

UNITED STATES

INTERNATIONAL TRADE COMMISSION

In the Matter of:)
BOLTLESS STEEL SHELVING UNITS)
PREPACKAGED FOR SALE FROM CHINA) Investigation Nos.:
701-TA-523 AND
731-TA-1259 (FINAL)

Pages: 1 - 101
Place: Washington, D.C.
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6 UNITS PREPACKAGED FOR)

7 SALE FROM CHINA)

8

9 Thursday, August 13, 2015

10 Main Hearing Room (Room 101)

11 U.S. International

12 Trade Commission

13 500 E Street, S.W.

14 Washington, D.C.

15 The meeting commenced, pursuant to notice, at

16 9:30 a.m., before the United States International Trade

17 Commission, the Honorable Meredith M. Broadbent, Chairman,

18 presiding.

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1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Chairman Meredith M. Broadbent (presiding)

4 Vice Chairman Dean A. Pinkert

5 Commissioner Irving A. Williamson

6 Commissioner David S. Johanson

7 Commissioner F. Scott Kieff

8

9 Staff:

10 William R. Bishop, Supervisory Hearings and

11 Information Officer

12 Sharon Bellamy, Program Support

13 Sonia Parveen, Intern

14 Keysha Martinez, Investigator

15 Karl Tsuji, International Trade Analyst

16 Tana Farrington, Economist

17 Charles St. Charles, Attorney

18 Elizabeth Haines, Supervisory Investigator

19

20

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22

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1 APPEARANCES (Continued):

2

3 In Support of the Continuation of the Antidumping and
4 Countervailing Duty Orders:

5 Kelley, Drye & Warren LLP, Washington, DC, On
6 behalf of:

7 Edsal Manufacturing Company, Inc.

8 Bruce Saltzberg, President and Chief Executive
9 Officer, Edsal Manufacturing Company

10 Mitchell Liss, Vice President, Edsal
11 Manufacturing Company

12 Chris Kruger, Sales Director,
13 Edsal Manufacturing Company

14 Chris Quick, Sales Director,
15 Edsal Manufacturing Company

16 Gina Beck, Economic Consultant, Georgetown
17 Economic Services

18

19 In Support of the Continuation of the Antidumping and
20 Countervailing Duty Orders (continued):

21 Of Counsel:

22 Kathleen W. Cannon

23 Paul C. Rosenthal

24 R. Alan Luberda

25

I N D E X

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4	Petitioner (Kathleen W. Cannon, Kelley,	
5	Drye & Warren LLP)	
6		
7	Bruce Saltzberg, President and Chief	10
8	Executive Officer, Edsal Manufacturing Company	
9		
10	Mitchell Liss, Vice President,	14
11	Edsal Manufacturing Company	
12		
13	Chris Quick, Sales Director,	20
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19	Kathleen W. Cannon, Kelley, Drye & Warren LLP	29
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25	Drye & Warren LLP)	

P R O C E E D I N G S

(9:32 a.m.)

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

CHAIRMAN BROADBENT: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigations No. 701-523 and 731-1259 involving Boltless Steel Shelving Units and Prepackaged for Sale from China.

The purpose of these final investigations is to determine whether an industry in the United States was materially injured by reasons of less than fair value or subsidized imports from China of Boltless Steel Shelving Units.

Documents concerning this hearing are available at the public distribution table. Please give all prepared testimony to Secretary, do not place it on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony.

I understand that parties are aware of time allocations, but if you have any questions about time, please ask the Secretary. Speakers are reminded not to refer to business proprietary information in their remarks or in answers to questions.

Please speak clearly into the microphone and

1 state your name for the record so that the court reporter
2 knows who is speaking.

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

7 Mr. Secretary, are there any preliminary matters?

8 MR. BISHOP: Madam Chairman, I would note that
9 all witnesses for today's hearing have been sworn in. There
10 are no other preliminary matters.

11 CHAIRMAN BROADBENT: Very well. Let us now
12 proceed with opening remarks.

13 MR. BISHOP: Opening remarks on behalf of
14 Petitioners will be by Kathleen W. Cannon, Kelley, Dry and
15 Warren.

16 CHAIRMAN BROADBENT: Welcome, Ms. Cannon, you may
17 begin when you are ready.

18 OPENING REMARKS OF KATHLEEN CANNON

19 MS. CANNON: Thank you. Good morning, Chairman
20 Broadbent and members of the Commission. I am Kathleen
21 Cannon of Kelley Drye appearing today on behalf of the
22 Petitioner, Edsal Manufacturing Company.

23 Our case involves a small industry and a
24 family-owned business, not the large multi-national
25 companies that the Commission investigates in many other

1 cases. But the injurious effect of the imports is no less
2 significant and the need for trade relief no less important
3 for this industry than for the very large industries that
4 petition for relief.

5 The product at issue today is boltless steel
6 shelving. We have brought samples and our industry
7 representatives will discuss the product in more detail.

8 It is a fairly straightforward product that you
9 typically purchase from your local home improvement store.
10 My family has a couple of these units in our garage at home
11 that we use for storage. The product is conveniently
12 prepackaged and easy to assemble even for inexperience
13 amateurs like me.

14 Unfortunately, the product is also easily
15 manufactured by Chinese producers. Those producers have
16 targeted the United States with increasing exports of
17 shelving at the expense of the U.S. industry. The basic
18 nature of the product allows Chinese producers to make
19 shelving that is interchangeable with the product that Edsal
20 and other U.S. manufacturers produce. As a result the basis
21 of competition in the U.S. market is price.

22 Imports of boltless shelving from China used low
23 prices to surge into the U.S. market in 2014 by undercutting
24 the prices of U.S. producers. Quarterly price comparisons
25 reveal underselling by subject imports the majority of the

1 time, often at significant margins. Based on their receipt
2 of government subsidies and their dumping practices, subject
3 producers have driven down U.S. producer prices to
4 unprofitable levels.

5 The volumes and market shares of these low-priced
6 subject imports over the past three years have been sizeable
7 and increasing.

8 There are minimal non-subject imports in the U.S.
9 market so almost every sale of a dumped and subsidized
10 Chinese sale came at the expense of the U.S. industry. As
11 China's market share increased, domestic industry's market
12 share fell in direct proportion.

13 Notably, demand for boltless steel shelving was
14 increasing in 2014. That should have allowed the U.S.
15 industry to increase sales and to raise prices. Instead, as
16 the subject import volume surged, U.S. producers lost market
17 share, watched their capacity utilization fall to an anemic
18 level, were forced to layoff workers and cut back on worker
19 shifts and suffered financially as profits eroded to losses
20 in 2014.

21 Edsal is a family-owned business that is
22 struggling to continue to produce and sell boltless steel
23 shelving in its own home market. But Edsal sales people
24 have been required to travel to China to participate in line
25 reviews in order to sell their U.S.-produced shelving to

1 their U.S. customers.

2 The U.S. purchasers hold line reviews at which
3 they make sourcing decisions for boltless steel shelving in
4 China because they know where to find the lowest price.

5 As you will hear from our witnesses, Edsal is
6 first and foremost a U.S. producer and would vastly prefer
7 to sell its domestically manufactured product than to import
8 that product from China. But when the customer will not pay
9 the price that Edsal needs to cover its costs, Edsal had no
10 choice but to import or offer to arrange to import to retain
11 major customer accounts. These customers can and often have
12 gone directly to Chinese suppliers where Edsal could not
13 match the Chinese prices.

14 That Edsal filed this trade case, however,
15 provides strong evidence that its interests lie in U.S.
16 production, not in importation. Indeed, as soon as the
17 benefits of this case began to be felt, Edsal hired back
18 workers it had been forced to layoff in Chicago and opened a
19 new manufacturing facility producing the subject product in
20 a depressed area of the United States leading to new U.S.
21 jobs.

22 There's no doubt, however, that if this case is
23 not successful, the downturn in subject import volumes that
24 occurred after this case was filed and the consequent uptick
25 in domestic industry performance will be short lived.

1 The Chinese producers which have largely refused
2 to participate in this case, even though many did
3 participate at Commerce, are not going away absent a remedy.
4 They have massive capacity, huge idle capacity, and a heavy
5 export orientation targeting the United States. And they
6 have a ready group of large U.S. customers who have made it
7 clear they want the low Chinese pricing of these imports if
8 it is available to them.

9 If relief is not provided, the U.S. industry
10 gains that occurred once the preliminary trade findings were
11 issued will be immediately reversed. Worker layoffs that
12 Edsal was forced to undertake in 2014 will be just the tip
13 of the iceberg and boltless steel shelving will become one
14 more market that the United States has ceded to China.
15 Please don't let that happen.

16 Thank you.

17 MR. BISHOP: Madam Chairman, the panel in support
18 of the imposition of antidumping and countervailing duty
19 orders have been seated.

20 MS. CANNON: Thank you. Our first witness this
21 morning will be Mr. Saltzberg.

22 STATEMENT OF BRUCE SALTZBERG

23 MR. SALTZBERG: Good morning. My name is Bruce
24 Saltzberg and I am the president and CEO of Edsal
25 Manufacturing Company. Edsal is a U.S. producer of boltless

1 steel shelving and the petition in this trade case.

2 Edsal Manufacturing was started by my father in
3 1957 with just \$500 working out of his garage. From this
4 modest beginning we have expanded Edsal's operations to
5 become a sizeable company employing over 1,000 workers at
6 our manufacturing facility in Chicago, Illinois.

7 Edsal remains a family-owned business today.
8 Edsal began manufacturing boltless steel shelving in the
9 1980s. The quality of our shelving is excellent and we
10 provide great service to our customers. We are able to
11 manufacture whatever type of boltless steel shelving a U.S.
12 customer might request.

13 Yet, despite producing a high-quality product,
14 and developing an excellent reputation, we find ourselves
15 fight for survival in our home market.

16 We have watched imports from China continue to
17 make inroads into the United States displacing our sales and
18 taking our customer accounts. If this competition occurred
19 on a fair basis, we would have no issue. But this
20 competition is based on unfair trading practices, both
21 significant dumping and subsidies as the Commerce Department
22 has found. These unfair practices allow the Chinese
23 producers to significantly undercut our prices, taking our
24 sales, and depressing our prices. The low-priced imports
25 have damaged us financially, forcing us to cut back on

1 capital expenditures, to lay off workers, and to confront
2 debt problems that I never thought I would face.

3 By the middle of 2014, it became clear that
4 either we needed to take action to address the import
5 problem or our family-owned business would not survive. We
6 lost a major customer's Black Friday business in mid-2014
7 and faced a crossroads. We were essentially at a make or
8 buy threshold. Either do what we could to restore our
9 ability to continue manufacturing in the United States or
10 close up shop and simply import from China. This is when we
11 filed the trade action.

12 I am not very familiar with these trade laws and
13 was concerned that this action would be too little, too
14 late. But fortunately the action had an almost immediate
15 effect. After we won the preliminary ITC decision,
16 customers that had been buying imports from China began to
17 seek Edsal's product again.

18 Our performance began to improve in terms of
19 sales, prices, and profits in the latter part of 2014 and
20 even more in 2015 once Commerce imposed preliminary duties.

21 As the imports receded, we were able to increase
22 sales and profits. We were also able to rehire workers that
23 we had laid off in mid-2014 when our volume of sales had
24 plummeted. Even better, we found ourselves in a position to
25 open a new facility this year in a very economically

1 depressed area.

2 We worked with the city of Gary, Indiana to
3 establish a site for manufacturing operation of boltless
4 steel shelving. With the subject imports declining there
5 was more demand for our product and we wanted to be able to
6 supply our customers' needs.

7 I am very proud to say we have now opened that
8 facility in Gary. We held a job fair recently to hire new
9 workers and initially hired about 50 workers. Just this
10 week we've hired an additional 30. We intend to hire 300
11 workers in total, assuming this case is successful.

12 Many of those apply for a job in Gary had good
13 skills, but no opportunity to work. It has been great for
14 our company and our new workers to provide these new U.S.
15 manufacturing jobs. None of this would have been possible
16 without the discipline imposed by the case on the unfairly
17 traded imports.

18 My only concern is whether these new market
19 conditions will last. The trade remedies that level the
20 playing field are truly critical to our company's continued
21 ability to operate, to employ these workers, and to hire
22 more workers in Gary.

23 On behalf of my company, our workers, and family,
24 I urge you to help us by imposing trade remedies to maintain
25 our ability to manufacture boltless steel shelving in the

1 United States.

2 Thank you.

3 STATEMENT OF MITCHELL LISS

4 MR. LISS: Good morning. My name is Mitchell
5 Liss and I'm the Vice President of Edsal Manufacturing.

6 I've worked at Edsal in the boltless steel
7 shelving business for 13 years. I would like to describe
8 for you today the product that is the subject of this case
9 and to give you some background on how our competition in
10 the United States market against imports of dumped and
11 subsidized boltless steel shelving from China led us to file
12 this trade action.

13 The product we produce is boltless steel shelving
14 units that are prepackaged for sale. Here on this side of
15 the room you see an assembled five level, boltless steel
16 shelving rivet shelf unit. As you can see, this is a fairly
17 basic product manufactured from hot-rolled, flat-rolled,
18 carbon steel that is formed or pressed into shape to make
19 the posts and the beams. Boltless steel shelving is
20 primarily designed for functionality rather than visual
21 appeal. It is made for strong, efficient, storage space
22 typically for your garage, basement, or back room.

23 Boltless steel shelving is very easy to assemble
24 even for those people inexperienced with do-it-yourself
25 projects. No bolts or screws are needed for assembly. So

1 the consumer doesn't need any tools. In addition all the
2 pieces necessary to assemble to a single stand-alone
3 shelving unit are prepackaged together in a single kit.

4 Prepackaged boltless steel shelving is sold
5 through retailers who are generally big-box home improvement
6 stores, club retailers, department stores, office supply
7 stores, and online retailers. A relatively small group of
8 these large retailers make up the bulk of the market.

9 Edsal produces a high quality product and has
10 been a well-respected supplier to these retailers for many
11 years. To the big-box retailers and club stores, who are
12 our largest customers, however, price is the critical factor
13 in their purchasing decision. Many of these customers have
14 global purchasing arms with facilities in China that are
15 able to identify Chinese producers making these products.

16 In some cases they've even encouraged Chinese
17 manufacturers to get into this business. A lot of Chinese
18 companies did just that over the last decade.

19 Imports from China began make significant inroads
20 into the U.S. market by offering extremely low, sometimes
21 absurdly low prices to our customers. We have a very good
22 idea of the pricing our customers can get directly from
23 Chinese factories. Edsal has a small production facility in
24 China and we often get prices from other Chinese producers.
25 This market intelligence has shown us that the Chinese

1 prices are consistently well below the domestic prices Edsal
2 is able to charge and turn any sort of a profit.

3 Because a small group of retailers accounts for a
4 large volume of our sales of boltless steel shelving the
5 loss of sales to even one of these customers would be
6 catastrophic to our business.

7 As a consequence we have been consistently forced
8 to cut our prices to rock bottom to avoid losing big sales
9 to important customers. And when we haven't been able to do
10 that, we have lost those sales. Although this problem has
11 existed for some time, the aggressive behavior of the
12 imports intensified in 2014. Demand for boltless steel
13 shelving has been strong in recent years which should have
14 led to healthy and strong operations in Edsal. Instead, we
15 saw our market share significantly eroding, our prices and
16 profitability declining.

17 Our customers are demanding the lowest prices
18 possible, which meant the lowest possible Chinese prices.
19 And we knew of at least 20 Chinese producers with huge
20 capacity to produce boltless steel shelving to whom those
21 customers could turn to provide that pricing if Edsal could
22 not.

23 Edsal first and foremost is a domestic producer.
24 Our goal is always to try to sell domestically produced
25 product whenever we can. Where Edsal facilitated import

1 transactions we first offered our domestically product
2 product. Those prices, unfortunately, were rejected as
3 being too high comparable to the available Chinese pricing.
4 To save certain accounts and maintain those customer
5 relationships, we offered to supply Chinese shelving at the
6 low prices quoted by Chinese producers so that Edsal did not
7 lose the account altogether.

8 At regular intervals, Edsal offered domestic
9 pricing to those facilitated transaction customers to
10 attempt to regain domestic production. We viewed
11 facilitating these imports as a matter of survival for
12 Edsal's boltless steel shelving business because Edsal's
13 domestic production consistently could not compete with the
14 low Chinese prices.

15 By mid-2014, Edsal had reached a tipping point.
16 One of our large customers informed us in June of 2014 that
17 we had lost a very large order for their Black Friday
18 promotional sale because of our -- because our prices were
19 higher than those of our Chinese competitors.

20 Edsal had supplied this customers' large Black
21 Friday volume for several years prior to the loss of this
22 business in 2014. But we lost this business in 2014 even
23 though our 2014 price was lower than the price we had
24 provided in prior years. There was never any question about
25 our ability to supply this customer the product they needed.

1 After all, we had supplied this promotion for many years
2 before.

3 This shift to imports was all about price. And
4 the buyer made it very clear that the Chinese imported
5 product was dramatically lower in price than Edsal's
6 domestically produced product.

7 I don't think I'm exaggerating when I say we
8 viewed this loss as catastrophic to Edsal, coming on the
9 heels of other lost sales and pricing pressure we had faced.
10 This was the loss of a multi-million dollar order and it
11 signaled to us where all of our business was going with this
12 customer and with our other customers. As a result of this
13 lost sales and the other lost sales to China, Edsal was
14 forced to lay off 150 workers, reduce its shifts, and
15 curtail domestic production.

16 So this is where we stood mid-2014. We were
17 losing major sales in market share to imports from China in
18 a market in which demand was growing because the import
19 volume from China was increasing at an even faster pace.
20 Our prices had already been pushed so low by competition
21 from dumped and subsidized Chinese imports that they could
22 go no lower. Yet our domestic production still couldn't
23 compete with the dumped and subsidized Chinese prices at our
24 customers.

25 Our customers were increasingly moving to direct

1 importation of boltless steel shelving to get the lowest
2 Chinese price. Our workers, they faced further layoffs and
3 reduced shifts. Our financial condition was eroding to
4 unsustainable levels.

5 Unfortunately, every indication was that things
6 were only going to get worse unless something dramatically
7 changed with regard to Chinese imports. That is when we
8 decided to bring the trade case as a last-ditch effort to
9 save our family business.

10 Unfortunately, as Bruce just testified, this case
11 is saving our boltless steel shelving business and the jobs
12 of the workers here in the United States. This case has
13 allowed us to increase prices. Customers that had
14 previously refused to purchase from Edsal because of low
15 Chinese prices are placing orders with Edsal for domestic
16 production again. In fact, the Black Friday business we
17 lost last year at the customer I previously referenced,
18 returned to Edsal for 2015.

19 Notably, we got the business back at a price that
20 was higher than the customer rejected last year. We have
21 rehired workers in Chicago that we laid off last year and we
22 have expanded our operations by opening our Gary facility.

23 We didn't need this trade case to show us that
24 dumped and subsidized imports were causing injury to Edsal's
25 boltless steel shelving business. We and our workers were

1 living that reality every day.

2 But I hope that the turnaround we have begun to
3 experience as a result of the trade case will make it
4 obvious to the Commission that unfairly traded imports from
5 China did. They did cause severe injury to the domestic
6 industry.

7 There can be no doubt in any one of our minds
8 that without the discipline of this trade case, Edsal's
9 domestic production will cease to exist within a year. This
10 is not something I want to see happen to my company or to
11 our workers. We have filed this trade case in an effort to
12 save our U.S. Company. And on behalf of Edsal and its
13 workers, I ask you for your help in making this happen.

14 Thank you.

15 STATEMENT OF CHRIS QUICK

16 MR. QUICK: Good morning. I am Chris Quick, the
17 Sales Director of Edsal Manufacturing. I have held that
18 position and have been involved with the sale of boltless
19 steel shelving for the past 21 years. I would like to
20 describe for you today some of the market dynamics
21 surrounding sales of boltless steel shelving, and how
22 low-priced imports from China affect Edsal's operations.

23 As Mr. Liss has testified, the purchasers of
24 boltless steel shelving are generally big box stores,
25 department stores and home improvement stores. A number of

1 the largest U.S. buyers of this product conduct periodic
2 product line reviews, where the retailers make its buying
3 decisions.

4 The function of these line reviews is to get the
5 product they want at the lowest possible price, and the
6 process is specifically designed to ensure that this
7 happens. The customer first identifies a number of
8 manufacturers that are able to produce shelving to the
9 specification that the customer requires. Many of these
10 large purchasers have global sourcing teams with facilities
11 in China.

12 Their function is to locate the lowest-priced
13 Chinese suppliers capable of producing the product that the
14 customer wants. The sourcing team then presents those
15 low-priced options to the U.S. retailer. Edsal therefore
16 consistently competes at these line reviews with several
17 different Chinese producers, specifically selected because
18 of their low prices.

19 Each of the invited vendors bring a sample of
20 this product to the line review at the customer's location.
21 The primary goal of these line reviews is to obtain the
22 lowest possible price, and the expectation of the customer
23 is that the prices offered should be lower than in the last
24 review.

25 While other factors matter in the purchasing

1 decision, all of the vendors at the line review have been
2 identified as being able to supply the unit the customer
3 wants. Therefore, price will ultimately decide who gets the
4 business. Line reviews are very high stakes, because each
5 vendor typically is allowed to make only one single bid.
6 The vendor thus has opportunities to offer its lower price
7 to win the business.

8 Often all the boltless steel shelving business at
9 the customer for a particular period is up for bid. For
10 Edsal, this means that for very large orders at our most
11 important customers, we find ourselves in an all or nothing
12 head to head price competition, with Chinese companies that
13 have been identified by the customer as having the lowest
14 possible prices.

15 This process is specifically designed to push
16 prices as low as possible. One customer even calls this
17 process a shootout. In many cases, U.S. retailers actually
18 hold the line reviews in China. Even though I'm trying to
19 sell U.S.-produced boltless steel shelving to a customer
20 that may be located right across from a U.S. facility in
21 China, I have to travel to China at significant expense to
22 Edsal, to negotiate sales in competition with numerous
23 Chinese suppliers.

24 In fact, during these reviews, all of the forms
25 that we must complete only contemplate the purchase of the

1 product from China. Edsal is essentially forced to create
2 its own quotation form to show the price of the product made
3 in the United States. The very fact that these line reviews
4 frequently occur in China is a strong indication of the
5 power of the Chinese supplier and the attractive nature of
6 their pricing to the U.S. buyers.

7 It sends a very clear message that the Chinese
8 prices are the lowest available and are a benchmark for
9 obtaining this business. In addition to line reviews, we
10 also had bid opportunities in the United States. We have
11 provided this information to the Commission. In most cases,
12 the bids are sealed. But as Mr. Liss explained, we are able
13 to obtain from our contacts in China the prevailing prices
14 that the Chinese suppliers are offering.

15 We attempt to offer a competitive price, but one
16 that ideally allows us some financial return. In those
17 instances we don't get the business, we are virtually always
18 told by the retailer that it's because we did not offer a
19 price as low as the competing Chinese supplier. All of the
20 U.S. purchasers are well aware of the low prices that
21 Chinese producers offer for their shelving.

22 Retailers demand prices that are competitive with
23 the Chinese offers, so that they can remain competitive with
24 the other retailers in selling boltless steel shelving to
25 consumers. Even when we agree to the low price, retailers

1 often will come back to Edsal to request that we give them
2 further promotional discounts, driven by new, low-priced
3 offers from Chinese products.

4 After three years of trying to compete against
5 the dumped and subsidized Chinese imports at ever-lower
6 prices and watching business that we have had slip away for
7 years, we are starting to regain customer accounts on this
8 trade case. The Chinese producers are all still out there,
9 and the focus of our customers on getting the lowest price
10 hasn't changed at all.

11 The only thing that has changed is the ability of
12 the unfair trade Chinese shelving to undersell Edsal with
13 impunity because of the discipline of the trade cases. If
14 we lose that, the Chinese producer will go back to driving
15 domestic industry out of business in short order. Thank you
16 for your attention.

17 STATEMENT OF CHRIS KRUGER

18 MR. KRUGER: Good morning. I am Chris Kruger. I
19 have been sales director at Edsal Manufacturing since 2012.
20 Prior to this position at Edsal, I was a buyer at Home Depot
21 from 1995 to 2006. In fact, for several years, I was the
22 buyer of this product. From 2007 to 2012, I was a senior
23 vice president of the Sales Home Center at Keter Plastics.
24 While I worked at Home Depot, I negotiated with many large
25 suppliers, including both U.S. and Chinese producers of

1 boltless steel shelving. I would like to describe how these
2 sales negotiations operate from the buyer's vantage.

3 As an initial matter, I can tell you that the
4 main factor driving my buying decision of boltless steel
5 shelving at Home Depot was price. Our primary goal was to
6 get the lowest price possible for the company, for any
7 product that we purchased. Home Depot has a global sourcing
8 team that has the sole responsibility of seeking out the
9 lowest price from any possible source.

10 My role as a buyer was to find what products were
11 available, both within the United States and globally from
12 my department, and then compare prices. Let me describe in
13 more detail how global sourcing works. After assessing the
14 various product options, we identified the basic features we
15 were looking for in terms of dimensions of the product as
16 well as the price range needed.

17 We then identified those companies manufacturing
18 the product in the United States and abroad. We sourced
19 many products from China to get the lowest price. Even when
20 factoring freight and logistics, the Chinese prices were
21 typically lower by a large margin than prices offered by
22 U.S. manufacturers.

23 Home Depot has offices in China with personnel
24 who solicit the Chinese production facilities. Those
25 personnel are incentivized to grow their direct import

1 penetration of products. They provide information back to
2 Home Depot Corporate in Atlanta on products and pricing of
3 the Chinese suppliers. These Home Depot employees based in
4 Asia also facilitate in the buying process.

5 Once we determine that a particular supplier was
6 able to meet our specifications, we solicited prices
7 directly from the supplier, whether the supplier was a U.S.
8 company or a Chinese manufacturer. Home Depot usually does
9 not use a middle man importer when purchasing imports of
10 boltless steel shelving, because it is far more cost
11 effective for Home Depot to import directly.

12 That is true in most other major buyers of
13 shelving as well. When Home Depot buys shelving from a U.S.
14 supplier, it asks that U.S. supplier for the price of the
15 product. Home Depot then adjusts the U.S. producer price to
16 account for freight and other logistical costs incurred in
17 moving and handling U.S. product, to get it to its ultimate
18 destination. It is this total cost to Home Depot of the
19 U.S. product that we used as the basis of our purchasing
20 decision.

21 We would do the same thing for imported products
22 as well. We asked the Chinese supplier to provide its price
23 FOB the Chinese port. We would then factor in freight and
24 other handling costs to move the product to the ultimate
25 U.S. destination. There are a large number of employees at

1 Home Depot devoted to calculating these costs for purchasing
2 products from China versus U.S. suppliers.

3 In fact, there are more analysts calculating
4 these costs than people making the buying decision at Home
5 Depot. We ultimately compared the price offered by the
6 Chinese manufacturer with an adjustment for the freight and
7 logistical cost, to the price charged by the U.S.
8 manufacturer, with an adjustment for freight and logistical
9 costs.

10 Given the large volume of imported products
11 sourced by Home Depot, the freight rates available to Home
12 Depot for shipping from China are much lower than the
13 freight rates available to Chinese products. For the same
14 reason, the Home Depot inland freight rates are lower than
15 those of U.S. producers like Edsal. Some Home Depot handled
16 freight of U.S. sales as well.

17 Because Home Depot has a network of warehouses
18 and distribution centers in various regions, the established
19 distribution network allows Home Depot to reduce logistical
20 costs. I know from my contacts with people on the
21 purchasing side of the business, as well as my more recent
22 experience at Edsal on the other side of the table, that
23 Home Depot still operates this way today.

24 In fact, in July of 2014, a global sourcing
25 manager at big box retailer contacted me and told me he

1 needed to buy boltless steel shelving direct from China
2 because his boss was putting pressure on him to reduce his
3 costs. Other large retailers undertake a similar approach.
4 I recently had lunch with a former buyer of another big box
5 retailer. He described in great detail how his analytical
6 team worked day in and day out on only one thing: seeking
7 out the lowest price sources.

8 He said there was constant pressure to look at
9 direct imports as a way to reduce his cost and enhance his
10 gross margin. He told me that as a buyer, he had no choice
11 but to try to find the lowest price to reduce his cost. I
12 would also like to mention that we appreciate that
13 Commissioner Schmidtlein and the Commission staff members
14 took time from their busy schedule to tour Edsal's
15 manufacturing facilities in Chicago in early June.
16 Following the plant tour, I provided an enlarged copy of a
17 document I obtained from a contact I have in China. The
18 document is a paper containing Edsal's exact product
19 specifications in exact volumes that a U.S. big box retailer
20 was circulating to factories in China that manufacture
21 boltless steel shelving.

22 This U.S. retailer was looking for Chinese quotes
23 on the same product. You can see in the image that there is
24 Chinese writing and pictures with our volume. This document
25 confirms that customers are not going to China to obtain a

1 product that is unavailable in the United States. Customers
2 are simply seeking lower prices.

3 Edsal is obviously able to supply the identical
4 product given that a Chinese manufacturer was using Edsal's
5 specifications to quote. I have had numerous conversations
6 with Edsal's customers, and have heard over and over that
7 the main objective in purchasing boltless shelving is price.
8 I remember a conversation with one customer in particular,
9 who shifted to buying Chinese imports because of lower
10 prices.

11 He said to me "Chris, they had a very good price,
12 and we still value our relations. But I have to take
13 advantage of these types of things." He ended by saying
14 price is important, you know that. Thank you for your
15 attention.

16 STATMENT OF KATHLEEN W. CANNON

17 MS. CANNON: For the record, I am Kathleen Cannon.
18 Now that you have heard from our industry experts, I would
19 like to review the record data as they relate to the
20 statutory factors of volume, price, and impact.

21 Much of this information on the record is
22 confidential, so we have prepared confidential handouts in
23 addition to our public slides to highlight the key evidence
24 in this case.

25 The first statutory factory, whether import

1 volumes are significant, is met in this case.

2 As you see from confidential chart one in our
3 handout, China is by far the largest source of imports of
4 boltless steel shelving in the U.S. market. Indeed,
5 nonsubject imports are but a minimal presence.

6 Confidential chart one and public slide one also
7 show that the imports from China are increasing
8 significantly. Although the import volumes were relatively
9 stable between 2012 and 2013, by 2014 imports from China
10 surged into the United States.

11 The volume of imports from China is also
12 substantial and increasing on a relative basis.
13 Confidential chart two in our handout shows the size of
14 Chinese import volumes relative to U.S. production and U.S.
15 consumption.

16 As you see in confidential chart three, these
17 import volumes are growing at an even faster pace than U.S.
18 demand. As a result, these imports are capturing an
19 increasing share of the U.S. market as shown in confidential
20 chart four.

21 They are displacing U.S. producer sales, as well
22 as capturing most of the demand increase. There is no
23 question that subject import volumes are significant and
24 increasing.

25 The next statutory factor is price. At the

1 preliminary stage of this case, the Commission stated that
2 it would like to examine further the importance of nonprice
3 factors in purchasing decisions.

4 Confidential chart five in your handout provides
5 a summary of responses of purchasers regarding whether
6 subject imports were superior to the U.S. product in terms
7 of nonprice factors such as availability, delivery, quality,
8 product range, technical support, and other factors.

9 As you see, purchasers rated the U.S. and Chinese
10 product as comparable on virtually all of these factors.
11 Several rated the U.S. product superior on factors such as
12 delivery time and technical support and service. The one
13 exception? Price.

14 Most purchasers stated that the U.S. product was
15 comparable or inferior to China, meaning that China sells at
16 a lower price. These purchaser responses are consistent
17 with other record evidence showing the substitutability of
18 the product and the importance of price to purchasers.

19 As shown in public slide two, virtually all the
20 U.S. producers, importers, and purchasers reported that the
21 U.S. and Chinese shelving is always or frequently
22 interchangeable. The staff concluded that the U.S. and
23 Chinese products are highly substitutable, and most
24 purchasers rated price as very important in buying
25 decisions.

1 Where a fungible product exists that is sold
2 based on price, sales gains and market share penetration
3 result for the supplier with the lowest prices. That is
4 precisely what happened here.

5 As public slide three indicates, in quarterly
6 price comparisons during the period of investigation subject
7 imports undersold the U.S. product most of the time in 60
8 percent of comparisons, and an average margin of 12 percent.

9 A mixed pattern of underselling and overselling
10 is not surprising when a fungible product is at issue and
11 where domestic producers must try to compete with the import
12 pricing or lose the sale entirely, as the Commission has
13 recognized in past cases.

14 The Line Reviews that Mr. Quick recounted are a
15 perfect example of how a U.S. supplier must try to bring a
16 low price offer or risk losing a major customer account
17 altogether.

18 Notably, as confidential chart six demonstrates,
19 several of the major U.S. purchasers of boltless shelving
20 admitted that they were indeed buying the U.S. product due
21 to its low price. They also stated they had shifted to
22 imports because of their lower price.

23 Finally, they agreed that the low import prices
24 had caused U.S. producers to cut their prices, as well.
25 These admissions by major U.S. purchasers provide further

1 corroboration that it is the subject imports that are
2 undercutting and depressing U.S. prices.

3 Confidential chart seven sets forth direct
4 statements by a purchaser as to precisely how important
5 price is to the purchasing decisions in line reviews, and
6 how line reviews are used to leverage down U.S. prices.

7 As you see from these quotes from a purchaser,
8 there can be no question that price is the driving
9 force in the sourcing decision at the line review. This
10 underselling by subject imports caused severe depression of
11 U.S. producer prices over the period of investigation, as
12 shown in confidential chart eight.

13 As the staff report shows, the underselling by
14 imports caused a cost-price squeeze and resulted in
15 financial harm to the domestic industry. These price
16 declines continued through the third quarter of 2014 when
17 this case was filed and the Commission issued an affirmative
18 preliminary decisions.

19 That brings us to the final statutory factor:
20 Impact.

21 The impact of the subject imports on the U.S.
22 industry has been severe. Confidential chart number nine
23 and public slide four show the market share displacement
24 that U.S. producers suffered as subject imports grabbed
25 sales at U.S. producers' expense. A classic X pattern.

1 As recounted in confidential chart 10, despite an
2 increase in demand the domestic industry's capacity
3 utilization fell to an anemic level in 2014. Domestic
4 production and shipments dropped from 2013 to 2014, even
5 though demand for the product was growing.

6 Workers were laid off, and shifts were reduced in
7 2014 as U.S. producers lost sales to subject imports.
8 Further, the industry's financial performance was dire.

9 As you see in confidential chart 11, due to the
10 price underselling by subject imports and resulting price
11 reductions, the U.S. industry's operating profits fell to
12 losses by 2014.

13 That lost market share and weakened financial
14 condition is what led Edsal to file this trade case in
15 August of last year. No factor other than subject imports
16 explains this injury.

17 Demand for shelving was strong and increasing.
18 There are virtually no nonsubject imports in the market, and
19 what few there were also lost market share to China. There
20 have been no supply constraints or other factors to explain
21 this import surge.

22 I think one of the best indicators of the causal
23 nexus between the subject import behavior and its effect on
24 the U.S. industry is what happened after the trade case was
25 filed.

1 After this case was filed, subject import volumes
2 fell and prices rose. The domestic industry regained sales
3 in market share in early 2015, as shown in confidential
4 chart 12, and in public slide 5, a reversal of the classic
5 acts where U.S. market share is up and the imports are down.

6 As public slide 6 states, the U.S. producers were
7 able to increase prices and U.S. profitability improved
8 once imports receded. As indicated in public slide 7, the
9 industry was able to rehire workers that had been laid off
10 in 2014, and Edsal was even able to open a new manufacturing
11 facility in Gary, Indiana, as you heard our witnesses
12 testify.

13 Edsal is dedicated to production of boltless
14 steel shelving in the United States.

15 I would like you to look at what a positive
16 impact a trade case can have, as reflected in photos from
17 the job fare held in Gary, Indiana. These are workers in an
18 economically depressed area seeking a chance to become
19 employed again.

20 As you just heard, Edsal has begun the operation
21 and has hired a new worker with plans to hire additional
22 workers if this case is successful. But this case must be
23 successful.

24 Absent a trade remedy to address the substantial
25 subsidies on these Chinese goods and the significant dumping

1 in which they are engaged, the industry's improvement will
2 be short-lived.

3 Indeed, as my partner, Mr. Rosenthal, will
4 discuss the threat posed by this massive export-oriented
5 industry will quickly lead to a decimation of the U.S.
6 boltless steel shelving industry if left unaddressed.

7 Thank you.

8 STATEMENT OF PAUL C. ROSENTHAL

9 MR. ROSENTHAL: Good morning. I am Paul Rosenthal
10 of Kelley Drye & Warren. I would like to briefly address the
11 issues of threat and the failure of numerous Chinese
12 producers to respond to the Commission's questionnaire in
13 this investigation.

14 As detailed in our brief, the data collected by
15 the Commission regarding the Chinese capacity, production
16 and exports are significantly understated because the vast
17 majority of the subject producers have elected to withhold
18 information requested by the Commission. Although the
19 Commission issued questionnaires to 25 Chinese
20 producers/exporters, only four producers and two exporters
21 have responded. The four responding producers account for a
22 small fraction of the total estimated capacity of the
23 Chinese industry.

24 The failure of the Chinese producers and
25 exporters to respond to the Commission's questionnaire does

1 not reflect their inability to do so. Rather, many of the
2 Chinese producers deliberately chose not to participate here
3 because they recognized that their data would not support
4 their position. For example, one Chinese producer also
5 participated in the Commission's preliminary investigation
6 but not in the final investigation. Three major Chinese
7 producers participate in the Commerce Department's
8 investigations, responding to numerous questionnaires and
9 submitting extensive information to Commerce. Several other
10 Chinese producers and exporters also responded to Commerce's
11 initial questionnaire regarding their shipments of boltless
12 shelving to the United States. This level of cooperation by
13 the Chinese suppliers before Commerce stands in stark
14 contrast to the refusal of so many subject producers and
15 exporters to respond to the Commission's final
16 questionnaire.

17 The Chinese producers' willful refusal to
18 cooperate here strongly suggest that their data would have
19 shown substantial and increasing capacity to produce both
20 the steel shelving, significant unused capacity, high export
21 orientation, and the likelihood of significantly increased
22 exports into the United States in the absence of duties.

23 The refusal of the Chinese producers to respond
24 to the Commission's questionnaire should not inure to their
25 benefit. This is a case in which the Commission should make

1 adverse inferences based on the Chinese producers' and
2 exporters' refusal to respond. At minimum, application of
3 the Adverse Facts available for revision of the statute is
4 appropriate in this case.

5 I understand that sometimes the Commission is
6 reluctant to make adverse inferences, or even apply the ACA
7 provision of the statute. In some instances the Commission
8 is faced with producers from some countries providing
9 information, while producers from other countries refuse to
10 do so. In those instances, I understand the Commission is
11 reluctant to penalize the cooperating country producers.

12 This is not such a case. Here, a very small
13 percentage of the Chinese producers have responded,
14 frustrating the Commission's efforts to collect facts.

15 The Commission should make adverse inferences
16 from the Respondents' failure to provide information and use
17 adverse facts available. Even if the Commission declines to
18 apply Adverse Inferences, the Commission should not rely
19 solely on the data of the four companies who responded, but
20 on all of the record evidence.

21 Available information demonstrates that there is
22 massive Chinese capacity to produce boltless steel shelving
23 in China, most of which is sitting idle today. In addition,
24 the Chinese industry is far larger than previously
25 estimated.

1 There are over 50 suppliers of boltless steel
2 shelving, most of which have exported subject product during
3 the period of investigation, or are currently attempting to
4 do so. These other suppliers were not identified--were
5 identified not only in the Commerce Department proceedings
6 but in the ITC's importer questionnaires, and through other
7 market intelligence as well. All of this is documented in
8 our prehearing brief.

9 Publicly available information shows that the
10 Chinese industry is heavily export-oriented and that many
11 Chinese suppliers have identified the United States as a
12 primary market.

13 The Chinese producers have demonstrated that they
14 can rapidly penetrate this market, as they have done so over
15 the last couple of years.

16 Given that there is no appreciable home market
17 demand for boltless steel shelving in China, there is little
18 doubt that the huge excess capacity in China will be
19 directed at the U.S. market, just as it was before the cases
20 were filed, if file duties are not imposed.

21 Thank you.

22 MS. CANNON: Thank you, Madam Chairman. That
23 concludes our testimony. We will be pleased to answer your
24 questions.

25 CHAIRMAN BROADBENT: Okay, I'm going to thank the

1 panel. We will begin our questioning with Commissioner
2 Johanson.

3 COMMISSIONER JOHANSON: Thank you Chairman
4 Broadbent. I would like to thank all the witnesses for
5 being here today. I regret that I was unable to participate
6 in the plant tour back on June 5th in Chicago but I
7 understand that it went well and I appreciated hearing from
8 you all today more about your operations.

9 I would like to begin by asking about the issue
10 of underselling. What are we to make of the information in
11 the staff report, and this is in table 5-11, that in terms
12 of units more of the subject's imports oversold than
13 undersold the domestic light product?

14 MS. CANNON: Obviously, we are a bit limited as
15 to what we can say in a public hearing about this so we will
16 be happy to address this further in our brief, but I think
17 the information that we have tried to spell out in our
18 pre-hearing brief on this shows that there was significant
19 underselling to a large extent with respect to a number of
20 the products that you've identified and that there are some
21 significant data errors with respect to some of the product
22 categories that account for some of the larger volumes and
23 other record evidence that indicates that there is
24 underselling.

25 I think that the basic theme that we have tried

1 to show through these various slides and the confidential
2 information that we presented this morning shows that the
3 large purchasers have told you that they are shifting
4 because of the low prices and so the market share is
5 increasing of the imports with all the purchasers telling
6 you that price is the determining factor in the sales. So
7 that backdrop provides pretty compelling evidence, we
8 believe, in itself, to show that the imports are the ones
9 that are underselling even though there are some
10 data-related issues that are not accounting for as much
11 underselling as really in fact exist in the market.

12 But beyond that, Commissioner Johanson, I think
13 we need to get into some of the specifics on the quarterly
14 price comparisons in our brief in confidence.

15 COMMISSIONER JOHANSON: Alright, I look forward
16 to seeing that in the post-hearing brief. In your
17 pre-hearing brief at page 21 and also this morning Ms.
18 Cannon you addressed this issue. You state that it's not
19 surprising that a highly price-sensitive product leads to a
20 mixed pattern of underselling and overselling. Could you
21 please elaborate on why a highly price-sensitive product
22 would lead to a mix of underselling and overselling?

23 MS. CANNON: Certainly. That issue has actually
24 been examined by the Commission in prior cases, several of
25 which are sited in our brief. Where a product is highly

1 price-sensitive and where you have the market dynamics that
2 Mr. Quick and Mr. Liss described, you basically are faced
3 with a make or break decision.

4 You have to either cut the price to get the sale
5 or you potentially lose a sale entirely and you're dealing
6 with an industry where you have several very large producers
7 where the loss of a sale can be catastrophic. So it's not
8 surprising where you see that type of a price-sensitive
9 product that there is going to be a little bit of give and
10 take.

11 In fact, it would be surprising if there was one
12 hundred percent underselling by imports. If that happened I
13 don't believe we would be sitting here today. The industry
14 would be gone. So the only way for Edsal and other U.S.
15 producers to retain sales is to cut their sales and to
16 sometimes be able to go to the low levels of the imports or
17 to undersell them to be able to get the line review.

18 So you are going to see a little bit of that
19 mixed pattern. But the fact that you are trying to discern
20 who is responsible for that, who is really the one that's
21 doing the most underselling, that's where I think you look
22 at factors like what the purchasers have said, why they're
23 going to the imports and who's got the market share?

24 The market share surge in 2014 did not come from
25 the domestic industry. It came from the imports and that

1 tells you that they were the ones that mostly were
2 responsible for the low prices that mostly let them down.
3 But in order for this industry to be able to have any sales,
4 occasionally they have to be the low price in these line
5 reviews and otherwise or they'd be out of business.

6 COMMISSIONER JOHANSON: Thanks for your response.
7 Of the lost sales alleged, how many were lost to Chinese
8 imports manufactured by Edsal Sandusky and I'd appreciate it
9 if you could address this, if possible during the hearing,
10 and I realize you probably can't get into it as far as I
11 would like during the hearing so please address this as well
12 as possible during your post-hearing brief.

13 MS. CANNON: Yes Commissioner. I'd be happy to
14 do that although I think I can say publically that Edsal
15 Sandusky, the Chinese affiliate, accounts for an extremely
16 small and declining percentage of U.S. imports of Shelving.
17 That is not where most of the imports are coming from is the
18 affiliate of Edsal in China.

19 COMMISSIONER JOHANSON: Alright, thank you. And
20 somewhat along the same lines, it has been noted that parts
21 have been imported from China and packaged in the United
22 States. Has Edsal imported parts from China and packaged
23 them in the United States? And if so, are these parts mixed
24 with domestically produced parts?

25 MR. LISS: Our operations, again we will be happy

1 to address that as part of our post-conference brief, but
2 the operation is part of our confidential operations.

3 COMMISSIONER JOHANSON: Alright, I figured that
4 was probably the case, but I figured I should ask anyway and
5 I look forward to reading that during the post-hearing
6 period. I have some questions regarding your plant, your
7 new plant in Gary Indiana.

8 First, could you all give me a sense of the
9 planning your company did for this facility? I gathered
10 from press reports that it was a former auto stamping plant.
11 Second, I would like to know whether the Gary facility is
12 intended to be a second factory or it is intended to be a
13 replacement factory for your current plant in Chicago or do
14 you plan to ramp down production in Chicago and still
15 maintain the Chicago plant?

16 MR. LISS: Our planning for Gary was to expand.
17 Gary approached us as an economically very difficult area.
18 We saw as a result of the preliminary decision, our volume
19 beginning to increase and so as part of our planning for the
20 future we wanted to expand our capacity. That's what we've
21 done. We've added jobs and volume in Gary without
22 detracting from anything going on in Chicago.

23 COMMISSIONER JOHANSON: So you're pretty
24 confident then?

25 MR. LISS: We have made significant investments

1 in Gary, significant commitments, commitments to hire people
2 who, the commitment that we made was to hire up to three
3 hundred workers provided that the case is successful. The
4 workers we've hired were part of a program of employing
5 long-term unemployed so the target group of people we
6 employed are people that have been out of work for two years
7 or more, who had perhaps prior arrest records, that kind of
8 thing. So we're committed to try and help the community
9 there. Yes.

10 MR. ROSENTHAL: I just want to reiterate the
11 point that it was not planned at the expense of the Chicago
12 plant. That's point number one. Point number two, when you
13 say confident, my understanding is that here is a five year
14 lease with option to renew but by March of next year the
15 option on behalf of Edsal is to not continue with that five
16 year lease and I think that option would not be exercised of
17 course if this case is successful.

18 A lot is hinging on this case without any
19 question. The hope and expectation is that they will be
20 there for many, many years as the demand continues to grow.

21 COMMISSIONER JOHANSON: Alright, thank you Mr.
22 Liss and Mr. Rosenthal. At the time of the preliminary
23 conference, the industry witnesses were speaking about raw
24 material price increases, especially for hot-rolled steel.
25 Figure 51 of our staff report shows that this trend appears

1 to have reversed since mid-2014. I also note that the
2 Commissioner seen a petition on hot-rolled steel just a few
3 days ago.

4 Have raw material price declines had an impact on
5 prices for boltless steel shelving?

6 MR. LISS: Over the period of investigation the
7 prices really have fluctuated up and down in a fairly small
8 band, at least from what we buy. If we buy two basic
9 commodities you can see by the unit, here is steel and
10 wood-based. Those two commodities did have slight upward
11 and downward trends during the period of investigation but
12 not with any specific direction.

13 COMMISSIONER JOHANSON: Thank you.

14 MS. BECK: Commissioner Johanson, this is Gina
15 Beck from GES and just to add beyond any interim period I
16 think it is particularly telling what the declines you had
17 from material and cost declines while U.S. prices were
18 actually showing some recovery.

19 COMMISSIONER JOHANSON: Alright, thank you for
20 your response. I only have about thirty seconds left so I
21 will end at this point. I appreciated your answers.

22 CHAIRMAN BROADBENT: Commissioner Kieff.

23 COMMISSIONER KIEFF: Thank you very much Madam
24 Chairman and to my colleagues and to the witnesses and
25 counsel for allowing me to arrive a little late due to an

1 unavoidable conflict. We try and are often successful in
2 collaborating up here to share information to the extent
3 that we're allowed and so I just want you to know that I
4 benefit greatly from what you have provided even when I
5 wasn't physically here.

6 I will look back at that part of the transcript
7 and pay special attention to it. So thank you all for
8 coming. Having grown up on the south side of Chicago, this
9 is a neighborhood in Gary and your Chicago facility as well
10 that are both very familiar to me and it's really an
11 interesting matter so thank you very much.

12 One question I wanted to start with is for the
13 lawyers I think, is to just ask how important is the adverse
14 inference question to the outcome in this case? For
15 example, if it turns out no adverse inference, is there any
16 part of the case that's actually infirm or open to question
17 absent the adverse inference?

18 MR. ROSENTHAL: No. There is no part of this
19 case that we need, if you will, adverse inferences to be
20 applied. There is a strong record, as we've indicated to
21 support every one of the contentions regarding a threat and
22 that's the only area by the way that we were suggesting
23 adverse inferences being applied with increased present
24 material injury.

25 But the reason why I make this point this morning

1 is that there is a part of the statute that has been going
2 unused in large part, with understandable reluctance in some
3 cases by the Commission to penalize so-called "innocent
4 bystanders" and at the same time I think you have an
5 opportunity in this case to say "you know what, if you don't
6 show up, if you don't provide information, we're going to
7 assume that what you would have provided had you done so,
8 would not have been helpful to you." We want to send a
9 message. We cited one of our cases in the brief, one of the
10 cases that my firm was involved with in the early 80's
11 involving televisions from Japan, that Sushida case was
12 decided by the Federal Circuit and when the Japanese
13 producers did not present witnesses, the ITC made adverse
14 inferences and the Court of Appeals of the Federal Circuit
15 upheld that. We just want to remind the Commission that you
16 can still do that.

17 COMMISSIONER KIEFF: Are there reasons not to do
18 that?

19 MR. ROSENTHAL: Certainly. Let's put it this
20 way, if there were respondents here who might sue you, that
21 would be a reason because you may not want to have that
22 tested and you really don't honestly need to do that to
23 reach an affirmative determination in this case as I said
24 at the outset. You've got enough record evidence to make an
25 affirmative determination without doing that and so a safe

1 way would be to not apply that. At the same time, I
2 think from the Commission's institutional point of view, you
3 may want to remind folks that if they don't show up, if they
4 don't provide information, you can exercise that authority.
5 So, yes, a very safe way to do it is to ignore what I said
6 about adverse inferences and just make your decision based
7 on the record evidence or adverse facts available and you
8 may, as an alternative way of approaching this, just as
9 Dicta, remind respondents that you could use this.

10 COMMISSIONER KIEFF: So then for the
11 post-hearing, if you could take a little bit of time, not a
12 big homework assignment but a small one and please write for
13 us why we as one organization within the U.S. Trade System,
14 why we should be confident that adverse inferences does not
15 create any risk to the U.S. Trade System as the U.S.
16 interacts with other countries in the International Systems
17 like the WTO.

18 Because a question on my mind is whether the
19 benefits that you had described come without cost. The cost
20 that I fear is that we expose the entire U.S. System, the
21 ITC, the CIT, the CAFC and the SCT to vulnerability before
22 the WTO that we are making decisions without records. If
23 you think that's not a problem, you will help me a lot by
24 explaining to me why that's not a problem because I often
25 get asked that question when interacting with those other

1 bodies.

2 So, we don't have to discuss that anymore here.
3 I think it's a straightforward question but it will benefit
4 us a lot to get that in writing later. For the witnesses,
5 can you just briefly tell us how you developed your, what
6 was the business case for your own interactions with Chinese
7 product? So if I understand things correctly, you have your
8 own facility that makes there and then you also in effect
9 buy Chinese product and sell here. Can you tell us, in a
10 nutshell, how that evolved? Where all that plays for you?

11 MR. LISS: Yes, thank you for the question. I
12 personally started our Chinese operation just over ten years
13 ago. The principle purpose for starting it was so we would
14 have market intelligence. So we would know what was going
15 on on the ground there. The second purpose for starting
16 that facility was to manufacture non-subject product and in
17 fact today virtually all of the product made there is
18 cabinetry essentially, knock-down, RTA, steel, cabinetry.
19 Virtually all of it.

20 So that we would have some market intelligence,
21 we made a very small amount of subject product over the
22 years and as we've disclosed, it's actually a declining
23 amount. So that gets to the second half of your question,
24 regarding what we call "facilitated transactions". That's
25 where we did not do the manufacturing, we didn't do the

1 importing, somebody else did but we were a party to that.

2 As I said in my testimony, first and foremost, we
3 are a domestic producer of steel shelving. Our goal is to
4 make it here, produce it here, and have employment here.
5 Throughout these product-line reviews, our first push, our
6 first offer is always a domestically-made product. We are
7 very cognizant of what prices may be offered from Chinese
8 suppliers and in a couple of cases we were told that our
9 U.S. domestically-made price would not be acceptable. We
10 would lose the business or not gain the business.

11 In that case and only in that case we had
12 numerous quotations, actual physical quotations from Chinese
13 suppliers. We marked them up a small amount and made that
14 as an alternate offer. That price is substantially lower.
15 Substantially lower than what we could possibly produce it
16 for in the U.S. It's the exact same product. In some
17 cases, it's even at times been split between the two.

18 At every subsequent product line as Mr. Quick
19 described, we go back and try to get that business back for
20 the U.S. We only did that facilitating in order just to
21 keep the customer relationship. Because once we lose the
22 customer relationship, we have no idea what's going on. We
23 don't know what prices they are buying, we don't know where
24 they are.

25 COMMISSIONER KIEFF: And does that product then

1 come with a lesser tell of ongoing relationship for customer
2 support, warranty, et cetera?

3 MR. LISS: It's identical. The customers, it's
4 basically a commodity product with very little after market
5 support, no real brand recognition so you know, the
6 customers unfortunately just substitute one for the other.

7 COMMISSIONER KIEFF: I see. Well, thank you. We
8 will talk more later. Thank you very much, Madam Chairman.

9 CHAIRMAN BROADBENT: I wanted to thank Mr.
10 Saltzberg and his team for hosting our team out there a
11 couple weeks ago. We gleaned a lot from it and I was
12 reading the trip report I really appreciate the staff
13 preparing. If you could, I guess as an Ohio person, I was
14 looking at the name Sandusky that was half of your facility
15 in China. Why did you name it that? I mean I think Cedar
16 Point, you know.

17 MR. SALTZBERG: It's a good idea. We actually,
18 back in 2002, we purchased a company whose name was Sandusky
19 and it had been founded in Sandusky, Ohio, hence the name.
20 It is more in the office products industry actually, making
21 desks, metal desks, metal storage cabinets for the office
22 products industry.

23 CHAIRMAN BROADBENT: I knew there was a really
24 sensible explanation. Good. Well, I am having like lots of
25 flashbacks from cleaning out my basement and arguing with my

1 husband on what's allowed to go on that shelf that I really
2 appreciate. This is a product that we all, I think probably
3 have in our houses so it's interesting to think about the
4 market for it.

5 What makes demand go up and down for this product
6 generally? How do you?

7 MR. LISS: Demand for this product has been
8 increasing and it's an opinion on my part that we all see a
9 lot of shows about getting organized and people just want to
10 clean up their places and even in, if any of you watch those
11 "Storage Wars" shows. Every time you open up a storage
12 locker, there's one of those shelves. If you watch "Top
13 Chef", there's one of these shelves.

14 So I think just generally, while the business is
15 not seasonal, there are slight bump-ups. Just after
16 Christmas people get a lot of things and they want to put
17 them away, Memorial Day and Labor Day. So kind of line up
18 with spring cleanup and fall cleanup.

19 CHAIRMAN BROADBENT: Yes.

20 MR. LISS: I think that's really what's driven
21 our demand over the years.

22 CHAIRMAN BROADBENT: I always think of it as good
23 as Wal-Mart got and some of the big box, you know, they sell
24 all the stuff really cheap and that stuff just keeps growing
25 in your basement in terms of a collection of items. In

1 terms of the China operations, how big is that plant or can
2 you give us some sense of what it's like over there?

3 MR. SALTZBERG: It's a small facility.

4 MR. LISS: It's a small facility. It has again,
5 we can go into any other confidential things in our
6 post-conference brief, but it's about eighty thousand square
7 feet. It has just over a hundred people in it.

8 CHAIRMAN BROADBENT: Okay, so to the extent that
9 that plant ships product subject merchandise to the U.S.,
10 what is the preliminary duty on that product under the
11 dumping order?

12 MR. LISS: That facility no longer ships product
13 to the U.S. but it would be I think the maximum.

14 CHAIRMAN BROADBENT: It would be the all/other
15 rate?

16 MS. CANNON: It's going to be subject to the
17 all/other rate because it's a small facility. It wasn't one
18 of the selected producers.

19 CHAIRMAN BROADBENT: Okay and then when did it
20 stop shipping?

21 MR. LISS: It stopped shipping just after the
22 preliminary decision. We stopped any further production so
23 we used up raw materials. The last shipments were in
24 December I believe.

25 CHAIRMAN BROADBENT: Okay, and then overall in

1 that year how much did it ship to the U.S.?

2 MR. LISS: It's confidential. We'll provide it.
3 I believe we have provided it but we will definitely give
4 you the details.

5 CHAIRMAN BROADBENT: Right. So part of the
6 injury --

7 MR. LISS: And again, it is a very small part of
8 what that facility does. Again, more than ninety percent of
9 what that facility does is make cabinets.

10 CHAIRMAN BROADBENT: Right. But in concept it's
11 part of the injury that you filed the petition against.

12 MR. LISS: It has, again, less than two percent
13 of our facilitated transactions relate to that facility but
14 we'll give you the details in our post-conference brief.

15 CHAIRMAN BROADBENT: Okay, that would be helpful.

16 MR. ROSENTHAL: Commissioner, Madam Chairman if I
17 might interject. Paul Rosenthal. As the Commission has
18 seen in many cases going back decades, the petitioners in
19 cases are often importers as well and the Commission has
20 recognized that domestic producers import for a variety of
21 reasons and many times for defensive reasons as described
22 earlier. Sometimes if you're competing against imports and
23 you're not going to get the sale from your domestic
24 production, the only way to keep the relationship with the
25 customer or to keep your competitors out of your customer

1 relationship is to offer imports yourself.

2 I can recall cases going back at least thirty
3 years on this topic so I would not assume that a very small
4 percentage of imports by a petitioner is a cause of injury.
5 I would argue that, in this case in particular, it is an
6 ability to keep that company in business and supply most of
7 the product from its domestic sourcing.

8 CHAIRMAN BROADBENT: Okay. What are the key
9 cases that we ought to consult? Would you recommend?

10 MR. ROSENTHAL: You can start with a case that
11 you'll have a sunset review on shortly on foundry products,
12 iron construction castings. That was a 1985 case I was
13 involved with that one so I have to remember that. But
14 there have been several other cases over the years. We cite
15 them in our prehearing brief.

16 MR. LUBERDA: Madam Chairman, activated carbon
17 from China is a very good example of that where actually the
18 largest domestic producer was also the largest importer for
19 a short period of time when it faced similar circumstances
20 of being pushed to either give up producing altogether in
21 the United States and be an importer or save itself for a
22 little while until it could get trade relief.

23 MR. ROSENTHAL: By the way, on the iron
24 construction and casting case it was very interesting, just
25 as an aside, three of the eight petitioners were major

1 importers and they all ended up paying duties on their
2 imports and their view was we would rather pay duties on
3 imports and level the so-called playing field than to not be
4 able to bring this case because they wanted to save their
5 domestic production. Over time, after those cases went into
6 effect they ended up eliminating their importation.

7 MS. CANNON: Madam Chairman, I'd also refer you
8 to the Retail Carrier Bags Case where the Commission said,
9 and I quote "Moreover when domestic producers import subject
10 merchandise to remain competitive and avoid losing
11 customers, this action may itself be evidence of the
12 material injury the industry is sustaining" and that's a
13 reflection also in wooden bedroom furniture there is a
14 similar analysis in recognition and a recitation to
15 legislative history that recognized such imports could be a
16 sign of injury in and of themselves. So those are a couple
17 of other precedents on that point.

18 MS. BECK: And Madam Chairman, just one quick
19 point is that Edsal's dedication to production in the United
20 States with their recent expansion to Gary shows where their
21 true interests lie and that they would like to shift from
22 importing.

23 CHAIRMAN BROADBENT: Okay, thank you. Let's see.
24 I think we heard that parts have been imported from China
25 and packaged in the United States. Has Edsal imported parts

1 from China and packaged them in the U.S.? And are these
2 parts mixed with domestically produced product? To your
3 knowledge, has the volume of imported parts increased since
4 the imposition of the preliminary tariffs on prepackaged
5 units?

6 MR. LISS: Again, we will address any questions
7 related to our specific operations at our post-conference
8 brief because of the confidential nature of that. I will
9 say that our domestic production has continued to increase,
10 our employment has continued to increase and our capacity
11 utilization of all domestically produced product has
12 continued to increase since the preliminary hearing.

13 CHAIRMAN BROADBENT: Okay. Mr. Liss, you
14 mentioned that your Sandusky facility in China gives you,
15 the fact of having it there, gives you an ability to get
16 market intelligence. How does that work as a practical
17 matter? Who's over there and who do they meet with?

18 MR. LISS: The key person who runs our facility
19 is an American who grew up in Virginia. He has been there
20 for about twenty years. He has given testimony, written
21 testimony, John Altizer. He, how does it work is, if we
22 have questions about a facility. In fact, you will see in
23 what he has made written statements on, he was actually able
24 to go to some of these facilities, identify that they were
25 adding production capacity, what they were doing, how many

1 production lines they had, how many pain lines they had. If
2 we had a question about a cost, what somebody else might be
3 providing in terms of pricing, he is able to do that because
4 he's on the ground there and he has a team there. So that
5 was the main impetus for us to start that office there.

6 CHAIRMAN BROADBENT: Well is he bidding on sales
7 that Wal-Mart or some of the big box folks are looking for
8 there?

9 MR. LISS: No.

10 CHAIRMAN BROADBENT: Even in office equipment or
11 whatever else you are making in that facility?

12 MR. LISS: Most of what he, there would be an
13 occasion on like a steal cabinet that he might, but in most
14 of the cases where he is providing a price on a cabinet, he
15 would do that through our U.S. operation. It's unlikely
16 that, he's done it both ways. So he can provide pricing
17 directly on steel cabinets but he has not ever done that on
18 the subject product.

19 CHAIRMAN BROADBENT: So he would be producing
20 steel cabinets in China, just sell to Wal-Mart and China
21 that would bring them back through direct importing?

22 MR. LISS: He doesn't actually do it for
23 Wal-Mart.

24 CHAIRMAN BROADBENT: Or another U.S. direct
25 importer?

1 MR. LISS: He could, it doesn't happen, but he
2 could.

3 CHAIRMAN BROADBENT: Thank you. I appreciate
4 that.

5 MS. BECK: Madam Chairman, I'm sorry. One other
6 quick point is in our, Edsal's prehearing brief at Exhibit
7 7, I think there is some useful information just an
8 understanding about Edsal's affiliate in China and his
9 experience and information that he has put together.

10 CHAIRMAN BROADBENT: Good. Yes, I'll take a look
11 at that. I appreciate it. Commissioner Pinkert.

12 VICE-CHAIRMAN PINKERT: Thank you, Madam Chairman
13 and I thank all of you for being here today to help us
14 understand these issues. I want to begin with a question
15 for Mr. Kruger, you had some very interesting testimony
16 about your background and knowledge of Home Depot. I'm
17 wondering, in your opinion does Home Depot have an interest
18 in sustaining a domestic source of supply?

19 MR. KRUGER: Home Depot's interests will be --
20 is driven by price. In other words, they want the best
21 lowest costs landed to the ultimate destination, the store.
22 If that were to be a domestic supplier, then yes. Their
23 interest in sustaining a domestic supplier would be in their
24 favor. If it was direct import that was the lowest cost
25 landed, then the interest would go to import. It is

1 strictly a numbers game.

2 MR. LUBERDA: Commissioner Pinkert, if I could
3 just add one point. If you go to Home Depot today, you'll
4 see some other types of shelving that aren't subject, right,
5 the wire rack shelving, that's nonsubject. That used to be
6 in the United States.

7 None of it's made in the United States anymore.
8 It's all made in China. So, that was one part of the
9 shelving -- that's one shelving industry that left the
10 United States and Home Depot and everybody else is happily
11 supplied from China. This is an industry that we'd not like
12 to see that happen to.

13 MR. KRUGER: Mr. Pinkert, I was the buyer that
14 made that decision for wire shelving to go to China rather
15 than my domestic supplier. Based solely on price.

16 VICE-CHAIRMAN PINKERT: So, there's not an
17 independent factor of sustaining a domestic source of
18 supply? I think that's what I'm hearing.

19 MR. KRUGER: There is not, no.

20 VICE-CHAIRMAN PINKERT: Thank you. Now, turning
21 to the direct import issue, is the data that we have on the
22 cost of direct imports comparable as is, to the domestic
23 industry pricing data, or do we have to do some adjustment
24 in order to make a good comparison?

25 MS. CANNON: The answer is no, it is not

1 comparable as presented. Adjustments would have to be made
2 and precisely how those would be done, I'm not sure how to
3 tell you because it's a very factually specific inquiry by
4 customer and how they were reported.

5 If you look at the data then you see that the
6 costs that have been reported, which should be lower than
7 prices, are in fact higher than prices often, which makes no
8 sense. So, in and of itself, it suggests that the people
9 responding to the questionnaire were reporting, I think,
10 additional costs.

11 We've discussed, generally, with Mr. Kruger,
12 based on how he would report this price and how he would
13 consider it, and our understanding is that what we would
14 have preferred the Commission look at, was the price that
15 the form producer was quoting from the port, FOB, the China
16 port, because that's where Home Depot starts and then it
17 adds the cost to that.

18 But instead, what appears to have been reported,
19 are costs that include a host of other factors, freight and
20 logistics and other things, that are buried in there and in
21 fact, some customers have said, we don't even know how to
22 take them out.

23 So even though I think the staff attempted to do
24 what you are suggesting, it just wasn't possible for some of
25 these people to do it, and it's left a database that is not,

1 it's apple with oranges, it's not even close to what would
2 be permitted, a comparison on the U.S. side, as presented.

3 I think this is an issue that's going to continue
4 to confront the Commission on something that you all will
5 need to continue to grapple with, how to "tee up" that
6 question to get the right data when the situation is
7 presented, as it increasingly is.

8 But I also think in this particular case, there
9 is significant evidence of underselling, both in the
10 quarterly price comparisons and in the anecdotal information
11 that you can rely on, if you're not able to go back and
12 reconstruct the direct import pricing information, as would
13 need to be done.

14 VICE-CHAIRMAN PINKERT: Thank you. My next
15 question is more of a commerce department style question,
16 but I wanted to give you a chance to answer it here. As you
17 look to the future, Mr. Rosenthal, what do you expect the
18 impact of China's recent currency devaluation to be on
19 exports to the United States?

20 MR. ROSENTHAL: Not good. From the point of view
21 of U.S. producers, I think it only enhances the threat
22 overall to U.S. manufacturing. It's hard to know, based on
23 about three days of press reports what the long term will
24 be, and whether the market that allegedly is going to be
25 guiding the Chinese currency, it will react in a different

1 way than it's reacted over the last few days.

2 Obviously the hope was that if the central
3 government resorted to more of a market-based approach, that
4 the yuan would appreciate and not go the other way. So,
5 long term? I don't know. If I did, I'd probably wouldn't
6 need to be sitting here. I'd be making a lot of money in
7 bitcoins or something else.

8 But I -- if this is a trend that will continue, I
9 think it has very bad consequences, not just for U.S.
10 manufacturing, but for manufacturing around the world. A
11 lot of other countries are competing against the Chinese in
12 other markets, too.

13 MR. KRUGER: Mr. Pinkert, in addition to the --
14 to Mr. Rosenthal's answer, already our customers are asking
15 us for price decreases on Day 2 of that. We are already
16 getting communication of that, that they are requesting
17 based on the devaluation of the yuan.

18 VICE-CHAIRMAN PINKERT: Is the request for
19 reduction comparable to the amount of the expected
20 devaluation?

21 MR. KRUGER: Yes, sir.

22 VICE-CHAIRMAN PINKERT: If you could supply that
23 information in the post hearing, I think that would be
24 helpful.

25 MR. KRUGER: Yes sir, we will do that.

1 VICE-CHAIRMAN PINKERT: Thank you. Now, I want
2 to understand the line reviews a little better. When you go
3 into a line review, I understand the testimony to be that
4 you have one opportunity to put out your bid, and so they're
5 encouraging you to make the lowest possible -- I shouldn't
6 say bid -- the lowest possible offer.

7 But, I also heard that -- that all products are
8 in this line review. So, my question is, is the boltless
9 shelving bundled with other products in the line review? Or
10 is it considered separately?

11 MR. LISS: Pretty consistently across all of the
12 four or five major customers, it's independent. They may be
13 doing other line reviews at similar time frames, but there's
14 -- there's no bundling. There will be a day where they have
15 five or six steel shelving proposals, and they are basically
16 bids, like you said.

17 VICE-CHAIRMAN PINKERT: So, the head-shaking
18 affirmatively in the back, can you add anything to that?

19 MR. KRUGER: No, sir, that's a fair description
20 of what takes place. It is not bundled with resin shelving
21 or wire shelving. They are considered independent items
22 within those customers.

23 MR. LUBERDA: Vice-Chairman Pinkert, if you look
24 at our prehearing brief Exhibit 3, and read through the
25 document that's there, I think you'll see that they are

1 making -- that the purchases are making decisions on a
2 skew-by-skew basis. And it's pretty clear, the way this
3 document is set up, at the -- you're going to lose, you
4 might lose this skew, that skew, but it's every skew is up
5 for grabs. So, I think it is consistent with what our
6 witness is testifying.

7 VICE-CHAIRMAN PINKERT: Thank you. And, is the
8 line review the dominant mechanism within this industry in
9 the United States?

10 MR. LISS: It's the dominant mechanism for us to
11 be forced to lower our price to meet competition. But it
12 isn't the end. All of these bid and review processes are
13 pretty one-sided, which is "you will bid your lowest price.
14 We will -- At the end of this process, we will issue -- we
15 will award some, all or none of the business to you." A lot
16 of legalese at the bottom says, "Just because you're awarded
17 doesn't mean we're going to place orders. Doesn't mean for
18 how long we're going to place orders."

19 So it's very one-sided, leaving them still that
20 opportunity to come back, even though once we've been
21 awarded the business, to say, "Oh, I have another, uh, I got
22 another really good price from China on an upcoming, you
23 know, February purchase, so we need, you know, we need
24 additional discounts." So, again, it sets the ceiling for
25 our price, but it does not set the floor.

1 MR. KRUGER: Mr. Pinkert, no buyer has a line
2 review to get a price increase. All line reviews are a
3 negotiation tool for buyers to lower their current pricing
4 from where they're at. And no line review, and you'll see
5 it, I think in the exhibit that Alan shared with you, is --
6 no line review is a final contract either. There is no
7 volume commitments, there is no long-term commitment from a
8 buyer. If they did that, that would handcuff a buyer from
9 being able to continuously get lower bids on the product
10 throughout.

11 It is a benchmark to lower their costs. It's a
12 negotiation tool, but even after the line review, at any
13 given time, you will be challenged if you're the winner, to
14 -- if someone else comes with a comparable product at a
15 lower price, you will be challenged to meet or beat that
16 price.

17 VICE-CHAIRMAN PINKERT: Thank you. I may have
18 more questions about that, but go ahead.

19 MR. ROSENTHAL: Just to clarify, not every
20 customer uses the line review. There are some that -- that
21 don't have that, but those are a smaller percentage as time
22 has gone on.

23 VICE-CHAIRMAN PINKERT: Thank you, Madame
24 Chairman.

25 CHAIRMAN BROADBENT: Commissioner Williamson.

1 COMMISSIONER WILLIAMSON: Thank you. Thank the
2 witnesses for their testimony. Just going on this. So I
3 take it, is the line review the dominant -- are most of the
4 sales of this product to companies where line reviews are
5 being conducted?

6 MR. LISS: Yeah. Most -- for the most part,
7 there are line reviews and some customers may do them every
8 year, and some customers may do them every two or three
9 years, and again, just because they make an award during a
10 line review, doesn't mean they can't go buy product from
11 another supplier. The majority of the business is awarded
12 at these line reviews.

13 COMMISSIONER WILLIAMSON: And volume and price
14 ultimate -- it comes later when they actually do the
15 purchase orders?

16 MR. LISS: Correct. Price is determined by our
17 bid. Volume is determined by what the customer ultimately
18 decides. And so, for us, it's -- we find out on Monday what
19 we're supposed to ship a week later. It's on a purchase-by-
20 purchase basis.

21 MS. CANNON: Commissioner Williamson, I would add
22 that the testimony you've heard earlier about the loss of
23 the Black Friday business, that was a line review that had
24 been awarded to Edsal by that customer, and then midway
25 through the year, they shifted, and all the product went to

1 China for that huge volume sale. So that's just one
2 indication of how just being the person that wins the line
3 review, doesn't guarantee any volume going forward.

4 COMMISSIONER WILLIAMSON: Okay. Thank you.
5 Mr. Pinkert's sort of started along this way, but also,
6 looking at the AUV's in this case, and there were
7 specifically higher subject imports, specifically higher
8 than domestic industry's U.S. shipments.

9 Do you know why this is the case and is there --
10 this is a question of a difference in product mix? So the
11 average unit value is -- why, to what extent can you address
12 that here?

13 MR. LISS: No, it's not product -- it's not --
14 could you rephrase the question?

15 COMMISSIONER WILLIAMSON: I guess I'm trying to
16 find out, if you look at the average unit values, the
17 imports seem to be much -- frequently the prices of the
18 imports are higher than the domestic product.

19 MS. BECK: Yeah, Commissioner Williamson, product
20 mix definitely has a bearing. If you look just at the
21 individual product categories that are requested, which are
22 just the very specific shelving, you'll see a variation
23 within pricing, just of those five products that are
24 requested. So, the AUV's definitely have limitations due to
25 product issues.

1 COMMISSIONER WILLIAMSON: Okay. To what extent,
2 this question of Commissioner Pinkert about the direct
3 purchases versus the China price. Is that a factor in the
4 AUV's?

5 There's this problem of -- what's actually
6 included in the price, that you're not sure about, that you
7 talked about earlier. Does that affect -- does that have
8 any bearing on with the AUV's we're seeing here?

9 MR. ROSENTHAL: Commissioner Williamson, it
10 shouldn't. The AUV shouldn't be tainted by those other
11 costs that the purchasers have reported, but I have to say
12 that the reported prices/costs by some of the purchasers are
13 so inexplicable, how they got to some of those numbers, is
14 impossible to define. Which is why we've suggested that
15 you've got real problems with that particular part of your
16 database. But AUV should not be affected by that.

17 COMMISSIONER WILLIAMSON: But then, so, so you're
18 saying it's product mix?.

19 MR. ROSENTHAL: It is. I mean it's based -- AUV
20 should be just a simple calculation of total value versus
21 total volume. And if you're shipping more of the, in any
22 given period, of a higher value shelf, and you're comparing
23 it to the domestic shipments in that particular period of a
24 lower value shelf, you're get the -- some different numbers.

25 MS. CANNON: Let me add, Commissioner Williamson,

1 I think what Mr. Rosenthal's saying in theory is true.
2 Having looked at some of these importer values reported, I
3 don't think they've properly reported the values as
4 requested either, I think that also is part of the
5 explanation. I think that what I was discussing earlier
6 about the direct import issue and how the values are
7 reported and what costs are being counted for when the
8 importers report those values, is reflecting some of the
9 additional costs that are incurred in the direct import
10 process, so we think some of the values that we're seeing in
11 some of these responses are extraordinarily high leading to
12 those overly high AUV's, as well as some of the product
13 mixes, too. So I think it's a combination of both.

14 MR. LUBERDA: Commissioner Williamson, if you'll
15 look at Page 27 of our prehearing brief, we kind of, we took
16 one product and one quarter-end, so it broke down the
17 differences in prices from the various responding companies
18 to show the variation for a essentially identical product.
19 The variation in price there that leads inevitably to a
20 conclusion that something about those numbers is not right,
21 the range of price there is impossible, and we know some of
22 that, some of which is accurate, but the range there is
23 simply not possible. So we go through that a little bit in
24 our brief to identify the problems you're facing.

25 MR. LISS: At the risk of going a little off the

1 range and getting kicked under the table, I will say that
2 Edsal Manufacturing in Chicago competes directly with
3 Chinese producers. Home Depot, even somebody who goes on
4 Ali Baba, can buy directly from a Chinese producer.

5 I got up on a soapbox and I said I wanted to make
6 this case about more than us. Just defending our U.S.
7 production and keeping our U.S. jobs. I wanted this case to
8 be about changing the process. The way the data was
9 collected ignores the existence of the internet.

10 Today, this afternoon, you could go buy something
11 on Ali Baba and have it shipped directly to you. The prices
12 offered by Chinese producers is so low, is so low -- if we
13 are not successful here, we are completely out of business
14 within one year. It isn't even -- even a 30% duty may not
15 adjust for that. That's how low it is. So, I know that
16 there's a lot of technicalities in how the data was
17 collected, and people who are reporting that their cost is
18 higher than their selling prices. Most of these people --
19 obviously the question to the -- the team did the best they
20 could, put the surveys together the best they could, but in
21 fact, we didn't ask the Chinese producers, and apparently,
22 they wouldn't have responded anyway, what they were selling
23 the product for.

24 What they're offering the product for, and what
25 we're offering the product for, there's a huge difference.

1 And Mr. Kruger can elaborate on how Home Depot does that.
2 They just simply add freight factor to China, and add a
3 little freight factor to the U.S., and they compare those
4 two prices. There's no big box company's going to buy from
5 a middle man in that, so.

6 COMMISSIONER WILLIAMSON: Okay. Another -- my
7 question is, how do the Chinese do this? I mean, if you
8 look at -- I assume it's not just labor cost? And it's
9 interesting looking at labor costs. These are very low for
10 a manufacturing industry. I mean I was very impressed with
11 what you're doing in Gary, but then I look and I see -- you
12 know, this is not a high-wage industry, by a long shot.

13 MR. ROSENTHAL: Commissioner Williamson, I think
14 they've done it the old-fashioned way by dumping and
15 subsidization. They've got -- it's not that much more
16 complicated. They've got a lot of opportunities there to
17 keep their subjective costs down, not objective costs, and
18 so, we didn't need to spend a lot of time today on that.
19 Whether the price differences are in any given comparison
20 are 30% of 20% or 10% or, even from your underselling which
21 are 12.5%. The fact of the matter is, they are able to
22 undersell and they've consistently undersold throughout this
23 period, and the purchasers have acknowledged the reason why
24 they're buying the Chinese product is by price.

25 I just want to go back, though, to the earlier

1 commentary or discussion. What is so frustrating to Mr.
2 Liss and others in the petitioning company is how messed up
3 the comparisons are, the average unit values and the other
4 reported costs and pricing by the purchasers. There's no
5 possible way that the information you've gotten from a
6 number of responses is an accurate reflection of what you,
7 and I, and most normal people, would say, are the pricing
8 plus freight and other incidentals that most people would
9 report.

10 Mr. Kruger may add to that later, but I'm telling
11 you that that's one of the frustrations in this case. And
12 by the way, your staff has done a terrific job of trying to
13 get at this. Unfortunately, the reporting has not been very
14 good, by the purchasers.

15 COMMISSIONER WILLIAMSON: I was curious. Why are
16 the big box stores not here? We see them on many other
17 cases where they have been the major importers of the
18 subject product.

19 MR. SALTZBERG: I think maybe the volume to them
20 is relatively small, these big major customers, and that's
21 probably the reason why.

22 MR. ROSENTHAL: I don't think they have a case.
23 I mean, take a look at the documents in our prehearing
24 brief. Take a look at the affidavits. Look at what they've
25 said to their customers. Look at the slides that Ms. Cannon

1 presented in both public and confidential exhibits. If you
2 were a big box customer, or a company, and you knew that you
3 had this documentation on the record, would you want to come
4 here and be questioned by the commission? I don't think so.

5 COMMISSIONER WILLIAMSON: Thank you for those
6 answers.

7 CHAIRMAN BROADBENT: Commissioner Johanson.

8 COMMISSIONER JOHANSON: Thank you, Chairman
9 Broadbent. On Page 10 of your prehearing brief, you state
10 that no record evidence that purchasers made, that there are
11 no record, there's no record evidence that purchasers made
12 any import purchases as a result of domestic supply
13 problems. You then go on to address issues raised about
14 supply constraints. Even if purchasers did not switch to
15 imports as a result, our purchasers' claims about supply
16 constraint is relevant here. And I suggest that you look at
17 the discussion at the top of Page 221 of the staff report,
18 which is BPI, and that might help you in your response. And
19 I assume you'll want to respond to this in the post hearing
20 brief.

21 MS. CANNON: Yes, and it's probably since I can't
22 look at all of this --

23 COMMISSIONER JOHANSON: I understand.

24 MS. CANNON: -- I will, I will do that and I'm
25 sure it's probably confidential anyway.

1 COMMISSIONER JOHANSON: It is. And so I --

2 MS. CANNON: So I'll look back at what the
3 purchasers have said, but ultimately we do stand by our
4 position that there have been no supply constraints and the
5 industry witnesses can confirm that. They had significant
6 unused capacity and did not turn away any customers.

7 MR. LISS: That's correct. We welcome all
8 customers and have had no supply constraints.

9 MS. CANNON: Nor inability to produce any type of
10 product that a customer wanted either.

11 MR. LISS: That is correct.

12 COMMISSIONER JOHANSON: Thank you.

13 There was a published report from OSHA earlier
14 this year regarding Edsal Manufacturing and concerns
15 expressed by OSHA. Is there a relationship between these
16 issues and competitive pressure from imports?

17 MR. SALTZBERG: Not at all. Not at all. In
18 fact, we have a hearing in September on that and we're
19 represented by legal counsel. We don't agree with many of
20 those citations. OSHA has a way of condemning people
21 without even really hearing the other side. And so we're
22 confident that those citations will be reversed in
23 September.

24 COMMISSIONER JOHANSON: Thanks.

25 The staff report at page 32 writes that it --

1 that Edsal explained that it established the Chinese
2 production facility approximately ten years ago with the
3 primary goal of supplying boltless steel shelving to the
4 Chinese market. Why has growth for demand of this product
5 apparently not occurred?

6 MR. LISS: I don't know why it hasn't occurred.
7 Perhaps that market just hasn't gotten the, let's get
8 organized theme that we all have, but there really is
9 virtually no market there.

10 And, again, shortly after establishing that
11 facility for a variety of products, it spent virtually all
12 of its resources on non-subject products like cabinets and
13 lockers.

14 MR. ROSENTHAL: It will take a couple generations
15 for them to become hoarders like we are, Commissioner.

16 COMMISSIONER JOHANSON: That might be true. And
17 I can imagine this isn't a very popular product in Japan,
18 just because they can't afford to be hoarders either, I
19 guess.

20 MR. KRUGER: Mr. Johanson, just a note on your
21 question why possibly product like this did not take off in
22 China. It should be noted that in 2012, at the end of 2012,
23 Home Depot announced that it was closing its retail
24 operation stores, not their sourcing office, their stores in
25 2012 because the Chinese market did not attach itself or

1 react well to the do-it-yourself market which is, you know,
2 what is so big in the U.S. They closed operations because
3 the sales weren't there in their retail stores.

4 MS. BECK: And, Commissioner Johanson, then in
5 turn if you look at the imports that made even more, the
6 home market just didn't pick up in China. So all of that
7 capacity and production in China is focused to the United
8 States in particular.

9 COMMISSIONER JOHANSON: But it would at least be
10 useful for manufacturing purposes as well; correct? If you
11 have a manufacturing facility in China?

12 MR. LISS: For the most part, the subject product
13 is not normally used in that.

14 COMMISSIONER JOHANSON: Because they're too small
15 or --

16 MR. LISS: Typically, you know, these are fairly
17 limited sizes. Facilities tend to go with more of like a
18 pallet racking, something that's more custom and large,
19 large scale.

20 COMMISSIONER JOHANSON: Okay. What might you all
21 expect in response to Chinese producers to be if an order is
22 imposed? What I'm wondering about specifically is whether
23 there might be or whether you've seen any evidence that
24 there already is a move to transfer production assets from
25 -- to any nonsubject countries?

1 MS. CANNON: Yes, Commission Johanson, we've
2 already heard that China has begun to divert significant
3 exports to both Canada and Mexico which have displaced
4 Edsal's exports to those markets. And they're selling there
5 at low prices. Our understanding was those had not been
6 large target markets of China in the past because the U.S.
7 is such a huge market. But once this case was filed they
8 immediately sought alternative markets right at our borders
9 which suggests that they continue to be export focused and
10 they're right here and ready to come back if this case is
11 not successful.

12 COMMISSIONER JOHANSON: All right. Thank you.
13 Well, that concludes my questions. I appreciate you all
14 appearing here today.

15 CHAIRMAN BROADBENT: Would you like to take
16 another round? Yeah, Commissioner Williamson.

17 No, he said no.

18 COMMISSIONER WILLIAMSON: I had some questions
19 about demand and competition. To what extent do you compete
20 for sales with other domestic producers of boltless steel
21 shelving? And if this information is confidential, you can
22 do the post-hearing.

23 MR. LISS: Any details would be confidential, but
24 in general we do compete with them. They're in the
25 marketplace selling their product the same as we are. I

1 think they didn't necessarily have the financial wherewithal
2 to withstand the low-priced Chinese imports. And so to some
3 extent, they were forced to leave the market even earlier
4 than we were. We were left as kind of the only company
5 standing. But they exist and I think if the case is
6 successful, they'll be able to have a resurgence into the
7 market as well.

8 COMMISSIONER WILLIAMSON: I have some questions
9 about the history and development of this product. I must
10 confess, the last time I bought something that looked like
11 this, it was in the '80s and it was bolted. And over time
12 those things seem to fall apart or get twisted and all that.
13 And so I was wondering to what extent is the bolt -- was
14 this boltless construction sort of getting over those
15 weaknesses of the other type of shelving?

16 MR. LISS: Correct. There are two huge
17 improvements in product category that one and the other one
18 that would be kind of common looks like that. So it's kind
19 of even simpler than that one.

20 COMMISSIONER WILLIAMSON: Uh-huh.

21 MR. LISS: And so those have principally
22 displaced all of those little nut and bolt units that you
23 saw in the retail marketplace in the '80s and '90s.

24 COMMISSIONER WILLIAMSON: Okay. So is your
25 primary -- in a sense -- competition the wire shelving? I

1 mean, there is an appearance factor. Because the last two
2 sets I bought were wired in places where people could see
3 them.

4 MR. LISS: We don't view that as a competitive
5 product. Mr. Kruger could comment on it as having been the
6 buyer of that product. But it really is -- the typical use
7 of this product is distinctive from virtually all other
8 products.

9 MR. KRUGER: That's correct. As a buyer you have
10 several different types of shelving that you view
11 independently. There's plastic shelving, there is what we
12 call that wire shelving that you're referring to is called
13 deco wire shelving, "deco" being the key word. It's much of
14 what you said, where it was in sight, so you wanted
15 something that had more decorative presence. And that has
16 tended to be used more in kitchens and living rooms where
17 people are storing entertainment units or that type of
18 stuff. And this is more of a general utility shelf used
19 more in garage, basements, backrooms. They are all viewed
20 independent part of the portfolio that a buyer builds for
21 the consumer.

22 COMMISSIONER WILLIAMSON: Okay. Thank you. As
23 you said, we still continue to hoard.

24 Okay. Going back to the parts question, to our --
25 to your knowledge has the volume of imported parts increased

1 since the imposition of the preliminary tariffs on the
2 prepackaged units?

3 MR. SALTZBERG: Again, we'll comment specifically
4 on Edsal's issue on that.

5 COMMISSIONER WILLIAMSON: Okay.

6 MR. SALTZBERG: As far as competitors, we really
7 don't have any specific knowledge of what our competitors
8 are or aren't doing with regard to parts. Again, our volume
9 has continued to increase, our production levels have
10 increased, our employment has continued to increase
11 throughout that period, post the preliminary decision.

12 COMMISSIONER WILLIAMSON: Okay. Thank you.

13 Going back to the company, I was wondering, are
14 your plant unionized?

15 MR. SALTZBERG: Our plants in Chicago are
16 unionized, yes.

17 COMMISSIONER WILLIAMSON: Okay. So does that
18 apply to Gary too?

19 MR. SALTZBERG: It will be. It hasn't yet, but
20 it will be, certainly.

21 COMMISSIONER WILLIAMSON: So you also, I assume
22 health insurance is also covered in this?

23 MR. SALTZBERG: We pay, at Edsal we pay into --
24 it's an administer -- it's BlueCross/Blue Shield, but it's
25 administered by the union. Our obligation is paying into a

1 health and welfare fund. And in Gary health insurance,
2 obviously now will be offered to those employees.

3 COMMISSIONER WILLIAMSON: Okay. Another cost of
4 competing with -- so, okay.

5 I think those were all the questions I have.
6 Thank you.

7 CHAIRMAN BROADBENT: Commission Kieff?

8 COMMISSIONER KIEFF: Thank you very much and
9 thanks for the flexibility as well. For the business
10 witnesses, just in a nutshell, can you tell us why the mark
11 -- why there are multiple types of shelving? So why when I
12 go to make the decision that my colleagues keep referring
13 to, I go to my garage and I notice I've got a bunch of
14 stuff, why do I -- what are the major factors that make my
15 decision to buy boltless shelving versus wire shelving
16 versus any of the other types of shelving?

17 MR. KRUGER: MR. Kieff, that question was asked a
18 couple of minutes ago and I think you were out of the room.
19 But as a buyer you build a portfolio of products that appeal
20 to the widest range of consumers. So we were talking about
21 the chrome wire shelving, in the industry that's called
22 "deco wire shelving" the key word being "deco" for
23 decorative.

24 COMMISSIONER KIEFF: Got you.

25 MR. KRUGER: That's used in high visibility where

1 people are worried about what, you know, the image it
2 portrays, it's clean, it's something you are proud to say is
3 in your kitchen or living room. You see it in many
4 retailers. You also have plastic shelving or what we call
5 resin shelving in the industry. Again, appeals to a
6 different customer because it's a nonadjustable shelf, it's
7 a very fixed shelf. In other words, you can't adjust the
8 increments of it. And our boltless steel shelving is
9 adjustable. It's more of a utility type product that's used
10 more in garages, basements and backrooms. But as a buyer
11 your responsibility is to offer the broadest range and they
12 are seen independent of each other.

13 In other words, the buyer does not consider one
14 stealing from the other as far as sales.

15 MR. LISS: I would further that Mr. Kruger was,
16 prior to coming to Edsal, and after Home Depot sold resin
17 shelving, so he and I would discuss sales trends and so
18 forth. The two don't compete due to the fact that resin is
19 really considered a very light-duty product and, again, much
20 smaller in size than the subject product.

21 COMMISSIONER KIEFF: So then I guess just to sum
22 all of that up for the lawyers, is this a simple case on the
23 question of what constitutes like product or is there a lot
24 of room for debate or uncertainty about the boundary of what
25 is the market?

1 MS. CANNON: I think this is a very simple case.
2 In fact, at the preliminary stage of the case when we did
3 have opposition, the importer at first conceded that they
4 agreed with our like-product definition. Then they sort of
5 debated whether there was a capacity break point which
6 ultimately they didn't really brief or address and the
7 Commission found wasn't supportable because they were trying
8 to exclude products that you couldn't exclude that were
9 within the scope of the case. But there was never really
10 any request or suggestion by them that other types of these
11 products should be considered part of the industry. Nor
12 have any of the purchasers really suggested that these
13 products are competing when they're making decisions to buy
14 boltless steel shelving for the reasons Mr. Kruger
15 described.

16 COMMISSIONER KIEFF: All right. So then for the
17 lawyers, and for the post-hearing unless you think it helps
18 us to talk about it now, I just want to ask some questions
19 that help me feel confident that if we all collectively get
20 to the outcome that you're asking for, then we and you can
21 all feel robust that we built a record that has addressed
22 concerns that otherwise might have been raised by, for
23 example, an opponent. One benefit of not having an opponent
24 is that it looks easy. One cost of not having an opponent
25 is one can accidentally overplay one's hand, and that one

1 could be us, not you. I'm not suggesting you're greedy, I'm
2 just suggesting that we have more homework to do in effect
3 collectively when we are acting with only one advocate, one
4 team.

5 So I ask these questions in the spirit of shoring
6 up and simplifying and clarifying not in the spirit of
7 challenging. So, for example, can you in the post-hearing,
8 unless you want to talk about it now, try to provide
9 limiting principles, fences, markers, whatever you want to
10 call them, that would make an affirmative in this case not
11 look too attractive to a case that might be similar to this
12 where a domestic producer who has a lot of relationships
13 with foreign imports.

14 We wouldn't want that party to so-called "game
15 the system" by, for example, buying a lot of cheap stuff and
16 either getting a lower margin at Commerce than it's
17 competitors from the foreign country got and thereby getting
18 a remedy that in fact favors its own foreign producer,
19 counterpart rather than a true protecting of a domestic
20 industry.

21 We wouldn't want that outcome because that would
22 make us all look like we're actually protecting a foreign
23 market that is competing unfairly that just happens to be
24 aligned with a domestic, let's call it, manager or reseller
25 or distributor. I don't want to go so far as to even

1 suggest that's what you're doing. You've given answers that
2 already give me a lot of confidence that is not what you're
3 doing. But I want to know how to write an opinion that
4 stops somebody who is doing that from doing that and getting
5 a successful affirmative. And my guess is you can write
6 that in your post-hearing easily and you'll have time to do
7 it. I don't mean to put you on the spot, but it will help
8 us to write an opinion that has limits. Does that --

9 MS. CANNON: Absolutely. And we'll be happy to
10 address that further. I guess I'd just say two things. One
11 is that when we wrote our prehearing brief, we were
12 anticipating there would be opposition and you see from the
13 size of it that we did a very detailed brief that went
14 through like product and conditions of competition and
15 injury and all of the factors on threat. It was very
16 comprehensive so we did not write this brief in anticipation
17 that no one was showing up or we didn't need to address
18 issues. So we did address many of the issues that you're
19 raising and are happy to go through that further.

20 The second thing I would say, Commission Kieff,
21 is that the record evidence, and we can get into further
22 details in confidence in the brief, does not in any way
23 establish here that the foreign affiliate of Edsal has
24 gained the system or is increasing importers in any way
25 really the one benefitting from the case. So I don't think

1 the gaming aspect would be borne out by these facts.

2 COMMISSIONER KIEFF: Again, that was my long
3 preface. I'm not suggesting that that's what you've done.
4 And I am aware and am favorably impressed with the
5 affirmative case you've made. Just to be clear, what I'm
6 asking for is that you explicitly write -- help us write a,
7 what is not rather than a, what is. Because your brief
8 style, your argument style naturally is here's our case and
9 here's the reason why we win. And that style is very well
10 suited when there's an adversary. And it helps the neutral
11 decisionmaker write an opinion when the neutral
12 decisionmaker has the adversary. But when the neutral
13 decisionmaker does not have the adversary, the neutral
14 decisionmaker needs more help, and the added help is, tell
15 us what this case is not. That's helpful.

16 MR. ROSENTHAL: Commissioner Kieff, first let me
17 say thank you for the opportunity. We recognize that it's
18 harder for you to be satisfied that the record you've got
19 justifies your decision. And as I've said to some of our
20 clients here, don't think that because there's no one on the
21 other side that this is going to be easy. In fact, you're
22 going to get harder questions because the Commission feels
23 an obligation to have a record that it can defend even if
24 it's not somebody suing you in a U.S. court. You have to
25 still be able to defend it either at the WTO or in general.

1 So, we appreciate the opportunity to answer these questions,
2 and we will do so.

3 COMMISSIONER KIEFF: That's great. Thank you all
4 very much. No further questions.

5 CHAIRMAN BROADBENT: Thank you. Commission
6 Pinkert?

7 VICE CHAIRMAN PINKERT: I just had a follow up
8 about the line reviews. The testimony in my last round of
9 questions painted a pretty unfavorable impression or image
10 of how that process works. And when I say "unfavorable" I
11 mean, unfavorable to the supplier. So what is the incentive
12 for the supplier to participate in that kind of review?
13 What kind of leverage does the purchaser have to get you to
14 participate in that kind of review?

15 MR. KRUGER: If I understand your question
16 correctly, Mr. Pinkert, there's such a consolidated market
17 of customers. In other words, there are five major big box
18 retailers that you really have -- if you want to be in the
19 business, you have no choice but to participate in the
20 line-review process. If you don't, you're out of the
21 business.

22 So if you think about who our customers are,
23 which I believe are described in the brief, missing out on
24 any one of those would be catastrophic for any manufacturer
25 in this industry. And it goes beyond our industry. It

1 would be the same for power tools. It would be the same for
2 wood flooring or carpet, or toilets or faucets. These are
3 the major players that drive the majority of volume in the
4 United States. And not participating it not an option.

5 MR. LISS: If I could further, one point. I've
6 done work before in other industries where there were a lot
7 of certifications required, you had to be an approved
8 supplier, one of my first line reviews when I came to Edsal,
9 this gentleman behind me was running, there were a number --
10 our competitors were not known. This was an online auction
11 and the competitors were in China. Sure they had maybe sent
12 in a sample of a product, but virtually no certification,
13 we're not even certain for sure. Mr. Kruger was certain at
14 the time that they would be able to deliver, but really the
15 process is to bring in suppliers to lower -- you know, to
16 drive prices lower.

17 So the invitation by those who have basically no
18 business to throw out a little price, I mean, it's very
19 enticing. You know, because they had no business -- they
20 have a big factor. And we recount one example of a Chinese
21 supplier that built a huge new powder coating facility to
22 product tool boxes by experience because Mr. Altizer who
23 works for us used to run that facility. Spent millions of
24 dollars and built a new power coating facility. This
25 facility was all for building toolboxes.

1 And the U.S. retailer that was supposed to buy
2 toolboxes decided they weren't going to buy them from this
3 Chinese supplier that Mr. Altizer was running. And so the
4 retailer basically said, you know, we can't give you the
5 toolbox business, but, you know what, we'll let you make
6 steel shelving.

7 The company didn't even make steel shelving, but
8 they do today, of course, over in China. So the line review
9 process -- then subsequently, of course, there are many line
10 reviews on that. But the barriers to entry into this, to
11 some over there, it's really a lottery ticket. If they
12 happen to win, they figure out a way to make money and
13 essentially just drive down the price for us.

14 VICE CHAIRMAN PINKERT: One more question about
15 the line review process. You talked in response to my
16 earlier questions, about how you don't have a guarantee if
17 you have -- if you win, or if you have a successful bid in
18 the line review process, you have no guarantee that the
19 purchaser is going to purchase a particular quantity of the
20 product. If you don't win, let's say you come in second, is
21 it possible that you can still get some of that business
22 from the purchaser?

23 MR. LISS: It's definitely possible. Unlikely,
24 but possible. And more likely that they would come back on
25 some sort of promotion or a small, you know, some other

1 small buy. But principally you have to come in first to
2 win. But the buyer isn't committing -- in actuality they --
3 I think in most cases they do tend to buy most of the
4 shelving from the winner. But there is one retailer as an
5 example who awarded us all the business and then part of
6 their dot-com business they started add in other supplies
7 who had lost the process.

8 So the lines can become blurry, especially as you
9 get further away from that decision. You get one month out.
10 Ms. Cannon pointed out that we lost that Black Friday award
11 last year, the very painful one, despite the fact that we
12 had won the line review. So as the distance gets further
13 from the line review, the retailer does basically what they
14 want.

15 COMMISSIONER KIEFF: Thank you. Thank you, Madam
16 Chairman.

17 CHAIRMAN BROADBENT: Thank you. Okay. Ms.
18 Cannon, do you consider the pricing definitions -- our
19 pricing definitions to be overly broad? For example,
20 products one and two have load capacity of 1,000 pounds to
21 2,500 pounds, while product three and five have load
22 compound of 250 pounds to 1,000 pounds. Do we have product
23 mix issues in the categories that might distort comparisons
24 of the price data?

25 MS. CANNON: No, we don't believe so. We studied

1 that very carefully at the preliminary stage when we were
2 trying to figure out how to best provide comments for your
3 final questionnaires. And the ranges that we provided, the
4 prices for those products within those specified capacities
5 and other dimension should be comparable. So we don't think
6 that the explanation for the disparity is a problem with the
7 product description. We think there is something else going
8 on in terms of what factors were being included somehow in
9 the prices by the importers.

10 CHAIRMAN BROADBENT: Thank you. That's helpful.

11 Mr. Liss, you stated that U.S. purchasers have
12 actually encouraged Chinese producers to get into the
13 business. Either here or in your post-hearing submission
14 can you detail the knowledge of which purchases have
15 encouraged Chinese producers to commence production of
16 product and time?

17 MR. LISS: Absolutely. And I had just recounted
18 that one case with the large powder coating, we can give you
19 the exact instance.

20 CHAIRMAN BROADBENT: Yeah. Are there any more
21 instances or --

22 MR. LISS: There are. There are. In fact, the
23 Black Friday purchase that we lost last year was to
24 essentially a newcomer into the marketplace that that
25 retailer has a good relationship with. So, yes.

1 CHAIRMAN BROADBENT: Okay. Within the line
2 reviews that occur in China does Edsal ever win sales
3 despite offering a price that is not the lowest of all the
4 offers? I'm asking this due to a confidential table in our
5 staff report, Table 512 which shows Edsal winning bids
6 despite having higher prices than competitors. If Edsal
7 does win bids despite having higher prices on occasion, why
8 does this occur?

9 MR. LISS: I don't have access to the
10 confidential data, so I wouldn't know. To the best of my
11 knowledge, we have to have the lowest price to win. But
12 again, there's not perfect clarity.

13 We're submitting a one-time bid, and based on all
14 of the knowledge that we have about where the Chinese are
15 going to price, it is possible for us to have slightly
16 underpriced them, because we don't know exactly where
17 they're going to come in. So we do all of our market
18 knowledge to try to save the business.

19 CHAIRMAN BROADBENT: Okay. Mr. Kruger and
20 possibly Ms. Beck, Mr. Kruger for two operations at Home
21 Depot that had many people focusing on logistical costs in
22 established distribution networks, which make it easy to
23 directly import. However, with all of that expense and
24 distribution and logistical systems, it strikes me that
25 these are likely to be expensive for Home Depot to maintain.

1 As the Commission considers how it will take into
2 account direct import cost data, how should it take into
3 account this additional fixed economic cost inherent with a
4 global importing strategy?

5 MR. KRUGER: Madam Chairman, the way that we
6 would look at it when I was a buyer at Home Depot, and I'm
7 going to use a term that may not be well-understood in here,
8 but it was an internal term, is we called it the peanut
9 butter spread. The peanut butter spread was basically the
10 way that the analysts would take the total costs of the
11 entire direct import operation, and spread those costs out
12 amongst products.

13 So for example, you know, certain products cube
14 out bigger in a container than others, but they would be
15 assigned to same cost, and that included all those overhead
16 costs. So if I could fit 200 of one item on a container but
17 on another item I could fit 1,000, they were basically given
18 the same costs, and it would be between and 15 and 20
19 percent at the time that I was at Home Depot, to be landed
20 to the final destination. Does that make sense?

21 CHAIRMAN BROADBENT: Yeah, but I don't know how
22 we work that into our process here.

23 MS. CANNON: Chairman Broadbent, maybe I can
24 elaborate here. I think that your question, as I understand
25 it, are companies like Home Depot incurring some costs with

1 this sophisticated system that Mr. Kruger described.

2 CHAIRMAN BROADBENT: All the people, yeah.

3 MS. CANNON: With all the people doing this
4 analysis, that somehow relates to the direct imports. It
5 would be factored in. I believe his testimony was that this
6 analysis is with respect to the U.S. product as well.
7 They're comparing both. That's what the system is all
8 about. It's a global system to compare what does it cost us
9 if we're buying the U.S. product, and then we add on the
10 logistical freight and other costs to get their product to
11 our warehouse or store, versus if we buy it from China.

12 So the personnel, the analysts, all the time that
13 they're spending is applicable to both. It's not simply
14 applicable to a direct import. It's a global decision that
15 applies equally to the U.S. So I think all of those costs
16 would similarly apply, and that's part of the problem here,
17 is that they aren't being applied on the U.S. side.

18 They're only being considered on the direct
19 import side in this equation, even though, as Mr. Kruger
20 stated, they're accounting for them when they're doing their
21 comparisons at Home Depot for U.S. producers as well.

22 CHAIRMAN BROADBENT: Okay.

23 MR. KRUGER: Madam Chairman, if I can give you an
24 example that makes it easier.

25 CHAIRMAN BROADBENT: Mr. Kruger, just identify

1 yourself for the record. Sorry.

2 MR. KRUGER: Oh I'm sorry, Madam Chairman. For
3 example, one of the racks that we sell domestically is a
4 cost or sell price to Home Depot of \$100. However, direct
5 import from China would be 70. Internally at Home Depot, we
6 would use a factor of ten percent for all those handling
7 costs, administrative everything, to get it to its final
8 destination for the domestic.

9 So landed to the store would be \$110. For the
10 one coming out of China, we would add a factor of 20
11 percent. So at \$70, you'd add another \$14 landed to a final
12 destination or the store. So landed costs would be 84.
13 That's how they would compare internally to make their
14 buying decision on the lowest cost.

15 CHAIRMAN BROADBENT: Okay. So Mr. Liss, if I buy
16 one of these shelves on Ali Baba, how much do they charge me
17 to ship it? I mean it seems to be pretty bulky.

18 MR. LISS: It would depend on how many you
19 purchased. So I don't know. I haven't tried to do that.
20 But in the past, I think if you buy a full container, either
21 you can have them prepay the freight right to your door if
22 you'd like. So if you bought a container full of this
23 product to my right, you know, you'd have a container cost
24 today which is very low, maybe \$3,000, and you'd have maybe
25 600 of those in a container.

1 And it's a good question, because if you bought
2 it from Edsal today, instead of \$3,000 to ship from Chicago,
3 you as a purchaser, you go online and you would find this
4 product over in China and maybe they'd be selling it to you
5 for \$20, just picking a number. But I don't think I'm that
6 far off. You would buy that \$3,000 container and 600 of
7 these in that container would be another \$5. It would land
8 to your storage locker for \$25.

9 You'd call up Edsal and you'd say you know, I
10 don't want to go to Home Depot. We don't sell directly to
11 end users anyway, but if we did, you are running a storage
12 locker facility, so you are a distributor of a product. So
13 you wanted to buy an entire truckload of this, fantastic.
14 So we'd give you a price. Let's call that price \$35.

15 You would then need to get it to your storage
16 locker facility, and the freight quote is probably somewhere
17 in the neighborhood of let's call it 1,800, but it might be
18 as high as \$2,400. So you'd add another three or four
19 dollars to the cost of that unit. So you have 35 plus three
20 or four. You'd be in the high 30's, and you as a buyer of a
21 full container load would choose China, because the price is
22 \$20 plus five to get it there.

23 That's really the economics. That's the essence
24 of the problem. What you probably wouldn't do is you
25 probably wouldn't go to some distributor in the U.S. and say

1 hey, I want to get a price on Chinese product versus, you
2 know, domestically produced product. That's just not what
3 we impulsive Americans do today.

4 We shop for the lowest price and we go online to
5 do it. So that's kind of the economics.

6 CHAIRMAN BROADBENT: No, that's helpful, okay.

7 Good. I think I'm coming to the end of my questions.

8 Commissioner Johanson, do you have further questions?

9 Anybody else? Nope? Okay, good. All right. So we go to
10 closing statements? Oh, staff. Do you have any questions?

11 MS. HAINES: Elizabeth Haines. Staff has no
12 questions.

13 CHAIRMAN BROADBENT: Okay. I want to express the
14 Commission's appreciation to everyone for coming today. You
15 made great, great presentations, and if you want to begin
16 when you're ready on your closing statement, that would be
17 great.

18 CLOSING REMARKS

19 MS. CANNON: Thank you, Chairman Broadbent. I
20 believe that our witnesses have covered the waterfront for
21 you, and we have nobody to rebut today. So I will thank you
22 for your attention. I will encourage you to look at the
23 information we've provided to date and what we've testified
24 to, and think about the pictures that we showed you, which
25 remind us all of what these are about.

1 They're about production in the United States and
2 they're about saving U.S. jobs and that's what Edsal has
3 worked very hard to do, has been able to accomplish to date,
4 and very much hopes to be able to preserve if this case is
5 successful. Thank you very much.

6 CHAIRMAN BROADBENT: Thank you very much. Your
7 closing statement, post-hearing briefs, statements
8 responsive to questions and requests of the Commission and
9 corrections to the transcript must be filed by August 20th,
10 2015. Closing of the record and the final release of data
11 to the parties will be on September 9th.

12 Final comments are due September 11th, and with
13 that, this hearing is adjourned.

14 (Whereupon, the hearing was adjourned at 11:52
15 a.m..)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Boltless Steel Shelving Units Prepackaged for Sale from China

INVESTIGATION NO.: 701-TA-523 and 731-TA-1259

HEARING DATE: 8-13-2015

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 8-13-2015

SIGNED: Mark Jagan
Signature of the Contractor or the
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