies of scale the low cost of
6 production, the place where they have the largest
7 facilities that they would want to fill up would be
8 Japan.

9 That would be their obvious first choice.

10 COMMISSIONER HILLMAN: Well, that goes to
11 the question that I want make sure I understand and
12 whether we have data on the record that supports this
13 because this entire argument is premised on your
14 contention that Japan is in fact the low cost place to
15 produce forklift trucks for these companies.

16 Again, just looking at all the data, et
17 cetera, it's not readily apparent to me that if I was
18 just going to decide to build forklift trucks that I
19 would say Japan is the place I want to be because it
20 is inherently somehow this low cost place to produce
21 these products.

22 I've been hearing about where labor and
23 other things comes into it, but again, I'm trying to
24 sort of step back from this whole record and say okay,
25 why would I assume that in fact Japan is so much of a

1 low cost place to produce these products that it is
2 readily apparent that they're just going to all pick
3 up and move to Japan, this haven of low cost
4 production.

5 That's not to me what the data suggests or
6 when we think of Japan and industrial products it
7 doesn't leap off the page as the place you would say
8 is the low cost production area where you would want
9 to necessarily locate your business to produce this
10 kind of a product.

11 So help me understand how I put this whole
12 record together to come to this conclusion that Japan
13 is the low cost production center that they would want
14 to be in.

15 MR. ROSENTHAL: Mr. Eklund really wants to
16 answer this question, but I will say at the outset I
17 don't think there's any place in our submission or any
18 testimony heard today where we've said Japan is the
19 low cost place.

20 We've told you other things and why it would
21 be a sensible thing from an economic point of view for
22 the Japanese to go back there, but not because it is
23 necessarily the low cost place. Now I'll let Mr. --

24 COMMISSIONER HILLMAN: All right, but I have
25 heard lots of comments today. I mean, we just heard a

1 comment well, you wouldn't ship out of Europe because
2 they'd rather be in Japan, a low cost place. Again,
3 Mr. Taylor just said at least vis-a-vis Europe that
4 Japan is low cost.

5 I'm just trying to make sure I understand
6 why it is logical that you would move back to Japan.

7 MR. EKLUND: Yeah. If we were building a
8 new factory we certainly wouldn't put it in Japan.
9 Japan is not the lowest cost location in the world.
10 It happens to be however where the Japanese have this
11 overhang of unabsorbed fixed cost and so with that
12 what you do is you restructure to absorb that fixed
13 cost.

14 So they look at their economics. That's the
15 place they're going to go. As Mr. Taylor said they
16 will not go to Europe. The costs are higher there and
17 the Japanese manufacturing operations in Europe are
18 very specialized to tailor products for that
19 particular market. They're not global operations.

20 So the Japanese infrastructure doesn't
21 provide the lowest cost in the world. It's not so
22 bad. It's certainly better than Europe, probably a
23 little better than here, but the whole key to all this
24 is this overhang of fixed absorption that they have
25 and they're going to fill that up because the economic

1 leverage of that is very, very powerful.

2 COMMISSIONER HILLMAN: Again, we hear this
3 argument in a lot of cases and I certainly understand
4 it. It's steel. Once you get that blast furnace hot
5 you want to keep going, et cetera, et cetera. I mean,
6 you hear this and yet I will say the way you've
7 described this industry particularly this issue of the
8 change in the like product makes it sound as though
9 again the value added is in the assembly.

10 That is not to me consistent with an
11 argument that it's the availability of the fixed cost
12 assets that is the reason that's driving you back to
13 Japan.

14 If in fact you're sourcing your components
15 and your raw materials from all over the world and
16 you're simply assembling them which is what I'm
17 hearing is how this industry has evolved -- that's
18 what's happening, everybody is pulling in their
19 materials from all over, you're making your frames in
20 Mexico and sourcing your various pieces elsewhere --
21 and that what we should be focusing on is this issue
22 of the assembly of the product is now however you're
23 calling it the integral core of it.

24 It's not so clear to me that is consistent
25 with this notion of they've got all these high fixed

1 costs in Japan that they need to better utilize.

2 MR. ROSENTHAL: Just two things. First of
3 all to respond to your other question well, why don't
4 they get out of Europe if there's no dumping order
5 there and it's a high cost locale, the answer is
6 twofold. Number one as Mr. Eklund testified what they
7 have in Europe is very specialized for the European
8 market.

9 There are no advantages, no accommodations
10 for scales to put products in Japan and export from
11 Japan to Europe given the nature of those products and
12 the investment in Europe. Secondly Europe has its own
13 trade barriers. They've actually got a four and a
14 half percent tariff on complete forklift truck units
15 there.

16 We could go on into other ways to explain
17 why it's better to produce locally in Europe rather
18 than ship from Japan which differentiates it from the
19 United States. Secondly and I want to make sure that
20 it's clear, when we say that -- it's not that the
21 value added is in assembly.

22 What NACCO is doing here is shifting from
23 making the forklift truck frame the central defining
24 element. They've focused more of their attention on
25 these other components. Forklift frame manufacturing

1 is less important. The assembly operation as you saw
2 in Berea is very, very big and complex.

3 Well, the Japanese have big and complex
4 operations in Japan and as we indicated not so big and
5 complex operations in the U.S. They would rather use
6 those fixed overhead costs or employ those there in
7 Japan than having them here in the U.S. Again, you go
8 back to a company-by-company analysis.

9 The little three will go back and use their
10 facilities there more readily. Toyota and Mitsubishi
11 will not abandon their larger investments here
12 totally, they will abandon certain lines where it's
13 efficient for them to do that. That is the point.

14 COMMISSIONER HILLMAN: All right.
15 Appreciate those responses. Thank you.

16 CHAIRMAN KOPLAN: Thank you.

17 Commissioner Lane?

18 COMMISSIONER LANE: Mr. Taylor, I'd like to
19 start with you. In response to Commissioner Pearson
20 you indicated that downturns and outputs result in
21 lower productivity. Do you believe that within a
22 reasonable band of output labor costs remain
23 relatively fixed?

24 MR. TAYLOR: Well, over a short time period
25 I would say yes. There's direct labor which is really

1 directly variable with the number of trucks we produce
2 over a time period, so our labor costs on direct are
3 pretty much purely variable. They will change with
4 the number of trucks we produce. There will be some
5 time lag if there are very significant changes in
6 following the production.

7 If there's a 30/40 percent change in
8 production levels we cannot change the cost of our
9 labor as quickly as the volume can decline. So I
10 would say it is not fixed, but there is some step
11 variable functions as we go through a cycle.

12 COMMISSIONER LANE: Thank you.

13 Mr. Eklund, you were discussing your fixed
14 versus variable cost mix and the nature of this
15 industry. For NACCO what level of operating income
16 ratio to net sales is necessary to produce a
17 reasonable return on your investment?

18 MR. EKLUND: I'm not sure that I really
19 should respond --

20 COMMISSIONER LANE: Okay. Would you like to
21 do it in your posthearing brief?

22 MR. EKLUND: I think it's best.

23 COMMISSIONER LANE: Okay. Well, let me ask
24 you some more questions which you may want to respond
25 the same way. For NACCO what is your overall capital

1 structure and leverage? What portion of your assets
2 are funded by debt and what portion are funded by
3 equity?

4 MR. EKLUND: I think I can respond to that
5 because it's on the public record, but I'm going to
6 allow Mr. Taylor to do it because he has a much better
7 memory than I.

8 COMMISSIONER LANE: He just grimaced.

9 Mr. Taylor?

10 MR. TAYLOR: Yeah. It's available in our
11 10-K and 10-Qs that are publicly released and from
12 memory I believe our structure today, it changes
13 obviously every quarter, but it's around 40 percent
14 debt, 60 percent equity would be my estimate at this
15 time.

16 COMMISSIONER LANE: Finally, have you been
17 able to take advantage of debt markets over the last
18 three or four years to refinance high cost debt?

19 Mr. Taylor?

20 MR. EKLUND: Go ahead, John.

21 MR. TAYLOR: Okay. We refinanced in 2002.
22 We issued bonds at that time that are publicly-traded
23 bonds, \$250 million worth of bonds. We are
24 considering refinancing in the current environment and
25 we hope to be able to, but we have not been able to

1 take advantage of that in recent years given the
2 recent issuance of the bonds.

3 COMMISSIONER LANE: Thank you.

4 Mr. Rosenthal, I don't think this question
5 has been asked and if it has you are free to tell me.
6 In your initial response you did not point out that
7 NACCO had changed its frame production process
8 locations.

9 Why did you neglect to mention that in your
10 initial filings, but now make a substantial argument
11 that frame production should no longer be used as a
12 defining factor in determining domestic like product?

13 MR. ROSENTHAL: I'm not sure what you refer
14 to in our initial response, but I will say --

15 COMMISSIONER LANE: When we were trying to
16 determine whether or not to go expedited or full.

17 MR. ROSENTHAL: I don't believe that we were
18 asked that question, but the -- and in fact, what's --

19 COMMISSIONER LANE: Should we have asked are
20 you still making the frames in the United States or
21 have you gone elsewhere?

22 MR. ROSENTHAL: Well, the fact of the matter
23 is this has been a continuum of frame production. As
24 indicated by Mr. Dawe the first Mexican frame
25 production began in 1999 and there was still

1 substantial frame production in the U.S. In 2000 we
2 had the first sunset review and over time that number
3 has declined.

4 There is still frame production in the U.S.,
5 although now the vast majority of it is in Mexico, but
6 from our point of view if you define frame production
7 as the sine qua non of domestic production we are
8 still domestic producers and the issue of saying hold
9 on a second here we are now producing more frames in
10 Mexico than in the U.S. was not really presented to us
11 when -- we filled out the information as requested and
12 it was not an issue that presented itself if you will.

13 The U.S. is still where NACCO produces some
14 frames and it certainly is where the vast majority of
15 its investment lies. It was not the sort of thing
16 where as I said it left us to say by the way we now
17 have a frame production facility in Mexico. That's my
18 answer.

19 COMMISSIONER LANE: Thank you. Could you
20 tell me why when the issue of the frames were such a
21 big issue in the initial case when it came time to
22 look at your production activities why were frames
23 taken to Mexico rather than something else?

24 MR. ROSENTHAL: Mr. Dawe answered this
25 partially before and I think it was kind of hurriedly

1 in response to the tail end of a question, but let me
2 just elaborate for a minute.

3 When NACCO was looking at revitalizing and
4 redoing its entire product line it looked at frame
5 production versus the other elements of the forklift
6 truck production and it said we want to do all the
7 frames and instead of doing the frames in one place
8 along with the rest of the assembly it's going to be
9 more efficient if we put the frames in another locale
10 and we can do the electric and ICE frames in the same
11 spot.

12 It looked at the Berea facility where it was
13 doing most of the assembly for internal combustion
14 trucks and said we don't have enough room there. It's
15 a much better use of our resources to set up a new
16 Greenfield facility someplace else for frame
17 production, expand Berea so we can do more assembly
18 there and expand it to a half a million square feet as
19 you saw from that overhead and let's put it elsewhere.

20 Now, they looked around and they said we
21 don't have room in Berea, where else can we put it?
22 As Mr. Dawe then said was looking at the cost of land
23 in Mexico and looking at the other investments
24 required it made more sense to put it in Mexico than
25 someplace else in the U.S.

1 As long as it wasn't going to be integrated
2 anymore along with the assembly operation it didn't
3 matter where it went and that's essentially the
4 decision-making process that happened there. To build
5 the Greenfield facility was a lot less expensive
6 overall to do that in Mexico than it was elsewhere in
7 the U.S.

8 COMMISSIONER LANE: If the Commission should
9 not require U.S. frame production as a condition in
10 the determination of domestic like product what is
11 your position on any such U.S. production condition or
12 affirmative test for domestic like product? Should
13 any component part be manufactured in the United
14 States to qualify a forklift as a domestic product?

15 MR. ROSENTHAL: There is no central
16 component anymore or any component that we can figure
17 out that you should decide is the sine qua non of
18 forklift production. The frame used to be, but that's
19 changed. Look, we've produced a lot of transmissions
20 and other crucial components in the United States, but
21 no one of which really defines the truck the way the
22 frame used to.

23 So I would say there isn't any particular
24 product or component that you can use to define it.

25 COMMISSIONER LANE: Should there be any

1 specific level of assembly or value added in the
2 United States to qualify the product as U.S.
3 production?

4 MR. ROSENTHAL: The answer is yes, and to
5 follow-up I can't tell you what that number should be.
6 As you go back to the original investigation and
7 Commissioner Brunsdale's additional views there, and
8 even the Japanese respondents' proposals in that case
9 they had suggested a 35 percent level because that
10 happened to be the value added approach if you will
11 used in the case based on the issue of another
12 preferential duty program, but I don't think there's
13 anything magical about 35 percent.

14 I don't know what number to point you
15 towards. I will tell you that I think you ought to
16 look at something more than just value added perhaps.
17 You ought to look at some of the other factors that
18 you do look at in other cases such as where research
19 and development takes place and the other factors that
20 you're familiar with.

21 COMMISSIONER LANE: Thank you, Mr.
22 Rosenthal.

23 Mr. Chairman?

24 CHAIRMAN KOPLAN: Thank you.

25 Commissioner Pearson?

1 COMMISSIONER PEARSON: It's been a few years
2 since shortly after the NAFTA was completed, but at
3 one time I had looked at the issue of land costs in
4 Mexico for not Mexican firms acquiring it and my
5 recollection is that it was often difficult for
6 foreign firms to buy land in Mexico and that various
7 tenancy arrangements were negotiated that would allow
8 some leasing of the land.

9 Does NACCO own the land outright at Saltio?

10 MR. DAWE: The answer is yes, but we have
11 set up as a part of the process a Mexican entity that
12 is legally recognized in Mexico and that's really what
13 we have bought all the land and things through.
14 Similar to a Maquiladora, but a little different and
15 we work with the local officials on that, but that's
16 how we have pursued that.

17 COMMISSIONER PEARSON: Okay. Good. It may
18 have gotten easier than it was some years ago.
19 There's been a lot of discussion about Japan. What
20 I'm really curious about is to know is it more
21 profitable to manufacture forklifts in Japan than it
22 is the United States and Europe?

23 MR. EKLUND: Well, if -- it's more
24 profitable to manufacture the trucks sold in Japan in
25 Japan. When we look at profitability indeed we have

1 to look internally that lift trucks generate in each
2 one of our major markets Japan, Europe, the Americas,
3 they're roughly in balance, roughly in balance given
4 the price and the other structure that it takes to
5 support the businesses in those areas.

6 I mean, the big issue that we have is
7 currency and I don't think we can really throw that
8 into the mix at this point in time because it's so
9 variable, but I think there's -- you can't pick out
10 one theater and say this is the place to make lift
11 trucks --

12 COMMISSIONER PEARSON: Okay.

13 MR. EKLUND: -- I mean, because there's so
14 many variables.

15 COMMISSIONER PEARSON: But am I to infer
16 then from various comments that the manufacture of
17 lift trucks in Japan is sufficiently profitable that
18 the firms manufacturing there can fund substantial
19 dumping of products that they export from Japan
20 because that's part of my reading here is that somehow
21 that money to dump the stuff has to come from
22 somewhere and --

23 MR. EKLUND: I mean, that's the whole center
24 point. That's the whole center point. They have the
25 capacity, fixed asset structure and the profitability

1 to fuel the engine that drives the ability to dump or
2 to sell at below market prices to the other areas of
3 the world. So you've summarized it very nicely.

4 MR. ROSENTHAL: Commissioner Pearson, I just
5 want to add one thing. Going back to Mr. Eklund's
6 earlier statement because of the excess capacity and
7 the fixed cost there what is sensible to do from an
8 economic perspective for the Japanese is to sell at
9 just a little bit more than their variable cost and
10 that's what they're doing in places like Latin
11 America.

12 From an economic perspective it makes sense.
13 They're covering more of their fixed costs and it may
14 not make them wildly profitable, but it's a better use
15 of their facility than not making a sale at all.

16 COMMISSIONER PEARSON: Sure, and the
17 economics of that work pretty well if a large
18 percentage of their production in Japan is sold in
19 Japan.

20 The economics get really shaky if they are
21 exporting most of their production which I kind of
22 think is the case here, although I haven't gone back
23 and looked at it just now because then they're going
24 to have relatively few units on which to make this
25 profit to turn around and do the dumping.

1 Mr. Taylor, you had a comment?

2 MR. TAYLOR: Yeah. I think one point I want
3 to make about the Japanese market, it's quite unique
4 when you look globally. There's seven manufacturers
5 who have 100 percent of the Japanese domestic market,
6 none of which except for our joint venture -- if you
7 want to call it a foreign entity, it's really a
8 Japanese company, it's marketed in Japan as a Japanese
9 company -- are foreign competitors.

10 Therefore they have this entire market
11 wrapped up between those seven manufacturers. If you
12 look in the U.S. market, you look in Europe there are
13 10, 20, 30 different manufacturers offering their
14 product and therefore you would assume by that fact
15 that it is much more price competitive in a market in
16 which there are many more competitors who do not have
17 it totally wrapped up.

18 We have tried over the years to bring non-
19 Japanese produced product into Japan through our
20 Sumitomo-NACCO joint venture and --

21 COMMISSIONER PEARSON: That was my next
22 question actually.

23 MR. TAYLOR: -- it has been unsuccessful.
24 We thought we had the right price point, we thought we
25 had the right product, we thought we had the right

1 partners and customers to go to and we have not been
2 successful to do it.

3 So I think therefore we don't have absolute
4 evidence to show, but you could assume that the
5 pricing is much more orderly, there's much more
6 knowledge of where the different competitors are in
7 that marketplace.

8 To a further question you asked while the
9 percentage of domestic versus export has changed a
10 little bit it is still -- more than two-thirds of the
11 production is for domestic consumption and about a
12 third is for export of what the Japanese producers
13 sell from their Japanese production facilities.

14 COMMISSIONER PEARSON: Thank you for that
15 clarification.

16 MS. STALEY: Mr. Commissioner, let me just
17 add I think the point we've been trying to make is
18 that if you have unused capacity in Japan, but you
19 fill that capacity there, you're bound to be more
20 profitable in that operation, rather than running two
21 exact same operations that both have unused capacity.

22 So the point is, if you shift back and fill
23 that capacity in Japan, you're going to be more
24 profitable. The domestic demand won't cover all of
25 that total production. So what you're going to do is,

1 you're going to export that excess product at a very
2 low price to cover your fixed cost.

3 But you're always going to be more
4 profitable in that instance if you have fuller
5 capacity. That's what we believe that the Japanese
6 are going to do. They're going to move that, so that
7 they can fill up that capacity and, in the long run,
8 make themselves more profitable, but still sell off
9 that excess capacity at a low price.

10 COMMISSIONER PEARSON: Right, just to
11 clarify, Mr. Taylor, is there a substantial import
12 tariff for forklift trucks going into Japan that
13 helped to give them a protective market and make it
14 difficult for you to compete?

15 MR. TAYLOR: There is a tariff of somewhere
16 near 10 percent. I don't believe that's the primary
17 factor in the inability to sell there. I believe it's
18 more of a cultural, industrial situation that just
19 does not accept foreign produced products in that
20 market place.

21 COMMISSIONER PEARSON: Okay, are there any
22 other comments on this?

23 MR. EKLUND: I would just punctuate what Mr.
24 Taylor said. There have been barriers, many barriers,
25 at times, and indeed they've fluctuated. There's a

1 temporary barrier now, about 15 percent, I believe.

2 But that's really not the issue. The
3 barrier is cultural, and believe me, we have tried.
4 We have tried with big container handlers. We have
5 tried with specialized order pickers that we thought
6 were appropriate in the Japanese market. We have
7 tried with some specialty motorized pallet equipment,
8 and all of these efforts have been abandoned. That's
9 the best way to say it.

10 COMMISSIONER PEARSON: Thank you; there's
11 been some discussion of engines. Could you clarify
12 for me, does NACCO manufacture some or all of the
13 engines that go into its forklifts in the United
14 States?

15 MR. DAWE: This is Greg Dawe. No, we do not
16 manufacture engines. We buy engines from Cummins,
17 Yanmare, General Motors, Mazda. So we buy from them,
18 because that's a very core competency. It requires a
19 huge amount of research, development and investment,
20 and we do not do that. We buy all of our engines.

21 COMMISSIONER PEARSON: So some of those
22 engines would be imported and some would be
23 manufactured in the United States?

24 MR. DAWE: Yes, it all depends on where the
25 supplier produces a specific engine. We don't dictate

1 that.

2 COMMISSIONER PEARSON: The tightening
3 emission standards have been known by basically engine
4 manufacturers globally, and they've been working on
5 getting some version of their engine that will work
6 for you. Is that why the tightening standards haven't
7 been a big problem for the industry?

8 MR. DAWE: That is correct, yes.

9 COMMISSIONER PEARSON: I have no further
10 questions.

11 CHAIRMAN KOPLAN: Thank you, Commissioner.
12 Commissioner Aranoff?

13 COMMISSIONER ARANOFF: Thank you; I hope
14 you'll bear with me, with just a few more questions.
15 One of the issues that we've been exploring is this
16 idea that because the Japanese companies have so much
17 fixed investment in Japan, that's where it makes
18 sense.

19 Commissioner Hillman was raising the issue
20 that we all sort of raise our eyebrows and don't
21 associate Japan and low cost manufacturing platform
22 with each other. So just to follow up on that a
23 little bit more, how long are fixed costs fixed?

24 Supposing that some of this production were
25 to be repatriated to Japan, and they were able to more

1 fully utilize their capacity, and then they started
2 looking for the next way to save costs in a global
3 market. I mean, how long does it take before you've
4 amortized this kind of investment, and you start
5 looking for a low cost platform?

6 We know some parts. Production has moved to
7 China, and that's a pretty common thing with some
8 other low cost manufacturing locations. How long
9 before that starts to be in an issue in this industry?

10 MR. EKLUND: Well, dealing with fixed costs
11 is a very significant issue. But the fastest and
12 easiest way to deal with a fixed cost structure is to
13 close the plant. That way, you take care of the whole
14 matter all at one time. So that's why we're pretty
15 sure that the three lessor Japanese will close their
16 plants, because that's really the quickest and most
17 efficient way to ratchet down a fixed cost structure.

18 The others will modify their fixed cost
19 structure to make it applicable to this more focused
20 series level approach, so they can more, let's say,
21 effectively shape their fixed cost structure.

22 MR. EKLUND: I can't really put a timeline
23 on how long it would take to modify a fixed cost
24 structure and reshape it. There are some things that
25 you can do immediately. There's other parts of the

1 infrastructure of a manufacturing plant that you can't
2 do anything about. So it's somewhat varied.

3 MR. ROSENTHAL: Commissioner Aranoff, I just
4 want to add one or two things. What's interesting is
5 that NACCO, in order to make itself more efficient,
6 has closed its facilities in Danville, Illinois and
7 Lenore, North Carolina.

8 The Japanese, despite having large capacity
9 since 1991, continue to maintain that capacity.
10 They've not closed facilities. That's what is so
11 troublesome. They've got those fixed costs, and they
12 love to spread those costs over more units being
13 produced in Japan.

14 So going again to this low cost idea that
15 Commissioner Hillman mentioned and you've alluded to -
16 - again, we're not saying the Japanese are low cost.
17 But it's a lot more economically sensible for them to
18 allocate their fixed costs from the Japanese base,
19 because they clearly are not interested in closing
20 those facilities.

21 COMMISSIONER ARANOFF: Thanks, I appreciate
22 that answer. I guess one of the reasons I'm
23 struggling with this is because I'm trying to figure
24 out how these predictions relate to the reasonable
25 period of time, and how far we should be trying to

1 predict what might happen and what the incentives
2 might be. So anything that you can add on that in
3 your post-hearing would be helpful.

4 MR. TAYLOR: Could I add one point here that
5 I think was missed. This is John Taylor. I think one
6 issue you should consider is how long do fixed costs
7 last is the social and regulatory differences between
8 the different theaters.

9 In Japan, it is much more difficult to deal
10 with fixed costs than it is in the United States or in
11 other markets. The social regulatory requirements
12 make it extremely difficult for them to downsize or to
13 close plants.

14 So as Mr. Eklund mentioned, if they are
15 looking at a place where they need to reduce fixed
16 costs, and they have an opportunity to reduce fixed
17 costs, it clearly won't be in Japan. It would be in
18 the United States.

19 COMMISSIONER ARANOFF: Thank you, that's
20 helpful. There's one last question that I have. I'm
21 not sure that any of my colleagues have raised this;
22 maybe they have. But I wanted to touch a little bit
23 on non-subject imports and what role they might play
24 in this market.

25 There are two categories of non-subject

1 imports that might be relevant in this investigation.
2 One is the used product, which is expressly excluded
3 from the scope, and the other is, obviously, imports
4 that may be entering from third countries.

5 Because of the way that the HTS categories
6 work, we don't really have a good sense from official
7 statistics of what might be going on. So I guess I
8 wanted to ask the industry witnesses, based on your
9 experience with competition in the market, what non-
10 subject imports are active in the U.S. market? What
11 kind of role do they play, in terms of both how
12 significant a force they are in the market and perhaps
13 their pricing behavior? Do you have any suggestions
14 for the Commission in terms of where we can look to
15 get a better sense in our data?

16 MR. WILSON: Colin Wilson -- first of all,
17 on the used equipment side, very few pieces of used
18 equipment get imported into the United States. In
19 fact, we're more of an exporter of used equipment than
20 importer, with respect to a lot of trucks, once they
21 reach the five or ten year point, getting exported
22 down to Latin American markets.

23 As far as third party imports are concerned,
24 we do have imports in different categories coming into
25 the United States, but none of those importers have

1 shown any sign of predatory pricing or dumping
2 practices.

3 Toyota is the biggest manufacturer
4 worldwide, and number two is the Linde Group out of
5 Germany. Linde sells in the United States. They have
6 a small plant here. But they actually sell at a very
7 competitive high price. So we haven't seen anything
8 that would lead us to believe that they have any
9 intention of following dumping practices.

10 Now if you cast your eye into the future,
11 you might say, well, what about the Chinese? You
12 know, the jury is still out on that, and we need to
13 see what develops over the coming years.

14 There are some European companies that
15 import big trucks into this country. They're not
16 subject to the order. But again, we've seen orderly
17 placing, orderly marketing practices on behalf of
18 those manufacturers.

19 COMMISSIONER ARANOFF: I appreciate your
20 comments on the pricing, and you've indicated a number
21 of sources in Europe. I have two other questions.
22 One is, we've heard of South Korean producers. Are
23 there any Korean imports that you're aware of? I'm
24 trying to identify the range of non-subject imports.
25 Second is whether, for the ones that you've mentioned,

1 do you have a sense of their market share -- very
2 small, moderate, just kind of ball park?

3 MR. WILSON: Again, this is Colin Wilson.
4 There are Korean imports. We do have Daewoo and
5 Alcodeson (phonetic) coming out of Korea. Their
6 market share, I'd estimate, it's certainly single
7 digits. It's probably less than five percent.

8 Then Clark, which Mr. Dawe testified, moved
9 all of their production to Korea. Again, they have a
10 market share of less than five percent. They sell
11 fairly basic type products with a great deal of
12 customization. Pricing is competitive, on the low
13 side. But again, we don't believe that they've got
14 the cost structure themselves in Japan. They don't
15 have the volume, economies of scale -- sorry, in
16 Korea, not in Japan -- to be able to basically
17 participate in disorderly marketing activities in this
18 country.

19 COMMISSIONER ARANOFF: I appreciate that.
20 So in your view, that pretty much rounds out the
21 competition. There's a German producer, some South
22 Korean producers. Is that about it?

23 MR. WILSON: There are probably 25 different
24 competitors that we have in the U.S. A lot of them
25 are small. None of the ones that we haven't mentioned

1 would have more than a five percent share of the U.S.
2 market.

3 COMMISSIONER ARANOFF: Okay, thank you, I
4 appreciate all of that information. That's all the
5 questions I have.

6 CHAIRMAN KOPLAN: Thank you, Commissioner.
7 I guess in my earlier round, I asked, Mr.
8 Eklund, about price suppression. You indicated that
9 there has been. Has that existed throughout this
10 period that we're examining now, this second period
11 for review?

12 MR. EKLUND: Yes, it has.

13 CHAIRMAN KOPLAN: It has, thank you. I need
14 you to address what investment the Japanese have made
15 here over the past several years. There's been a lot
16 of discussion about your suggesting repatriations
17 based on this large overhand of fixed cost that the
18 Japanese are seeking to recover.

19 But it seems to me they haven't just stood
20 still, waiting for the outcome of this review. What
21 they've done is, they've established a real presence
22 here. Just as you haven't stood still since our first
23 review, even though that was a three to three result,
24 and three of the Commissioner are no longer here.
25 You've gone ahead and done all kinds of things in

1 desperate ways to keep up the pace, so to speak, both
2 here and in Mexico.

3 So I guess what I'm trying to understand is,
4 haven't they really adjusted for this by coming here
5 and establishing a presence? I mean, I'd like to know
6 if you can quantify for me what you think they've done
7 here, their transplants. Their transplants just
8 haven't been standing still, have they? Otherwise,
9 how did they cause this price suppression that you're
10 talking about?

11 MR. EKLUND: It's difficult for me to say
12 exactly what investments they have made, because I
13 haven't had the opportunity to go through their
14 facilities.

15 CHAIRMAN KOPLAN: No, but when I asked about
16 the frames, it sounded like one of the reasons that
17 you moved in the direction that you did was to stay
18 ahead of the pace, so to speak. I'm asking a similar
19 question now about their U.S. operations, all right?

20 MR. EKLUND: I really can't comment, because
21 I haven't been through their manufacturing facilities.
22 I know from observation, and from time to time, we do
23 indeed hire employees from the competition, their
24 basic structure has been unchanged. They're doing
25 some metal fabrication. They're doing some shot blast

1 work. They're doing painting and they're doing
2 assembling.

3 Now when you get to Toyota, they have a
4 higher level of vertical integration. Again, I
5 haven't been through the factory, and so I can't tell
6 you exactly.

7 CHAIRMAN KOPLAN: But let me ask you this,
8 and I'm sorry to interrupt. But what I'm trying to
9 understand is this. When you are faced with these
10 various instances of price suppression, don't you have
11 a sense of what the competition is that's causing you
12 or preventing you from raising something from, let's
13 say, \$50 to \$100; that maybe you only get to \$75.
14 Because your customer is saying, just a second now,
15 you've got some competition here.

16 So don't you have a sense of what they've
17 been doing, these last five years, to put that kind of
18 pressure on you?

19 MR. EKLUND: We have a very good sense of
20 the project. I mean, we take their products into our
21 development centers. We test them. We view them in
22 every way.

23 CHAIRMAN KOPLAN: Okay.

24 MR. EKLUND: I think we understand the cost
25 of that product very, very well. But where they do

1 what is something of a mystery. Whether they do all
2 the welding for the complete machine within the
3 confines of their operation or do some outsourcing;
4 what components come from what part of the world --

5 CHAIRMAN KOPLAN: So you don't really have
6 an answer to that?

7 MR. EKLUND: We don't have a total answer to
8 that. I think we have a good sense of the overall
9 machine, but not the sourcing of all the bits and
10 pieces.

11 CHAIRMAN KOPLAN: I appreciate that, thank
12 you.

13 MR. DAWE: Mr. Chairman, if you would allow
14 me to make some comments. This is Greg Dawe. I have
15 had the opportunity, over the last few years, to visit
16 most of the competition in their factories.

17 CHAIRMAN KOPLAN: Here, domestically?

18 MR. DAWE: Yes.

19 CHAIRMAN KOPLAN: Okay.

20 MR. DAWE: And I have also been to the
21 Japanese operations, but that goes back a little ways
22 before that. It does vary somewhat by the competitor.

23 If we look at Nissan, I've been through
24 their Maringo operation at the time when we were open
25 to discussing a possibility of doing something with

1 them. This goes back some years. They clearly were
2 in an environment that they were not reinvesting
3 significantly in the business.

4 CHAIRMAN KOPLAN: How long ago was that?
5 Can you give me a time?

6 MR. DAWE: That was about four or five years
7 ago. I think since then, it's probably been even more
8 so. They were kind of standing still. They were
9 replacing what they needed to replace, but they were
10 not investing in the business for the long term, as I
11 would think that we've done in Sulligent and Berea.

12 I think the same thing is true, to a lessor
13 extent, with Mitsubishi, Caterpillar, and their Texas
14 operation. They have done some restructuring where
15 they no longer are doing all the operations that they
16 used to do. They've outsourced more of that than what
17 they had, say, 10 years ago.

18 CHAIRMAN KOPLAN: Outsourced from where?

19 MR. DAWE: Outsourced out of their factory -
20 - they used to do some operations there, some maybe
21 machining or assembly operations within their plant in
22 Texas that now they buy from somebody else.

23 CHAIRMAN KOPLAN: Domestically?

24 MR. DAWE: Yes.

25 CHAIRMAN KOPLAN: Okay.

1 MR. DAWE: Again, I think that my view --
2 and again, I haven't been in that operation, and
3 clearly they don't share their strategy with me -- but
4 my view is, they are not investing in the business.
5 They are kind of keeping it going, but not investing
6 in the business to make it significantly better and so
7 on, or to increase their asset base and capability.

8 In the case of Toyota, I think over time,
9 they have brought more of their assembly work from
10 different models into their operation. But they
11 created a basic infrastructure in Columbus that they
12 needed to really start utilizing. Because in the
13 beginning, when they built that facility, they weren't
14 able to utilize it very effectively, because they just
15 didn't have the volume.

16 Over time, they brought some additional
17 models in to try and consume some of that capacity,
18 which has aggravated their situation in their
19 Sagamahara plant, because that's where they took that
20 production out of.

21 So they have a fixed infrastructure in
22 Sagamahara that is less utilized now, because they
23 moved some of that into their Columbus plant. They've
24 got that Columbia plant where they've invested some
25 money in there, that they've got two fixed cost

1 structures now that ideally they would like to
2 rationalize, I think, over time.

3 CHAIRMAN KOPLAN: How would they do that?

4 MR. DAWE: How would they do that?

5 CHAIRMAN KOPLAN: How do they make that
6 choice?

7 MR. DAWE: Well, I don't know. Again, you
8 have to get in to the Toyota culture, and I'm not
9 going to pretend to know their management strategy.
10 But one way to do it is, you downsize the Columbus
11 plant, and you move your pneumatic IC product, which
12 is a global product, back into Sagamahara.

13 All you focus on at the Columbus, Indiana
14 plant is on your cushion tire product, which is
15 strictly a U.S. product, and is not used in any other
16 global market place. That's one way to do that, and
17 you basically downsize Columbus, Indiana. But I'm not
18 purporting that they would do that.

19 CHAIRMAN KOPLAN: Could they simply downsize
20 at the other end, as well?

21 MR. DAWE: No.

22 CHAIRMAN KOPLAN: They could not?

23 MR. DAWE: Because the problem in Sagamahara
24 is, you've got that structure. It's already there.
25 With your cultural, your social philosophy in Japan,

1 to downsize and to shut down a factory in Japan is
2 extremely difficult and very, very costly, from a
3 social structure and a cultural point of view. I
4 mean, it is not something that happens.

5 MR. ROSENTHAL: Chairman Koplman, I want to
6 refer you to the staff report and the data on
7 investments by the Japanese transplants here. Without
8 going into anything that I can't, you'll see that it's
9 very varied. In the last five years, most of the
10 companies have not made major investments of this
11 sort.

12 When the order first came into place, they
13 had to come here, make an investment, show they
14 weren't circumventing. You'll see that those assets
15 that they invested at that time remained in place.
16 But there hasn't been a lot of additional investment,
17 with the possible exception of one of the companies.

18 So they haven't been doing what NACCO has
19 been doing, and Mr. Dawe explained a couple of
20 approaches by some of the companies.

21 MR. DAWE: If I could just add one other
22 comment, I think we need to look beyond manufacturing
23 capital or tooling investment, to look at research and
24 development investment. To my knowledge, almost all
25 of the research and development investment is done in

1 Japan. Very little of that is done in any of the
2 domestic operations of either Toyota, Nissan,
3 Mitsubishi, Cat. All of that investment is done in
4 Japan.

5 As Mr. Wilson and Mr. Eklund said,
6 typically, on the pneumatic IC product, it's first
7 introduced in Japan, kind of proven out, and then it's
8 transferred, if you will, into the U.S.

9 CHAIRMAN KOPLAN: Well, let me just ask you
10 one quick follow-up. You're global in operations. I
11 looked at your map on your website. Can you quantify
12 for me, when you talk about what they've been doing in
13 Japan -- can you give me any kind of a ballpark, in
14 terms of what you think they've spent to accomplish
15 that, based on your global experience?

16 MR. DAWE: In terms of research and
17 development?

18 CHAIRMAN KOPLAN: Yes.

19 MR. DAWE: Honestly, sir, I cannot.

20 CHAIRMAN KOPLAN: Okay.

21 MR. DAWE: It's simply because I don't know
22 what their infrastructure is and how they do all their
23 development; and honestly, how much they leverage off
24 of their automatic side. Because a lot of that
25 technology can be leveraged from the automotive sector

1 into the lift truck; where we don't have that
2 opportunity to do that within our business. We've got
3 to work through third party suppliers to do more of
4 that.

5 CHAIRMAN KOPLAN: Thank you, I appreciate
6 your answers -- Vice Chairman Okun?

7 VICE CHAIRMAN OKUN: Mr. Ekhard, I'm not
8 sure if this is best put to you. But again, as a
9 global suppliers, would you have any sense, or could
10 you provide information post-hearing, on demand in the
11 different markets in which your company operates,
12 including with regard to Japan, looking forward?

13 I mean, we have information in the staff
14 report that talks about the U.S. market, and industry,
15 you're welcome to comment on that, as well.

16 But in the reasonably foreseeable future,
17 what do you see demand conditions in Japan, in Europe,
18 and any other places where you could reasonably give
19 me an estimate on that?

20 MR. DAWE: Well, in terms of the sense of
21 the industry, these are very good times. None of the
22 markets are going through a particular cycle at this
23 point. So the markets are certainly stable and
24 stabled-up.

25 As far as the size of the various markets,

1 Mr. Taylor keeps all of the statistics. Why don't I
2 allow him to go through the details for you?

3 VICE CHAIRMAN OKUN: I appreciate that. Mr.
4 Taylor?

5 MR. TAYLOR: Yes, in terms of Japan, you're
6 asking, in particular, what we think the future for
7 Japan would be. Well, Japan, if you look over the
8 last five years, has been flat to down. It's only
9 when we get to 2004 and 2005 that we begin to see any
10 growth; and in fact, you can go all the way back to
11 1991, where it's been pretty much a constant downturn
12 in their industry.

13 In 2004, we saw a little bit of growth in
14 their market to around 41,000 units. We expect to see
15 about another five percent growth, perhaps this year,
16 in 2005. Next year, we think -- or, in fact, our
17 Japanese partners think that next year will be the
18 peak year, and we'll see another about five percent
19 growth. Then they're projecting a downturn after
20 2006. That's our estimate of what would happen in the
21 Japanese market.

22 VICE CHAIRMAN OKUN: Okay, is there any
23 sense for Europe?

24 MR. TAYLOR: Europe has been growing
25 steadily at unspectacular rates, but has been growing

1 steadily over the last several years.

2 When we look at Europe, we include Europe,
3 Middle East, and Africa. Really, if you go to the EU
4 countries, that's 70 percent of the total. We put it
5 altogether, when we look at it. If you take that as a
6 whole, it's by far the biggest market in the world.
7 It's 300 units. I'm including all forklift recs in
8 that number.

9 Their growth this year is 10,000 to 15,000
10 units; so again, it's about five percent. We, at this
11 time, don't see any dramatic change from that. We
12 expect to see three, five percent growth as far out
13 as we can see. We don't see anything indicating a
14 turn in that market.

15 VICE CHAIRMAN OKUN: Okay, I appreciate
16 those answers. If that's something, Mr. Rosenthal,
17 that you can submit post-hearing, if we don't already
18 have that information for purposes of Chapter 4, I'd
19 appreciate it.

20 I recognize and I've read your arguments
21 with regard to why the data that we have in Chapter 4,
22 you think, is not correct, in terms of capacity
23 utilization and where the overhang is.

24 But if you could just continue to work with
25 staff and, for purposes of post-hearing, discuss the

1 specifics of capacity, capacity utilization, and what
2 the estimated size of the different companies are, I
3 would appreciate it; since there seems to be some
4 continued disagreement among what the actual sizes are
5 of the companies and their share of production in
6 Japan and their share of capacity. So anything
7 further for post-hearing, I'd appreciate.

8 I wanted to go back to talk a little bit
9 more about just the market in the United States, in
10 terms of how prices are set. We heard a lot about the
11 price competitiveness and the prices of the Japanese
12 transplants in the United States.

13 I wanted to just raise with you. If the
14 order is lifted, do you think that the information
15 that the staff report collected with regard to how
16 purchasers describe both dealers who really don't
17 change suppliers very much; the presence of contracts
18 that specify quantity, not price; the mix between
19 dealers versus the national accounts.

20 If that's going to change, in the reasonably
21 foreseeable future, why; if you could help me with
22 that. Because as I read this, you know, this isn't a
23 market where everything is on stock prices, everything
24 -- it looks like it's being negotiated, day by day,
25 and people are changing suppliers.

1 So it looks a little different than some of
2 the other markets that we see, instead of appreciating
3 the information, you could give on that. I'm looking
4 at you, Mr. Wilson, because I think you had started to
5 say that. But if there are others who could comment?
6 Mr. Taylor, I'd appreciate it, as well.

7 MR. WILSON: This is a very competitive
8 market. As Mr. Eklund said in his testimony, you
9 know, we feel we compete on equal terms. That doesn't
10 mean to say we sell on equal price. We try to command
11 a premium for our price, because we build a lot of
12 added value into that product, as far as for the end
13 user.

14 So what we try to do in every situation is
15 to be competitive. Now we do have some dealers that
16 are done on spot basis, and some dealers that are done
17 on contract. But all contracts have a defined time.
18 Even where we have a contract, those contracts come up
19 for renewal.

20 Really, a lot of it depends on what is
21 important to the customer. You know, how important is
22 it to have a cohesive dealer network? How important
23 is it to have a dealer network that can do
24 maintenance, all the way throughout the country?

25 For sure, we lose business. We lose

1 business on price today. We try to be competitive
2 everywhere but, you know, we have to pick our spots in
3 terms of -- another reason why we have to flex on our
4 price more than we would care to.

5 What we are very concerned about is really
6 the gap between where we are and where the competition
7 is widening. If we saw prices coming into the United
8 States similar to pricing going into Latin America or
9 Asia, we wouldn't be able to compete. So there may be
10 some customers who would appreciate the value that we
11 can provide, sufficient to pay a 10, 15, or 20
12 premium. But we see that number shrinking
13 considerably from where we are today.

14 VICE CHAIRMAN OKUN: How does that relate to
15 -- this job reported at 5-7 talks about ICI forklift
16 producers providing financial support programs to
17 dealers and to dealers' end use customers. Tell me
18 how that relates to -- are there any differences with
19 regard to that, vis-a-vis, the different transplant
20 operations; the first tier, the second tier.

21 MR. WILSON: Right, hopefully, if you're
22 talking about sort of leasing or financing of products
23 -- is that the question?

24 VICE CHAIRMAN OKUN: Well, what it says
25 here, I'll just read it here, saying, "The latter is

1 supported hugely in the form of below-market interest
2 rates on end users financial other purchased or leased
3 forklift trucks. The U.S. producers financial support
4 programs do not reduce the invoice prices or forklift
5 trucks, but lower the producers' net sales values and,
6 hence, their sales profit."

7 MR. WILSON: Again, we're in a competitive
8 market. Generally, if we have it, the Japanese have
9 it; and if the Japanese have it, we have it.

10 The Japanese will offer subsidized lease
11 rates. Really, that's just another form of
12 discounting. All you're doing is, you're buying down
13 the cost of the lease. So if Toyota has a subsidized
14 3.9 percent financing rate, we're forced to compete.
15 It's really just another discount.

16 VICE CHAIRMAN OKUN: Okay, and to the extent
17 that what the record reflects is that -- and I think
18 you've spoken to this -- that dealers tend to just
19 carry one brand. They don't carry the competition.

20 MR. WILSON: Some dealers -- if you're a
21 Hyster or Yale dealer, our expectation through our
22 dealer agreement is that you'll only carry our brand
23 of forklift trucks. You can carry other makes or
24 products that are non-competing with us.

25 It's a bargain. We give dealers certain

1 benefits and privileges, and they give us exclusivity
2 in a territory. We basically don't put another dealer
3 into that territory. So it's a bargain that both
4 sides enter into, willingly.

5 There are other manufacturers that do not
6 have that same philosophy, with respect to exclusive
7 distribution, which we firmly believe is the best way
8 to go to market. There are some dealers who have the
9 desire to carry more than one brand. Largely, that's
10 to enable them to play one manufacturer up against
11 another.

12 Or there may be other reasons, inasmuch as,
13 if it's a minor brand, which is offering a lower
14 price, there may be some customers who want to buy
15 more premium product, so they have a more premium
16 brand to be able to offer that customer a choice
17 between price and more comprehensive specification.
18 So it's not consistent.

19 But the vast majority of our dealers really
20 appreciate being a single brand dealer, because we can
21 work with them to help them to create value solutions
22 for their customers. So it's a much symbiotic
23 relationship than perhaps exists between other
24 manufacturers and their dealers.

25 VICE CHAIRMAN OKUN: Okay, I appreciate

1 those comments. For post-hearing, Mr. Rosenthal, with
2 regard to the related parties and whether appropriate
3 conditions exist to exclude the different U.S.
4 producers, if you could -- and I know you focus on
5 particular things that we've looked at in your pre-
6 hearing brief -- but for post-hearing, can you comment
7 on the facts of this case, it matters whether someone
8 that we find to be U.S. producer opposes or takes no
9 position on the revocation of the order -- whether it
10 matters if we change the domestic like product
11 definition, in terms of the percentage of domestic
12 production that NACCO represents, vis-a-vis, the other
13 Japanese transplant production; and whether, in this
14 case, it is one we should look to the skewing of data
15 as an appropriate way to analyze related parties.

16 MR. ROSENTHAL: I'll do all those.

17 VICE CHAIRMAN OKUN: Thank you very much;
18 thank you, Mr. Chairman.

19 CHAIRMAN KOPLAN: Thank you; Commissioner
20 Hillman?

21 COMMISSIONER HILLMAN: Thank you, I guess I
22 wanted to follow up just a little bit on some of the
23 questions the Vice Chairman was just asking, to make
24 sure that I understand some of these issues with
25 respect to brand loyalty.

1 Because clearly, if you read the staff
2 report and you hear what you're saying, your dealers,
3 arguably, are very loyal to a given brand. We see
4 nothing in this record that suggests that they pick up
5 and move. If you don't give them a certain price,
6 they're not going to turn around and become a dealer
7 for Toyota or somebody else over a small amount of
8 price differences. That's how I'm hearing it.

9 So then, for me, the question goes to, how
10 much brand loyalty is there among the end users of
11 these products? That's what I'm trying to understand.
12 I would assume -- again, you've got good dealers out
13 there, providing good service. Again, how much
14 loyalty is there among the end user purchasers of
15 these products to a given brand?

16 MR. WILSON: Well, let me sort of just come
17 back on the very first part of the question, and then
18 I'll answer the second part. There is loyalty between
19 the dealer and the manufacturer, but that loyalty
20 isn't never ending.

21 We have responsibilities. We have to be
22 able to provide them with a provide that is
23 competitive, but allow them to compete in the
24 marketplace -- so you know, good delivery, good price,
25 good specification, good support services. If we

1 don't have a good price or a competitive price, then
2 maybe that loyalty would be maybe more tenuous than it
3 is right now. So we have to be competitive.

4 As far as the end user is concerned, I think
5 there's less loyalty of the end user to the
6 manufacturer than there was maybe 10 years ago. You
7 know, that loyalty is somewhat diluted, but it's still
8 there.

9 So we do have situations, for example, where
10 we get into an Internet auction bid -- a reverse
11 auction, which I know has been mentioned in some of
12 the testimony -- where we are not the low bidder, but
13 we still end up with the business. Because the
14 customer remains loyal to us; not because we're Yale
15 or because we're Hyster. They remain loyal because of
16 the service and the reputation and the fact that we've
17 been a good partner with them.

18 Conversely, when there's been other Internet
19 auctions where the competition has maintained a high
20 price and maybe we've come in a little bit below them,
21 where they've maintained the business again, because
22 the customer has perceived that they've been getting
23 good service from that particular manufacturer.

24 One of the definitions of loyalty that I
25 heard once was, loyalty is lack of a better

1 alternative. So what we have to do is to be the best
2 alternative to our customers and to our dealers.

3 COMMISSIONER HILLMAN: All right, I
4 appreciate those answers. Obviously, this gets hard
5 in this case where, again, if we follow your theory of
6 it, and people are loyal to Toyota or to one of the
7 other Japanese transplants, from that standpoint of
8 this end user, loyalty, it's not so clear to me that
9 they're going to switch if this order is revoked and
10 the product is coming in.

11 In other words, if they already like Toyota,
12 it's not clear to me from this record that it matters
13 to them whether the Toyota forklift that they're
14 purchasing was made in Japan, versus made in, whatever
15 it is, Indiana. That's where I'm struggling with how
16 this loyalty works out.

17 MR. WILSON: Right, I mean, I don't think
18 there is a "one size fits all" answer. Again, if it's
19 a situation where they're currently buying from
20 Toyota, and Toyota does not switch their manufacturing
21 back to Japan, but Nissan does. Then Nissan comes in,
22 and basically the customer makes a value equation; am
23 I willing to pay this price for this product or these
24 services?

25 They make the value comparison, and today

1 they're choosing Toyota. Now, all of a sudden, Nissan
2 is coming in and maybe they have a \$2,000 price
3 advantage. The customer has to say, you know, has the
4 value equation changed?

5 You know, we would argue, it will change
6 when the Japanese move production back to Japan.
7 That's not in all cases. That's not to say we'd never
8 set another truck in this country. But we feel the
9 balance would be shifted

10 COMMISSIONER HILLMAN: Okay, last question,
11 Mr. Rosenthal -- this is more for you. That is, I'm
12 struggling with this issue of the related parties'
13 analysis versus the likely injury determination.
14 Because at some level, if I read what we did in the
15 first review and others, to some degree, it strikes me
16 that we took out the related parties because they
17 might move their production back to Japan. Then we
18 turn around and say, we're reaching an affirmative
19 determination because they might turn around and go
20 back to Japan.

21 So they become intertwined. I'm struggling
22 a little bit with whether the related party analysis,
23 in essence, drives the material injury determination,
24 which is not something we normally ever do, or it was
25 ever intended to do, from my understanding of the

1 provision.

2 So I'm struggling with how we should look at
3 this, in this kind of a case, and whether you would
4 argue that injury is equally likely to a U.S. industry
5 that includes the Japanese-owned producers in the U.S.
6 market. That might be better off done in the post-
7 hearing. Because if there's anything that you can
8 help me think about, whether there's any analogous
9 cases where this kind of a fact pattern would have
10 arisen in the past.

11 MR. ROSENTHAL: You know, I hadn't thought
12 about it in those terms before. Because what's
13 interesting here is, you've had imports completely dry
14 up. So in the past, you've always been able to define
15 a related party where there was some importation going
16 on, and you no longer have that.

17 In fact, I will certainly elaborate in the
18 post-hearing brief. But I really don't think it
19 matters what you do to related parties in this case,
20 to be honest with you; whether you exclude the
21 Japanese transplants or related parties, or keep them
22 as part of the domestic industry for data collection
23 purposes.

24 But really, the heart of this is, you do
25 need to separate the question of reoccurrence or

1 continuation of injury from a related party and
2 whether they'd repatriate. That is where the heart of
3 it is. We'll do our best, on related party, to make a
4 sensible recommendation to you.

5 But frankly, as I said before, if you define
6 the Japanese transplants as unrelated parties, it
7 shouldn't make any difference to the outcome here.
8 What you have to do -- and you're struggling with it
9 and all the Commissioners are, presumably -- is what
10 is going to happen with replication? Are these
11 companies going to dis-invest, more or less, in the
12 U.S. and then come back in with their Japanese-based
13 production and injure what is left of the domestic
14 industry? That, obviously, is the key here. Related
15 parties is fascinating, but not determinative

16 COMMISSIONER HILLMAN: I appreciate that,
17 and I'll look forward to reading the further responses
18 in the post-hearing brief. With that, I have no
19 further questions, but than you all for the answers to
20 our many questions.

21 CHAIRMAN KOPLAN: Thank you, Commissioner.
22 Commissioner Lane?

23 COMMISSIONER LANE: I have a few more
24 questions. I'd like to look at NACCO's production of
25 forklifts and the United States using frames that are

1 produced in the United States.

2 Specifically, do you tend to make a
3 particular size or style of forklifts with
4 domestically produced frames, that would account for a
5 difference in the average unit values of those
6 forklifts from the ones that are produced using non-
7 U.S. produced frames? If so, please describe the
8 differences between the forklifts that you manufacture
9 from U.S.-produced frames and non-U.S.-produced
10 frames.

11 MR. DAWE: This is Greg Dawe. The answer to
12 that question is yes. The completely U.S.-produced
13 frames that we manufacture today in Berea, Kentucky
14 are on our six to seven ton lift capacity cushion
15 pneumatic IC, which is a much larger product.
16 Therefore, your per-unit cost is quite a bit higher.

17 I will tell you that going forward, some of
18 that will be bringing in maybe some sub-elements from
19 Mexico. But I do anticipate on the very largest
20 pneumatic tar product, we'll continue to make that
21 frame in Berea, because the best place to make it; not
22 necessarily from a cost, but from a logistics and from
23 a flow point of view.

24 COMMISSIONER LANE: Okay, would you follow
25 through with that? Why is it the best, from a

1 logistics and a flow through?

2 MR. DAWE: From a logistics point of view,
3 it's because if we try to make that complete frame off
4 site, the cost of transportation is prohibitive, to
5 get it from Point A to Point B in Berea.

6 From a logistics point of view, it's also
7 because we have a lot more unique features, customer-
8 demanded features, that are oftentimes determined at a
9 late point in our production process, that we would
10 need to modify that frame, if we were to bring a
11 complete frame in from another source, other than
12 Berea.

13 And that reminds me of another question I
14 had earlier.

15 COMMISSIONER LANE: You said or somebody
16 said that there were daily deliveries from Mexico to
17 Berea of the frames. Is that done by truck or rail?

18 MR. DAWE: It is done by truck, and we have
19 daily deliveries. The average transit time between
20 our Ramos Arispe plant and the Berea plant is anywhere
21 from two to three days normal, so we have a good flow
22 of material coming in.

23 And that's one of the reasons why, another
24 reason we picked Mexico, because from a transit time,
25 two to three day in transit is pretty decent, and

1 that's why we didn't go really in this case looking at
2 offshore production, because then you'd have weeks and
3 maybe even a month of transit time.

4 COMMISSIONER LANE: And are you evaluating
5 the cost of that transportation now in view of rising
6 energy costs?

7 MR. DAWE: Yes. And basically we see some
8 tariff increase from the trucking companies we use,
9 but that is not -- it's not a huge impact on us in
10 terms of the overall transportation costs. But we
11 monitor that on a regular basis.

12 COMMISSIONER LANE: Okay. Now I'd like to
13 talk to you about -- or probably Mr. Rosenthal -- your
14 views about the presence of any business cycle in the
15 forklift industry. Is there in your opinion any
16 discernable business cycle, and if your answer is yes,
17 what objective data supports such a conclusion?

18 MR. ROSENTHAL: Mr. Taylor's better.

19 MR. TAYLOR: Yes. Jon Taylor. I'll answer
20 that. Yes, there is a business cycle to the forklift
21 truck market, and we have statistics going back 30, 40
22 years showing a very distinct cycle.

23 Prior to the 1990s, we estimated the cycle
24 being about five years from peak to drop through the
25 cycle. As we went into the 1990s, the cycle seems to

1 have been extended in terms of we saw a pretty long
2 period of growth throughout the 1990s closer to
3 approaching nine years.

4 We think that we will have a longer cycle
5 now. We've now been in an upturn. I believe we're
6 entering our third year of an upturn in the industry.
7 We think that would continue at least another two more
8 years before we would enter another downturn, which
9 would last another two years before we would return
10 back up.

11 That is consistent across the world on a
12 historical basis, although, again, as you look into
13 the 1990s, we started to see all of the global
14 economies or the global markets for forklift trucks
15 seem to enter an extended period in the case of Europe
16 of being up and in the case of Japan being down, but
17 very extended cycles compared to a historical basis.

18 COMMISSIONER LANE: Okay. Thank you, Mr.
19 Taylor.

20 Mr. Dawe, I guess the next question I have
21 is you were talking about that you're familiar with
22 some of the Japanese transplant facilities. Where
23 does Toyota make its engines that it uses in its U.S.
24 forklifts?

25 MR. DAWE: To my knowledge, they make them

1 in Japan, unless they have set up a U.S. operation
2 geared off of their automotive sector to manufacture
3 similar types of engines in the U.S. But to my
4 knowledge, most of their engines come out of Japan
5 still.

6 COMMISSIONER LANE: Okay. Thank you. Now
7 how long do forklift trucks last until they have to be
8 replaced?

9 MR. WILSON: It's Colin Wilson. It really
10 depends upon the operation or the customer. I always
11 say a lift truck has three lives. The first life is
12 the first five years tends to be when it's very -- it
13 doesn't break down.

14 It's like a car. A car when it gets to a
15 certain mileage starts to become a little bit more
16 unreliable, so if you're in a very intense production
17 environment, you want to ensure that you have high
18 performing lift trucks. So about eight to 10,000
19 hours of operation and about five years those
20 companies would look to replace them.

21 Trucks then go into a second market, lighter
22 duty application. Maybe it's being used three, four,
23 500 hours per year, more occasional lifting. Maybe
24 it's into an environment which isn't -- if the truck
25 goes down, it doesn't stop the production operation or

1 doesn't stop the warehouse from being replenished.

2 And then it goes -- you know, the companies
3 would keep those trucks for maybe another five years,
4 putting another couple of thousand hours on the truck,
5 and then they go into a third life, which really are
6 the very, very occasional use, someone who wants to
7 lift, you know, four loads a week.

8 And, you know, so typically we say the life
9 cycle is about 15 years, and it's all down to
10 economics. A customer looks at what the total cost of
11 operating the lift truck. And I think it's very
12 important that when we're looking at the total cost of
13 operating a lift truck from a customer's perspective,
14 the actual -- you know, everybody tends to be very
15 intensely focused on price and it is very important in
16 the buying decision.

17 But if you look at what the economic impact
18 on U.S. industry is concerned, the actual cost of a
19 lift truck is a very, very small percentage of the
20 operating costs of that lift truck over say a five-
21 year period. It's less than 10 percent, because if
22 you have a lift truck, you have to have an operator,
23 and then you have to have all the parts and all the
24 service and all the administration behind paying
25 invoices.

1 So a truck that costs \$25,000 over a five-
2 year period could cost that customer \$250,000 to
3 operate, so there is a -- you know, we try to convince
4 customers of that, and there still is a lot of intense
5 focus on the purchase price, but again, the economic,
6 the overall economic costs of the lift truck is
7 actually only a small percentage.

8 COMMISSIONER LANE: And that leads me to my
9 next question. Does NACCO have a parts business, and
10 do you also have a maintenance and repair component of
11 your business to service these forklifts that you make
12 and sell?

13 MR. WILSON: Right. Yes, we have -- well,
14 in the -- we have a parts depot in Danville, Illinois.
15 We do around about \$300 million worth of parts
16 business. We also for the European market have a
17 facility in Nymagen. And then we also have a facility
18 in Japan for the Japanese market. It's a very
19 important part of our business. We pride ourselves in
20 the efficiency of that operation.

21 We do not have a service and repair
22 business. We do provide technical support to our
23 dealers to help them to maintain the trucks in the
24 field. And I should also add that we don't sell parts
25 directly to customers. We supply our parts to our

1 dealers, who then either sell those parts directly to
2 customers or use those parts to do the service work on
3 the lift truck.

4 COMMISSIONER LANE: Okay. Thank you. That
5 is all the questions I have.

6 CHAIRMAN KOPLAN: Thank you, Commissioner.
7 Commissioner Pearson.

8 COMMISSIONER PEARSON: I think I'm done, Mr.
9 Chairman. I would just like to thank the panel for
10 the very educational discussion we've had this
11 morning. I regret that I didn't have a chance to
12 visit your facility. Maybe in a future review.

13 MR. ROSENTHAL: It's not too late.

14 CHAIRMAN KOPLAN: Commissioner Aranoff. I
15 see. I just have a couple of quick ones if I could
16 for the post-hearing.

17 First, for Mr. Rosenthal or Mr. Hudgens, the
18 last full sentence on page 11 of your brief argues
19 that data provided by a particular transplant in its
20 producers' questionnaire at page 28 reveals a
21 bracketed percentage of foreign content imported from
22 its Japanese parent in 2004. You cite to Table 1-5 at
23 page 1-17 of our pre-hearing staff report.

24 However, that table reflects the percentages
25 of value of domestic and foreign components as well as

1 the domestic value added only for U.S. producers'
2 highest volume model in 2004. The percent of total
3 domestic reproduced forklift trucks produced by that
4 transplant source from Japan appears elsewhere at
5 Table 3-13 at page 3-29 of our pre-hearing report and
6 is a 5 different percentage, which I cannot reconcile
7 with what appears in the text of your brief.

8 If you could reconcile that for me in your
9 post-hearing submission, I'd appreciate it.

10 MR. ROSENTHAL: Certainly.

11 CHAIRMAN KOPLAN: Okay. Next, with regard
12 to your facility in Mexico, for purposes of the post-
13 hearing, I'd like you to provide the cost of its
14 construction, when that was done, and how many workers
15 are employed and what their hourly wage and benefits
16 would consist of compared to whether it would -- what
17 they would be paid in the United States.

18 In addition, I'd like to understand what the
19 material costs are there, for example, for steel,
20 compared to here, land or construction costs you
21 incurred there, are incurring there as opposed to what
22 it would be here, and whether the fact that you closed
23 two plants here had any relation to that.

24 I guess all of this is because I'm trying to
25 understand why you had to go there to take over your

1 frame production instead of just doing it right here.
2 I mean, I realize that you modernized and all that
3 you've done, but what I'm trying to understand is why
4 Mexico as opposed to right here, okay? So that's the
5 purpose of that.

6 The only other thing I would say as an
7 observation, with regard to the issue of related
8 parties, I still view these transplants as related
9 parties, but that's not the issue. The issue is
10 whether they're excluded from the domestic industry.
11 That's the leap I have to make again, because I made
12 that leap five years ago. And so that's the
13 particular part of your response that I'm most
14 interested in for purposes of the post-hearing.

15 MR. ROSENTHAL: I understand.

16 CHAIRMAN KOPLAN: Okay. With that, I have
17 nothing further. And if there is nothing further from
18 the dais, I'll turn to Mr. Corkran and see whether
19 staff has questions.

20 MR. CORKRAN: Douglas Corkran, Office of
21 Investigations. Thank you, Mr. Chairman. Staff has
22 no additional questions.

23 CHAIRMAN KOPLAN: Thank you, Mr. Corkran.

24 Well, with that, I guess this panel is
25 released since we have no opposition to questioning,

1 and Madame Secretary, I believe that we could now turn
2 to closing remarks.

3 MS. ABBOTT: Yes, Mr. Chairman. They'll be
4 by Mr. Rosenthal.

5 MR. ROSENTHAL: Okay. Well, thank you very
6 much for your attention this morning, and frankly, I
7 welcome the questions and the probing. I think it's
8 very useful. Now that we're here for a full review,
9 we might as well make it a full review, and I think
10 the questions on your mind are not only appropriate
11 but essential.

12 The question that you have to decide
13 ultimately is what are the Japanese going to do if
14 they are unshackled by this order. And I went back in
15 my opening remarks to Joseph because I wanted to
16 convey the notion that you can't simply look at what
17 they're doing today or even looking at a static staff
18 report and say well, gee, this is the investment they
19 made, they're not going to do anything different than
20 stay where they are today.

21 The reason you have to go back to examine
22 their behavior prior to the order is because I think
23 that is still the most probative information you're
24 going to get to figure out what happens if the order
25 no longer constrains their behavior.

1 Europe is not a model for what will happen
2 for the reasons we talked about. The European market
3 is different. The products made there are different.
4 The barriers to entry to the European market are
5 different. They can't simply get out of the European
6 market and ship from Japan for the reasons we
7 explained.

8 The economics of this industry are different
9 than automobiles. They're different than most
10 industries that you see before us. And the economics
11 of this industry are not intuitively obvious to the
12 casual observer. Yet, why would anyone go back to
13 Japan when there are other low-cost sites available?
14 That doesn't leap to mind immediately, but I hope this
15 morning's hearing explains exactly why that would be
16 the case in this industry.

17 But ultimately, you're going to have to
18 weigh the information you've gotten from the industry,
19 this domestic industry, namely NACCO, today, and
20 appreciate why the folks at NACCO are here this
21 morning.

22 When this sunset review came up and we said
23 we were going to have a full review, I explained to
24 them, you know, we had three votes against us five
25 years ago. Passage of time doesn't make anything

1 easier, even though I don't think it should make much
2 difference in your analysis. But there's just an
3 inherent bias against keeping orders in place for a
4 long period of time.

5 I say that inherent bias is there even
6 though there's no statutory basis for that. In the
7 good old days, orders stayed in place forever until
8 the companies could prove that there were no --
9 there's no dumping for three consecutive years or they
10 showed that circumstances had changed sufficiently
11 that they wouldn't resume dumping or resume injurious
12 importation.

13 Well, now they have the sunset review, and
14 the issue now is what's going to happen after this
15 passage of time when the transplants no longer have to
16 be in the U.S. if the order is revoked.

17 You had sworn testimony this morning about
18 the behavior of the Japanese exports from Japan in
19 South America and Asia. You have sworn testimony
20 about the structure of the industry. There is maybe a
21 question about how much excess capacity exists in
22 Japan, but there's no dispute about the fact that the
23 Japanese have had lots of capacity. They've not shut
24 down any of that, and they have the ability to export
25 from Japan.

1 You're now going to have the unenviable
2 position of betting on what the Japanese are going to
3 do when they've been unshackled. These clients that
4 have been under -- when I told them this is a tough
5 case, they said you know what, Paul, we don't have a
6 choice here. If we don't continue this order, our
7 company, our industry is going to change dramatically
8 whether you like it or not or whether the Commission
9 likes it or not.

10 This is not going to stay the same if this
11 order goes away. And if you believe that it's going
12 to stay the same, to paraphrase the Bible and use the
13 more modern vernacular, Paul, if you think things are
14 going to stay the same, you knoweth not Jack.

15 There's no possible way that the industry
16 will stay the same after this order is revoked. The
17 three little guys are going to go back to Japan, and
18 my light is on. I will thank you for your attention.

19 CHAIRMAN KOPLAN: Thank you, Mr. Rosenthal.
20 I want to thank all the witnesses for their
21 contribution today and to the staff for assisting us
22 in this investigation.

23 Post-hearing briefs, statements responsive
24 to questions, and requests of the Commission and
25 corrections to the transcript must be filed by

1 November 10, 2005; closing of the record and final
2 release of data to parties, December 7, 2005; and
3 final comments, December 9, 2005.

4 And, with that, this hearing is adjourned.

5 (Whereupon, at 1:56 p.m., the hearing was
6 adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: 731-TA-377
INVESTIGATION NO.: Internal Combustion Industrial Forklift
HEARING DATE: November 1, 2005
LOCATION: Washington, D.C.
NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 11/1/05

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter