

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
TOOL CHESTS AND CABINETS FROM CHINA) 701-TA-575 AND
AND VIETNAM) 731-TA-1360-1361 (PRELIMINARY)

REVISED AND CORRECTED

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UNITED STATES OF AMERICA
BEFORE THE
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
TOOL CHESTS AND CABINETS FROM) 701-TA-575 AND
CHINA AND VIETNAM) 731-TA-1360-1361
) (PRELIMINARY)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, May 2, 2017

The meeting commenced pursuant to notice at 9:30
a.m., before the Investigative Staff of the United States
International Trade Commission, Michael Anderson, Director
of Investigations presiding.

1 APPEARANCES:

2 Staff:

3 Bill Bishop, Supervisory Hearings and Information
4 Officer

5 Sharon Bellamy, Records Management Specialist

6

7 Michael Anderson, Director of Investigations

8 Douglas Corkran, Supervisory Investigator

9 Drew Dushkes, Investigator

10 David Guberman, International Trade Analyst

11 Amelia Preece, International Economist

12 Emily Kim, Accountant/Auditor

13 David Goldfine, Attorney/Advisor

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1 Opening Remarks:

2 Petitioner (Kathleen W. Cannon, Kelley Drye & Warren LLP)

3 Respondents (David M. Spooner, Barnes & Thornburg LLP)

4

5 In Support of the Imposition of Antidumping and

6 Countervailing Duty Orders:

7 Kelley Drye & Warren LLP

8 Washington, DC

9 on behalf of

10 Waterloo Industries Inc.

11 William Nictakis, President and Chief Executive

12 Officer, Waterloo Industries Inc.

13 Matthew Sallee, Vice President of Marketing and

14 Innovation, Waterloo Industries Inc.

15 Mitchell Liss, Vice President, Metal Box International

16 Gina E. Beck, Economist, Georgetown Economic Services

17 Kathleen W. Cannon, Brooke M. Ringel and Joshua R.

18 Morey - Of Counsel

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1 Baker & McKenzie LLP

2 Washington, DC

3 on behalf of

4 Sears Holding Corporation

5 Thomas Arvia, Division Vice President, Product

6 Management, Sears Brands Management Corporation

7 Kevin M. O'Brien - Of Counsel

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9 Crowell & Moring, LLP

10 Washington, DC

11 on behalf of

12 Clearwater Metal Vietnam, JSC

13 Michael Holden, Vice President, Sales and Marketing,

14 CSPA Industries, Inc.

15 Benjamin Blase Caryl - Of Counsel

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17 Adduci, Mastriani & Schaumberg LLP

18 Washington, DC

19 on behalf of

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21 Louis Mastriani, Deanna Tanner Okun, William C.

22 Sjoberg and Rowan M. Dougherty Of Counsel

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1 Grunfeld Desiderio Lebowitz Silverman & Klestadt LLP

2 Washington, DC

3 on behalf of

4 Shanghai Homsteel Industry Co., Ltd.;

5 Shanghai All-Fast International Trade Co., Ltd and

6 Steelman EasyLife, Inc. (collectively "Hom-Steel")

7 Julie LeBell, Vice President of Sales, Shanghai

8 Homsteel Industry Co. Ltd.

9 Ned H. Marshak and Kavita Mohan - Of Counsel

10

11 Barnes & Thornburg LLP

12 Washington, DC

13 on behalf of

14 Zhongshan Geelong Manufacturing Co. Ltd.

15 Geelong Sales (MCO) Ltd.

16 Geelong Sales Co. International (HK) Ltd.

17 Alistair Hanson-Currie, Business Development Director,

18 Geelong

19 Jamie Enger, President, Jenger LLC

20 Jon Fiscus, Founder and President Emeritus, Geelong

21 USA; and Board Member, Geelong

22 Bruce Malashevich, Economist, Economic Consulting

23 Services LLC

24 Curtis Eward, Economist, Economic Consulting Services

25 LLC

1 David M. Spooner and Christine J. Sohar Henter - Of
2 Counsel

3

4 Additional Witnesses in Opposition:

5 Extreme Tools Inc.

6 Naperville, IL

7 Larry Grela, President

8 Ronald Sidler, Vice President

9

10 Rebuttal/Closing Remarks:

11 Petitioner (Katheleen W. Cannon, Kelley Drye & Warren LLP)

12 Respondents (Deanna Tanner Okun, Adduci Mastiani &

13 Schaumberg LLP)

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P R O C E E D I N G S

9:30 a.m.

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

MR. ANDERSON: Good morning everyone and welcome to our visitors and those who have traveled from out of town to be here to the United States International Trade Commission's Conference in connection with the preliminary phase Antidumping and Countervailing duty investigation No. 701-TA-575 and 731-TA-1360-1361 concerning tool chests and cabinets from China and Vietnam.

My name is Michael Anderson and I am the Director of the Office of Investigations. I will be presiding over this conference. Among those present from the Commission Staff are on my far left, our Supervising Investigator Mr. Douglas Corkran; our Investigator Mr. Drew Dushkes and to my right our Attorney Advisor Mr. David Goldfine; our Economist Amelia Preece; our Accountant Auditor Emily Kim and our Industry Analyst David Guberman.

I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be addressed with the Secretary. I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphone. We also ask that each time you speak into the microphone that you state your name and affiliation for the

1 benefit of our court reporter, especially if you are going
2 to be sitting on the side. They cannot always see your name
3 tags.

4 Are there any questions before we proceed? Mr.
5 Secretary, are there any preliminary matters?

6 MR. BISHOP: No, Mr. Chairman.

7 MR. ANDERSON: Thank you, very well, let us begin
8 with opening remarks.

9 MR. BISHOP: Opening remarks on behalf of
10 Petitioner will be given by Kathleen W. Cannon of Kelley,
11 Drye and Warren. Ms. Cannon, you have five minutes.

12 STATEMENT OF KATHLEEN M. CANNON

13 MS. CANNON: Good morning, Mr. Anderson and
14 Members of the Commission Staff. I am Kathleen Cannon of
15 Kelley Drye appearing today on behalf of the Petitioner
16 Waterloo Industries. Waterloo and one other small company
17 MBI are the sole remaining producers of the subject tool
18 chest and cabinets in the United States. Sadly, this
19 industry is another in a long line of American
20 Manufacturers and workers being driven out of business by
21 unfair trading practices.

22 Imports of tool chests and cabinets from China
23 and Vietnam are being dumped into the U.S. Market and the
24 imports from China are subsidized by the Chinese Government
25 as well. The story is one all too familiar to the

1 Commission and devastating to the U.S. Industry forced to
2 compete with the unfairly traded products.

3 The product at issue today is certain tool chests
4 and cabinets sold for retail sale typically to mass
5 merchants, department stores and home improvement centers.
6 We have brought a sample and some pictures to illustrate the
7 product and our industry representatives will describe the
8 product and production process in more detail.

9 The subject tool chests are steel fabricated
10 products that are conveniently packaged for sale, generally
11 to homeowners for use in their home or garage to store
12 tools. The Domestic Industry manufactures a high quality
13 product. In fact, Waterloo produces tool chests for the
14 well-known and respected Craftsman brand that you see here
15 as our sample. The Domestic Industry is capable of
16 supplying tool chests of any types, models, dimensions,
17 colors or accessories that purchasers request.

18 Unfortunately however what the purchasers most
19 often request are lower prices. Imported tool chests from
20 China and Vietnam are being sold at absurdly low prices in
21 the United States. Most of these sales occur on a direct
22 import basis where the large retail customers compare prices
23 offered by the U.S. Producer to those offered by the Chinese
24 or Vietnamese producer from whom they purchase directly.

25 As your data show, the prices at which the

1 Foreign Producers sell those imports undercut U.S. prices by
2 significant margins. To compete, Waterloo and MBI must
3 either reduce their prices or lose the sale entirely.
4 Neither is a good option and both have occurred over the
5 2014-2016 Period of Investigation. Because there is no
6 discrete census category for this product data on imports
7 must be gathered from importer questionnaire responses.

8 Your importer questionnaire response data
9 corroborate the Petition allegations regarding the increased
10 volumes and market shares of Subject Imports. These imports
11 have surged over the past few years from already significant
12 levels. The surging volumes displaced U.S. Producers' sales
13 and market share on a virtually a 1 for 1 basis as there are
14 no other import sources of any real significance in the
15 United States. The market share shipped to Subject Imports
16 has been significant and dramatic and has been driven by
17 underselling.

18 The Subject Imports are taking sales and market
19 share from the U.S. Industry with aggressively lower prices
20 that undercut and depress U.S. Producer prices. Your
21 quarterly pricing data demonstrate the significant degree of
22 price undercutting by the Subject Imports. Our industry
23 witnesses will testify to the substantial price cuts they
24 have made to try to compete with imports. Those price cuts
25 have a direct effect on the industry's bottom line leading

1 to reduced profits and hurting the industry's ability to
2 invest in its business.

3 As a result of these surging volumes of
4 low-priced imports, the Domestic Industry has suffered
5 declines in all key trade financial variables all over the
6 period. Production, shipment, employment, net sales and
7 profitability have all plummeted. Capacity utilization in
8 the industry is at an appallingly low level. Investments
9 have been cancelled as the industry is reeling from the
10 financial devastation caused by the unfair import
11 competition.

12 No end is in sight from this injury. Capacity to
13 produce the Subject Product in China and Vietnam is large,
14 has increased over the period and is projected to increase
15 further. Foreign Producers are heavily export oriented and
16 target the U.S. Market. They have demonstrated an ability
17 to rapidly increase imports already and they have a ready
18 group of large U.S. Purchasers who are eager to source
19 low-priced dumped and subsidized imports if those imports
20 continue to be available to them at such low prices.

21 So the industry is faced with both present injury
22 and a threat of injury. On behalf of the U.S. Producers and
23 workers that have suffered severe injury at the hands of
24 unfairly traded imports and that face further harm absent
25 relief, we urge the Commission to issue an affirmative

1 preliminary decision as the first step toward restoring fair
2 trade conditions to this market. Thank you.

3 MR. BISHOP: Opening remarks on behalf of the
4 Respondents will be given by David M. Spooner of Barnes and
5 Thornburg. Mr. Spooner, you have 5 minutes.

6 STATEMENT OF DAVID M. SPOONER

7 MR. SPOONER: Commission Staff, I am David
8 Spooner, Counsel for Geelong, a respondent in this case. I
9 am joined by key players from throughout the tool storage
10 industry from representatives with the major Chinese and
11 Vietnamese Manufacturers to key U.S. sales representatives
12 to a pivotal retailer.

13 We are here to provide the staff with as accurate
14 a picture as possible of the like product and of the market,
15 the conditions of competition. We are eager to answer all
16 of your questions and to assist the staff in understanding
17 that imports are by no means the cause of Petitioner
18 Waterloo's struggles.

19 First, there are serious like-products issues in
20 this Petition. The Petition attempts to neatly segment the
21 market into portable, retail and industrial products. Based
22 upon precise dimensions and physical attributes such as the
23 width and depth of the units, the number of drawers and the
24 load-bearing strength of those drawers. As we trust will
25 become evident, these distinctions are arbitrary. They are,

1 frankly, a fiction.

2 The tool chest and toolbox industry is marked by
3 a broad range of products that share common physical
4 characteristics and uses, are interchangeable, are sold
5 through common channels of distribution, produced in the
6 same manufacturing facilities and are bought and available
7 to a common group of consumers.

8 As you can see behind you we are going to have a
9 little show and tell today. I will leave the demonstration
10 to one of our industry experts but to briefly key things up
11 I'd like to steer the staff to three portions of our
12 exhibits which we will provide.

13 As you know, the scope excludes portable and
14 industrial tool storage products and contains precise
15 definitions for portable and industrial products. cursory
16 research on the web which we would encourage you to do and
17 frankly on our side a visit to a retail outlet quickly
18 produced almost comical evidence about the supposed
19 domestic like product in this case.

20 For example, our exhibits will include photos
21 taken from Home Depot's website on page 10 which will show
22 an apparently excluded portable toolbox alongside an
23 apparently in scope portable industrial toolbox. According
24 to the Petition though, three door portable toolboxes are
25 not portable and are in-scope because well they have three

1 doors. In fact, as we will see later today, I believe there
2 is a page in the Petitioner's photos describing their
3 product. The photo contains a picture of a portable toolbox
4 which in fact has three drawers and by their own definition
5 is not portable.

6 Our exhibits also contain a photo of a Sears
7 Craftsman Branded tool chest manufactured by Waterloo, on
8 display at retail. The chest is marketed as having
9 industrial casters paired with an "industrial strength
10 grip-latch system". According to the Petition though, such
11 a product is actually not an excluded industrial grade tool
12 chest.

13 Indeed, we have provided marketing materials for
14 Sears Craftsman brand. This marketing material details
15 product specs for Waterloo's "basic, heavy duty, premium
16 heavy duty and professional tool chests". A spectrum of
17 product types that don't match the Petition's attempt to
18 neatly bifurcate retail and industrial like products.
19 Indeed, it's unclear to me at least whether heavy duty,
20 premium heavy duty and professional are appropriate for
21 industrial use.

22 Finally, the Petition excludes work benches and
23 defines work benches as among other attributes having no
24 solid front, side or back panels. As you will see when we
25 do our show and tell, one of the products behind you is a

1 work bench with side, back and front panels. Should the
2 Commission proceed to a final phase, the Commission in our
3 humble opinion should explore what are some troublesome like
4 product issues, but after hearing today from a broad-based
5 panel of witnesses and after absorbing the questionnaire
6 data, the Commission should have no need to continue to a
7 final phase considering the real market conditions.

8 We will address and appropriately protect as BPI
9 the data in our post-Staff conference brief. The data we
10 hope will point to some compelling facts. Today though you
11 will hear from primary industry witnesses from China and
12 U.S. Businesses, all of whom will explain the real
13 conditions of competition. Most noteworthy, you will hear
14 from Waterloo's long time principal customer Sears.

15 It is Sears' job of course to convey the story in
16 detail but suffice it to say that reasons other than price
17 told Sears to look for other supply options. We know the
18 story of Sears throughout the POI. It should not come as a
19 surprise that Sears' suppliers have also struggled too.
20 This will be corroborated by other witnesses.

21 All of this should compel a negative preliminary
22 determination. Thank you for allowing us to come today. We
23 look forward to answering your questions.

24 MR. BISHOP: Would the Panel in support of the
25 Imposition of Antidumping and Countervailing Duty Orders

1 please come forward and be seated? Ms. Cannon, you have 60
2 minutes for your direct presentation. Mr. Chairman, all
3 witnesses on this Panel have been sworn in.

4 MS. CANNON: Thank you, Mr. Chairman. Our first
5 witness this morning will be Mr. Nictakis.

6 STATEMENT OF WILLIAM NICTAKIS

7 MR. NICTAKIS: Good morning. My name is William
8 Nictakis and I am the President and Chief Consecutive
9 officer of Waterloo Industries. Waterloo is the larger of
10 the two remaining producers of metal tool chests and
11 cabinets for the retail market in the United States.

12 MR. BISHOP: Could you put your microphone a
13 little bit closer, please? Thank you.

14 MR. NICTAKIS: We produce metal tool chests and
15 cabinets at our factory in Sedalia, Missouri. I would like
16 to explain the product to you this morning and then address
17 why my company filed these trade cases against China and
18 Vietnam.

19 The tool chests and cabinets that are the subject
20 of this investigation include a number of components, all
21 designed for tool storage. I bought a sample top chest and
22 cabinet as well as some pictures to illustrate the product
23 for you. The sample we brought for you is a top chest and
24 cabinet combination sitting behind you.

25 As you can see, the tool cabinet is a larger unit

1 that sits on the ground, usually on casters. The top chest,
2 which is sitting on top of a tool cabinet may also sit on
3 top of an intermediate chest. The first picture we have is
4 of an intermediate chest. The second picture is of a side
5 cabinet which attaches to the sides of the tool cabinets to
6 expand the storage space.

7 Finally, the third picture is of a mobile work
8 bench or work station which has tool storage doors and a
9 work surface on the top. These subject tool chests and
10 cabinets can be packaged and sold together as a combination
11 unit or they can be sold as individual units. The tool
12 chests and cabinets covered by the scope of this case share
13 a number of common characteristics.

14 First, they are all produced primarily from
15 steel. Typically, the steel used is cold-rolled carbon
16 steel. Second, all of the subject tool chests and cabinets
17 have storage drawers in each unit. The number of drawers in
18 each individual unit varies but for example the top chest
19 that we have here today has five drawers which is common for
20 this type of unit. These drawers typically have ball
21 bearing slides and may be lined with a protective mat.

22 Third, the product subject to these
23 investigations comes in a specific size range. Subject
24 metal tool chest and cabinets have widths that range from 21
25 to 60 inches while side cabinets are roughly 15 to 20

1 inches. The subject merchandise also has a depth from front
2 to back of roughly 12 to 24 inches.

3 Metal tool chests and cabinets are typically
4 painted by an electric coating or power coating process,
5 both for protection and for aesthetic appearance. Waterloo
6 has both types of coating capabilities at our Sedalia
7 facility. Our products may also come with a number of
8 accessories that are packaged together.

9 For example, we sell some of our tool chests and
10 cabinets with power strips for use with power tools as shown
11 in Picture No. 4, with drawer liners and occasionally even
12 with tool sets if the customer so requests.

13 Finally, all of the subject metal tool and
14 cabinets are packaged for retail sale at our factory. You
15 can see an example of this in Picture 5. Tool chests and
16 tool cabinets are sold to consumers through retail
17 establishments like mass merchants, department stores, home
18 improvement stores as well as through online retailers.

19 All metal tool chests and cabinets subject to
20 this case are produced using the same basic production
21 process. Typically the process begins with a slitting of
22 cold-rolled carbon steel into sizes suitable for forming the
23 bodies and drawers of the unit. The steel is then fed into
24 a series of presses and punch machines where it is formed
25 into the various component pieces of the unit.

1 Next, the individual parts are welded through a
2 combination of manual and automated processes to form the
3 chest, cabinet or drawer. Then these are painted either
4 through an electric coat or a powder coat process. These
5 painted pieces are then assembled into finished tool chests
6 and cabinets. Ball bearing slides, casters, name plates and
7 other accessories are incorporated into the unit at the
8 assembly stage or they are packaged together with the tool
9 chests.

10 Lastly, the completed tool chests and cabinets
11 are packaged in corrugated boxes for retail sale. The metal
12 tool chests and cabinets involved in this case are
13 distinguishable from other products like portable tool
14 chests and industrial grade tool chests. Those products are
15 not covered by the scope of this case. They also have
16 different characteristics and are produced on different
17 equipment than the Subject Product.

18 Portable tool boxes of the type you see in
19 Picture 6 are smaller and lighter than the subject tool
20 chest and cabinets. One key feature is that they have a
21 handle on top so that they can be carried by hand. An empty
22 portable tool box is generally going to weigh less than 20
23 pounds. By contrast, even one of the smaller subject top
24 chests like the 26 inch model you have behind you weighs 75
25 pounds empty.

1 Another excluded product is industrial grade
2 storage units. Industrial grade tool chests are very large
3 heavy units with bodies greater than 60 inches and with
4 drawers more than two feet.

5 MR. NICTAKIS: They are produced from thicker
6 gauge steel. They have deeper drawers, and are rated for
7 much heavier loads. They are also not produced and sold for
8 retail.

9 Importantly, industrial grade tool chests are
10 also produced by a number of different manufacturers from
11 the subject tool chests.

12 While Waterloo manufactures industrial tool
13 chests, we do so on different equipment. Industrial grade
14 tool chests are not sold to retailers, but are instead sold
15 directly to commercial distributors, to garages, and
16 industrial establishments.

17 And finally, these industrial products are priced
18 much higher than the subject product.

19 As my colleague, Mr. Sallee, will further
20 discuss, Waterloo's production and sales of the tool chests
21 and cabinets covered by the scope of this case have been
22 severely damaged by the unfairly traded imports.

23 When I entered this business in 2014, I met proud
24 men and women who had been part of Waterloo's workforce for
25 an average of 18 years. And I had hopes of maintaining

1 those jobs and adding even more by saving the last major
2 U.S. manufacturer of tool chests, and of further expanding
3 our production.

4 But surging volumes of low-priced imports from
5 China and Vietnam disrupted our plans. They undercut our
6 prices, took millions of dollars of our sales, and severely
7 eroded the profits and the prices of our remaining sales.

8 Rather than being able to add employees and
9 expand our production, we've suffered production
10 curtailments and are now looking at employee layoffs due to
11 unfair import competition. It is clear that Chinese and
12 Vietnamese producers do not play by the same rules.

13 If these unfair trade practices are remedied, I
14 am confident that we will be able to grow our business and
15 increase full-time jobs at our Sedalia facility. Otherwise,
16 our future looks bleak.

17 My hope is that yet another U.S. industry does
18 not disappear due to unfair import competition. Thank you.

19 STATEMENT OF MATTHEW SALLEE

20 MR. SALLEE: Good morning. My name is Matt
21 Sallee and I am Vice President of Marketing and Innovation
22 for Waterloo Industries. I've worked at Waterloo for nearly
23 22 years, and am very familiar with the U.S. market for tool
24 chests and cabinets.

25 This morning I would like to describe the market

1 dynamics we face and the injury we have suffered due to
2 unfair imports from China and Vietnam.

3 As Mr. Nictakis stated, Waterloo is able to
4 produce tool chests and cabinets in a wide variety of types,
5 sizes, and colors. We can also provide any accessory a
6 purchaser may be interested in including as part of the
7 unit.

8 Our problem is not the inability to produce
9 whatever type of product a customer demands, or a high
10 quality product; in fact, Waterloo supplies Craftsman
11 Branded products, one of the highest quality brands
12 recognized in the retail market.

13 Our problem, instead, is the inability to compete
14 with the extremely low prices that are offered by Chinese
15 and Vietnamese producers and still remain in business.

16 Tool chests and cabinets in the U.S. market are
17 generally purchased by large retailers such as mass
18 merchants, department stores, and home improvement centers.
19 These retailers are almost always direct importers of the
20 product.

21 They do not generally buy through a distributor
22 or an importer middle man, but import the product themselves
23 directly from China or Vietnam. In competing with imports,
24 therefore, we have to compete with the price offered by the
25 foreign producer directly to the retailer.

1 The prices the Chinese and Vietnamese producers
2 offer for their products are unbelievably low, causing
3 Waterloo to have to cut our prices significantly if we want
4 to keep any sales.

5 In years past, Waterloo has at one time or
6 another supplied virtually all major retailers of this
7 product either with our own brands or with house-branded
8 products. As import prices have undercut us, we have lost
9 business. We do not lose the business for quality reasons
10 or for the inability to manufacture what they needed; we
11 lost the business due to price.

12 Competition for the sales--competition for sales
13 in the tool chest market can occur in a variety of ways.
14 There are no fixed contracts in this business that guarantee
15 us a set volume or a specific price for an extended period
16 of time.

17 Although we may have supplied a particular model
18 one year, we can lose and have lost that business the next
19 year when subject imports of the same model are offered at a
20 lower price.

21 Sometimes subject imports will even add
22 accessories such as a power strip or drawer liners at the
23 same or lower price point in an attempt to obtain the
24 business.

25 While we can offer the same accessories, those

1 additions come at a cost. Retailers are not willing to pay
2 the additional cost when they can get the same product from
3 China or Vietnam at a lower price.

4 At times, a retailer may put a product line up
5 for bid with price again being the focus of the purchasing
6 decision. Some companies use reverse auctions where the low
7 bid gets the price--excuse me, where the low bid gets the
8 sale. Other companies simply ignore Waterloo since our
9 product is priced so much higher than the subject imports.

10 Our sales team has heard more than once that our
11 price is not even in the ballpark of the import prices. In
12 recent years, as our business has declined we have been
13 proactive in reaching out to the retailers in an attempt to
14 gain more business.

15 Where we have been able to obtain sales, we have
16 had to offer deep price cuts. For example, we were selling
17 one model for over \$650 just two years ago. Now, to keep
18 that business for the same sized product, we have had to cut
19 the price by over \$200 due to the low priced import
20 competition from China and Vietnam.

21 Import prices are so low that I have repeatedly
22 seen product sold at retail to customers at a lower price
23 point than we can offer the retailer. To the best of my
24 knowledge, Waterloo's facility in Sedalia is more automated
25 and efficient than any of the foreign facilities.

1 operated company since then.

2 I was here before the Commission not long ago for
3 the boltless steel shelving case against China. The
4 boltless shelving industry was also being injured by unfair
5 imports from China, and the Commission issued an affirmative
6 injury determination in 2015.

7 I saw first-hand the injurious price and volume
8 effect of unfair imports that surged into that market. I
9 also saw the positive effect of the trade case on our
10 boltless shelving business, including increased sales and
11 profitability.

12 As a result of that case, we were able to rehire
13 workers who had been laid off, and hire new employees. I am
14 hoping for the same benefits for our tool chest business.

15 At MBI, as a result of surging imports of tool
16 chests from both China and Vietnam, we have had to reduce
17 our workforce by more than half since 2014, which has been
18 devastating to our company.

19 The ability to provide jobs and a livelihood to
20 our workers is so very important to us. Much to our dismay,
21 production declines due to unfair imports have caused the
22 loss of many jobs.

23 Imports from China began making inroads into the
24 U.S. market several years ago on the basis of very low price
25 offerings. And price is paramount to our customers'

1 purchasing decisions, especially to the big box retail
2 stores.

3 MBI sells primarily to these retailers. The
4 Chinese and Vietnamese producers have offered absurdly low
5 prices, and our customers have come--have expected us to be
6 able to meet those prices.

7 These low import prices have caused us to cut our
8 prices significantly to avoid losing sales to our customers.
9 When the competing import prices are too low and we simply
10 can't reduce our prices any further, we lose sales.

11 We have documented a number of specific lost
12 sales examples to the Commission in MBI's questionnaire
13 responses. Given that a small group of retailers accounts
14 for such a large volume of our sales of tool chests and
15 cabinets, the loss of sales to even one customer can be
16 catastrophic.

17 The aggressive pricing behavior of the subject
18 imports intensified in 2015 and 2016. The U.S. industry
19 lost a sizeable share of the market to China and Vietnam.
20 To the best of my knowledge, there are no sources of imports
21 of tool chests and cabinets other than China and Vietnam.

22 Consequently, each U.S. sale captured by the
23 unfair imports from China and Vietnam is a lost sale to the
24 U.S. industry. These lost sales due to the increasing
25 volumes of unfair imports have resulted in production and

1 sales declines and significant financial deterioration at
2 MBI.

3 We have been forced to severely reduce our
4 workforce. We have also cancelled all investment projects
5 because we cannot compete with unfairly priced goods from
6 China and Vietnam.

7 Our research and development expenses have
8 plummeted over the past three years. Our company cannot
9 remain in business if it has to compete with imports that
10 are subsidized by the Chinese Government, and are sold at
11 dumped prices that are often below our costs.

12 This continued loss of profitability will force
13 MBI to announce a permanent closure of our production
14 operations in 2017 if we do not receive import relief. In
15 fact, MBI had contemplated closing its doors in the first
16 half of this year, but held off doing so when the trade case
17 was filed.

18 This case is our last hope. MBI and our workers
19 need trade relief to save our U.S. tool chest production
20 operations. Without remedial relief, we will not be able to
21 survive in competition with the low-priced imports from
22 China and Vietnam. Instead, we will see our U.S. operations
23 further diminished, resulting in a permanent closure later
24 this year.

25 On behalf of MBI and its workers, we are asking

1 for help to keep our business alive. Thank you.

2 MS. CANNON: For the record, I'm Kathleen Cannon
3 and I will conclude our presentation by summarizing the main
4 arguments on behalf of the Domestic Industry in this case.

5 You should each have a confidential pink handout
6 to accompany my remarks, since virtually all of the data in
7 this case has been treated as confidential so far.

8 First, the domestic like-product. The
9 like-product should be defined to mirror the scope of this
10 investigation and consist of certain tool chests and
11 cabinets for retail sale. The product should neither be
12 subdivided into different unit types, nor expanded to
13 include other products outside of the scope.

14 You heard Mr. Nictakis discuss the common
15 physical characteristics that all types of subject tool
16 chests and cabinets share, as well as a common use in
17 providing tool storage in garages or homes.

18 All subject tool chests also share common
19 manufacturing equipment and employees. The products are
20 interchangeable over the spectrum of types of the products
21 produced, and have common price points.

22 None of the different types of units that
23 comprise these retail tool chests is a distinct
24 like-product. Conversely, the like-product should not be
25 expanded to add other products outside of the scope of the

1 case.

2 Small portable tool boxes of the type you carry
3 by hand and are illustrated in our handout, our earlier
4 handout, are very different from the subject tool chests and
5 cabinets that you see behind you.

6 Industrial tool systems also differ from the
7 subject product that you and I would purchase at a local big
8 box store. As Mr. Nictakis stated, industrial products are
9 much larger, heavier, much more expensive--probably ten
10 times the cost of these products--sold through different
11 channels of distribution, and manufactured using different
12 production processes on a different equipment largely by
13 entirely different companies.

14 Neither segregation nor expansion of the scope in
15 defining the like-product is appropriate here. Based on
16 this like-product definition, there are two companies that
17 comprise the Domestic Industry: Waterloo Industries, and
18 MBI.

19 The second issue facing you is negligibility.
20 Both China and Vietnam well surpassed the 3 percent
21 negligibility standard as shown in confidential chart 2 to
22 our handout. In fact, together they account for virtually
23 all imports.

24 A third legal issue relevant to your analysis is
25 cumulation. The Commission should cumulate imports from

1 China and Vietnam as the statutory criteria are met.
2 Petitions against both countries were simultaneously filed,
3 and there is a reasonable overlap of competition between
4 both countries and the U.S. product.

5 Tool chests are fungible products made to the
6 same specifications by Chinese, Vietnamese, and U.S.
7 producers. Products from all three sources are sold through
8 the same channel of distribution, which is to retailers like
9 the big box stores we've described, for resale to the
10 ultimate consumer.

11 Products from each source are sold on a
12 nationwide basis, and all have been simultaneously present
13 in the U.S. market throughout the Period of Investigation.
14 Thus, cumulation of the subject import is required here.

15 Let me turn now to the statutory injury factors
16 of volume, price, and impact. Data that we presented in the
17 petition, and that the Commission has received in the
18 questionnaire responses, show that each of these factors is
19 met.

20 As you see in confidential chart 3, the volume of
21 imports from China and Vietnam is large, and has been
22 surging over the past two years. There is a substantial
23 rate of growth in subject imports.

24 Chart 4 shows that subject imports are also
25 significant relative to total imports. China accounts for

1 the vast bulk of total imports, and Vietnam makes up a
2 sizeable volume of all imports, as well. On a cumulated
3 basis, these volumes are massive.

4 As shown in chart 5, surging volumes of subject
5 imports captured a large and increasing share of the U.S.
6 market. From an already significant base in 2014, the
7 unfair imports grabbed substantial additional market share
8 by 2016 at the U.S. industry's expense.

9 Chart 6 shows that as the unfair imports market
10 share surged, the domestic industry's share fell
11 precipitously. Given that there are virtually no other
12 imports in the market, the U.S. producer's share fell in
13 direct proportion to the market inroads captured by subject
14 imports.

15 Over the period, demand for tool chests and
16 cabinets grew somewhat as you see in chart 7, but the
17 increases in subject imports far exceeded U.S. demand
18 growth. As a result, rather than being able to benefit from
19 the increased demand, U.S. producers lost market share and
20 actually suffered declines in production and shipments, all
21 while the market was growing.

22 One condition of competition that characterizes
23 this industry is the direct import nature of sales of the
24 foreign product. The vast majority of imports of tool
25 chests are made directly to the retailer by the foreign

1 producer.

2 Chart 8 shows the volume and percent of imports
3 of the pricing products that were made on a direct import
4 basis. As Mr. Sallee testified, the prices the purchaser
5 compares to U.S. producer prices are not prices offered by a
6 middle man distributor, as you see in some cases, but are
7 the prices offered by the foreign producers themselves.

8 A direct import approach by big box companies is
9 frankly a matter of simple economics, as they don't have to
10 pay a markup by another importer or selling agent. Just as
11 the purchasers compare the foreign producer prices to the
12 U.S. producer prices in making buying decisions, so too
13 should the Commission in analyzing underselling.

14 That analysis is particularly important here,
15 given that direct import sales account for most of the sales
16 of tool chests in the U.S. market. The Commission has
17 recognized in several recent cases the importance of relying
18 on direct import prices in assessing under-selling,
19 particularly where they predominate the market. And we
20 encourage the same approach here.

21 As is true of so many steel products and steel
22 fabricated products you have reviewed, the sizeable growth
23 in subject imports was driven by price. Quarterly price
24 comparisons document the under-selling by subject imports.
25 Both on a quarterly basis and on a volume basis, subject

1 imports undercut U.S. prices the vast majority of the time
2 as you see in chart 9.

3 These comparisons are based on the direct import
4 sales which account for the bulk of the import sales. I
5 would also note that the other pricing data reported for
6 sales through an import appear to be of a noncomparable
7 product, and we will address those data further in our
8 brief.

9 Chart 10 shows what has happened to U.S. producer
10 prices as a result of the significant under-selling by
11 subject imports. As you see, across-the-board price
12 declines occurred, some to substantial levels below 2014 by
13 2016.

14 These low prices are not sustainable for this
15 industry and are a direct result of competition with unfair
16 import pricing. The adverse impact of these surging volumes
17 of low-priced imports on the domestic industry has been
18 severe.

19 Chart 11 shows the substantial reductions in all
20 key trade variables: production, shipments, employment, and
21 capacity utilization that the industry has suffered.

22 The industry's capacity utilization level by
23 2016, as you see, is abysmal and unsustainable. And as
24 Chart 12 hows, the industry's financial variables also
25 suffered. The industry experienced significant declines in

1 net sales and in all profit variables: gross profits, net
2 profits, and operating profits all fell.

3 The operating profit to sales ratio of the
4 industry has fallen to an anemic level by 2016. You heard
5 the industry witnesses describe some of the negative effects
6 both Waterloo and MBI have suffered due to subject imports.

7 Confidential chart 13 provides more specifics on
8 those effects from the U.S. producer questionnaire
9 responses. Nor will the industry's condition improve absent
10 relief. Foreign producer data in chart 14, taken from the
11 questionnaires, show that their capacity to produce subject
12 product is sizeable and increased significantly from 2014 to
13 2016.

14 The subject producers are also projecting further
15 increases in capacity. And, as chart 15 demonstrates, much
16 of that capacity is sitting idle. The amount of excess
17 capacity in the subject countries relative to U.S. demand is
18 sizeable and would allow significant additional inroads into
19 the U.S. market by subject producers just exporting their
20 idle capacity.

21 The Chinese and Vietnamese producers are also
22 highly export oriented, as illustrated by chart 16. In
23 fact, they export almost all of their production. And where
24 does it go? Well, look at chart 17. That shows that the
25 target outlet by far is the United States. The rapid pace

1 at which subject imports grabbed U.S. market share over the
2 POI will accelerate further, given the idle capacity and the
3 U.S. export focus of the subject producers.

4 To sum it up, the domestic industry is already in
5 a highly vulnerable condition due to the injurious effects
6 of subject imports over the past three years. That injury
7 will only intensify absent remedial relief.

8 You heard the industry witnesses discuss their
9 inability to continue to compete at current price levels, as
10 well as the potential need for MBI to shut down its facility
11 and lay off all of its workers entirely by the year end,
12 absent relief.

13 Antidumping and countervailing duty orders to
14 offset these unfair and injurious trading practices are
15 badly needed.

16 Thank you. That concludes our testimony and we
17 would be happy to answer your questions.

18 MR. ANDERSON: Thank you, Ms. Cannon, and to our
19 witnesses who came here today. It's been very helpful. And
20 I'm speaking loudly into the microphone. We're quite a
21 distance from you here, given the size of the parties here.

22 We would like to take time now and provide an
23 opportunity for staff to ask specific questions.; And we'll
24 start with our investigator, Drew Dushkes.

25 MR. DUSHKES: Thank you, Mr. Anderson. Drew

1 Dushkes, Office of Investigations. Thank you all for being
2 here today and providing your testimony.

3 I would like to start with one of the elements of
4 the scope, the prepackaged for retail sale. And I was
5 hoping you could provide some more detail about that.

6 Are there specific requirements that must be met,
7 maybe at the not industry standard, but conceptually that
8 would make it prepackage for retail sale? Must it have
9 certain labeling? Must it be a certain finish? Things like
10 that?

11 And then you mentioned conveniently packaged, as
12 well, what we would qualify as convenient. I'm wondering,
13 does any box that's sent to a retailer and not changed
14 before the consumer purchases it, is that prepackaged? Or
15 does it have to meet certain display requirements?

16 MR. NICTAKIS: This is William Nictakis, President
17 and CEO of Waterloo Industries. Packaged for retail sales
18 typically means they are packaged in a corrugated box,
19 similar to the ones you have behind you. There will be a
20 product descriptor and a UPC code that the retailer can scan
21 the box out of the store.

22 It is very different than what you will see in an
23 industrial setting.

24 MR. DUSHKES: And I'm wondering, how often do
25 retailers, will they take it out of the packaging when it's

1 received and display it on the floor for sale where the
2 customer can essentially roll it or carry it out of the
3 store? And would you still consider that to be prepackaged
4 for retail?

5 MR. NICTAKIS: I think the merchandising strategy
6 varies by retailer. What you typically see is retailers may
7 have a display sample so people can touch and feel the
8 product, and then they have the product in the box that they
9 will take home with them. So typically they don't take the
10 finished product, they will take the box home.

11 MR. DUSHKES: Thank you. You mentioned that you
12 had to drop your prices to compete with some of the imports.
13 When did you start doing so, if you're able to share that
14 information?

15 MR. NICTAKIS: Since I've been with the company in
16 2014, we've had major pressure from our retailers to drop
17 price. And the direction was very clear. If you don't drop
18 price, we are going to take the product and move it to
19 China, or move it to Vietnam.

20 And that's been a consistent theme over the last
21 two years. And it's also been the theme as we've gone out
22 and tried to pursue new business. They give us a quote, and
23 they take it to China, or they take it to Vietnam, and they
24 come back and say you're not even close on price. We're not
25 going with you.

1 MR. DUSHKES: Was there a particular year where
2 the price drop was especially large? Or was it more
3 consistent throughout the period?

4 MR. NICTAKIS: We've been under pressure
5 consistently. I would tell you two thousand--and we've seen
6 extreme pressure in 2016 is for sure when I've noticed it
7 and been personally involved with it.

8 MR. DUSHKES: Great. Thank you very much.

9 You mentioned that you do do industrial tool
10 chests, as you define them, but they're made on separate
11 machinery. I'm wondering if you could explain to me why
12 that requires separate machinery, and how that production
13 process, as well as maybe the production process for
14 portable differs from what you're deeming to be the retail
15 tool chest and cabinets.

16 MR. NICTAKIS: Sure. This is William Nictakis,
17 President of Waterloo Industries. Let me start by answering
18 industrial products.

19 Industrial products differ dramatically from
20 retail. They are much heavier gauge steel. The casters are
21 much heavier gauge. The slides are much heavier gauge.
22 They're designed to carry a much greater load in retail
23 products.

24 These are products that professionals are using
25 in making their livelihood, putting their tools in. Retail

1 products are typically do-it-yourselfer people who take it
2 at home. So a very different grade of quality expectation.
3 Very different price. An industrial product will sell up to
4 ten times more than a retail product.

5 It's made on different welding equipment. It's
6 painted on different equipment. And we actually have
7 different people trying to weld and assemble those products.
8 As we look at a retail business, you're making many per day,
9 and industrial tends to be few items per day, a much smaller
10 scale.

11 MR. DUSHKES: And is this separate machinery, is
12 that by virtue of the nature of the product? Or is it
13 simply more efficient to segregate along those lines where
14 you have some machinery optimized for one type of tool chest
15 and another optimized for the industrial?

16 MR. NICTAKIS: There is different equipment that
17 is required, different setups of the equipment that's
18 required. So that is why we do it. Some is you need
19 different equipment. It has to be different from e-coat.
20 The industrial needs to have a powder coat process. That's
21 a requirement for that channel.

22 MR. DUSHKES; Thank you very much. One more
23 question. You said that you had the ability to produce all
24 ranges of tool chests in colors, sizes, things of that
25 nature. I'm wondering, was that a "could" or is that a

1 "do"? Do you currently produce sort of a very wide range?
2 Are there certain sizes or types that are popular in the
3 market? And if so, which?

4 MR. NICTAKIS: We clearly have the ability and
5 capability to make any size tool chest in our plant. We
6 don't make every size, (a) because we make what the
7 customers ask for and there are certain sizes that the bulk
8 of the market participates in, and that's what we're
9 typically asked to bid on.

10 We also find that if we're asked to bid on
11 different sizes, we tend to get the answer that we're too
12 expensive compared to what they can import those products
13 from Vietnam or China. But it is clearly not an issue of
14 capability. It is clearly not an issue of capacity. It is
15 solely an issue of us not being able to match the imported
16 price.

17 MR. DUSHKES: And what are those sizes that tend
18 to predominate the retail market you mentioned?

19 MR. NICTAKIS: The majority of the category is
20 going to be smaller boxes, which are sort of 26-inch type of
21 widths. You'll have an intermediate, which in retail tends
22 to be in that 41-inch range of width. And then you'll have
23 sort of the larger retail, which tends to be in that 52-inch
24 type of width. And it may vary an inch or two, but those
25 are the predominant sizes.

1 MR. DUSHKES: And over the period, have you
2 noticed any trends related to those specific sizes, either
3 towards or away from? Or has it held largely consistent?

4 MR. NICTAKIS: The toolbox category isn't--doesn't
5 have huge, as you've seen, does have huge. It's been
6 relatively stable. There has been a movement to slightly
7 larger boxes, I would tell you, so I think the mix has moved
8 towards 40-inch or 52 from 26. They're all very
9 significant, but that trend would have been towards larger
10 boxes.

11 MR. DUSHKES: And one final question. I'm
12 wondering regarding sort of the industrial channel, the
13 industrial users, you mentioned the more expensive product,
14 heavier rated, things like that, more durable so to speak.
15 Is that part of the performance element they're looking for
16 at say a higher end retail tool chest? How would you
17 describe an industrial user and what they're looking for in
18 a tool box?

19 MR. NICTAKIS; The auto mechanic with your car
20 brakes, you go to the shop and he has a huge 84-inch tool
21 chest that's 5-feet high that can sit 3,000 or 4,000 pounds
22 on it. That's the traditional industrial user. Lots of
23 tool companies, and the mechanic is probably the best
24 example that we'd all recognize.

25 MR. DUSHKES: Is there no use of say the 16-inches

1 or less higher quality tool box by the industrial users? Or
2 is really only the larger sizes are very, very heavy rated
3 product?

4 MR. NICTAKIS: They tend to go with bigger tool
5 chests and cabinets. I mean, they're going to be big. I
6 know the ones we have done are bigger, over 60 inches
7 compared to what we do for retail. That's what we sell, at
8 least in our industrial.

9 MR. DUSHKES: Thank you very much, Mr. Anderson.
10 That concludes my questions for now.

11 MR. GOLDFINE: Good morning. I'm David Goldfine
12 from the Office of the General Counsel. Thank you all for
13 coming today.

14 I just have a few questions. On the like-product
15 issue, Ms. Cannon, I think I pretty much understand your
16 position. It's one domestic like-product that's coterminous
17 with the scope. I guess because that's going to be--sounds
18 like it might be disputed in this prelim, I would encourage
19 you in the postconference brief to, with respect to both the
20 portable and industrial, to run through the six factors as
21 to why on each of those factors you don't believe the
22 like-product should be expanded to include those.

23 MS. CANNON: I'd be happy to do that, Mr.
24 Goldfine.

25 MR. GOLDFINE: Thank you. I do have just

1 generally, if you want to say anything on that now, you
2 know, to the argument that, well, these are all made--all
3 tool chests are made, including the out-of-scope, is made
4 from the same material, and it's all used to store tools.

5 So generally, what would be your response to that
6 sort of argument?

7 MS. CANNON: From a legal perspective, I think I
8 would go back to your factors. One of your factors is who
9 is making it? Are they made in common manufacturing
10 facilities using the same equipment? And by the same
11 people? Because often that's been a focus by the Commission
12 because you're looking at whether you're looking at the same
13 industry or not.

14 And here, Mr. Nictakis has testified that
15 Waterloo makes both, but makes the industrial separately, on
16 separate equipment. But that--

17 MR. GOLDFINE: Can I ask you about that? It's
18 made on separate equipment. Is it also made using different
19 employees? Because you only have one facility, so it's
20 obviously made at your facility. Is it separate employees,
21 too?

22 MR. NICTAKIS: So we've moved. We started making
23 industrial products in our Sedalia facility about 18 months
24 ago in an attempt to save jobs. We shut down our Nogales,
25 Mexico, plant, and transferred the production and the jobs

1 to the United States.

2 When we did that, we had dedicated area in the
3 plant that was idle because our volume had gone down so much
4 over the last few years. So we put equipment in that area
5 of the plant dedicated to industrial. We trained people to
6 make the industrial product. And then we have dedicated
7 powder coat processes that all the industrial product is
8 painted on.

9 Given our volume challenges now and the attempt
10 to not lay off people, we have made our employee base
11 cross-trained and much more fungible so that they can work
12 on industrial or they can work on retail business.

13 MR. GOLDFINE: So just so I understand, the
14 employees--you train folks to work on industrial, but those
15 employees also work on--

16 MR. NICTAKIS: They are now cross-trained.

17 MR. GOLDFINE: On all--

18 MR. NICTAKIS: Yes.

19 MR. GOLDFINE: Sorry--

20 MS. CANNON; That's okay. What I started to say
21 really was that I don't want the Commission to come away
22 with the impression that this cross-over is indicative of
23 the industry. Because Waterloo is just a very small part of
24 this industrial market.

25 What you are largely talking about is other

1 companies that make the industrial product, which is why
2 it's not part of this case. That's a different industry.
3 They're making it in entirely different facilities,
4 different equipment, and different employees, because they
5 don't make the product that's covered by this case.

6 So you've got very separate companies doing it.
7 It is sold through channels of distribution that are quite
8 different--one through retail outlets to you and I who'd go
9 into a department store and buy it; and one to the
10 industrial channel, the auto mechanics and the businesses.

11 So those are quite different, as well. The price
12 points, as we said, you're talking something that's hugely
13 more expensive, ten times the magnitude of these types of
14 products. They're not interchangeable.

15 MR. GOLDFINE: The price, is that a function of
16 the size? Why is it such a big difference?

17 MR. NICTAKIS: I think the reason--this is William
18 Nictakis from Waterloo Industries--the reason that
19 industrial products sell at such a higher price I think are
20 two-fold. One, they use heavier steel, heavier casters,
21 heavier slides. I think the second reason is that it is a
22 U.S.-manufactured industry. There is no imported
23 competition from China or Vietnam in the industrial setting.

24 The competition is entirely different. The
25 manufacturing base is different. The retails are different-

1 -the retailers who merchandise it are different.

2 Traditional retailers don't sell industrial.

3 I think the biggest issue for the parties is the
4 fact that it is a domestic manufacturing base, not having to
5 compete against Vietnam and China.

6 MR. LISS: If I could just add one thing--it's
7 Mitchell Liss from MBI. In our business, it's 100 percent
8 retail. So we don't have an industrial part of the
9 business. And the business for us that is at risk and will
10 unfortunately have to be shut down is 100 percent retail
11 focused. And I support the fact that these are really two
12 totally different markets.

13 MR. GOLDFINE: Does MBI sell out-of-scope product?
14 Or is it all in-scope?

15 MR. LISS: They do not sell any tool boxes that
16 are out-of-scope.

17 MR. NICTAKIS: This is Will Nictakis. One
18 additional clarification, or just fact. Our industrial
19 business is well under 10 percent of our total production
20 and sales. It is a tiny piece of the business that we
21 brought in from Mexico.

22 MR. GOLDFINE: And what about the portable?

23 MR. NICTAKIS: It is a tenth of that. Extremely
24 tiny business. It's less than one percent of our business.

25 MR. GOLDFINE: Okay. I'm just curious. Why is

1 MBI not a petitioner in the case?

2 MR. LISS: MBI is not a petitioner because we are
3 so small and, frankly, we had planned on being out of
4 business very shortly. So we found out about the case, and
5 we basically kept the jobs and the door open with the hope
6 of being able to keep it open. We financially couldn't
7 support doing the case.

8 MR. GOLDFINE: On the issue of domestic industry,
9 I understand your position that it's both domestic producers
10 of the in-scope product. I was just curious. On page 16 of
11 the Petition you had a footnote on Waterloo. Is Waterloo a
12 related party, or not?

13 MS. CANNON: Waterloo is not a related party.

14 MR. GOLDFINE: Not a related party. So there's no
15 related party issues?

16 MS. CANNON: There should not be, no.

17 MR. GOLDFINE: Okay. And I would also, finally,
18 just one other thing, on cumulation, which you've run
19 through and was in the Petition, I would just encourage you
20 in the postconference brief, particularly on fungibility, to
21 provide as much explanation as you would like. That would
22 be helpful.

23 MS. CANNON: We'll be happy to do that, Mr.
24 Goldfine. One thing I think I'd point out is that this is
25 an industry where, as you heard Mr. Sallee testify, you

1 often have product line reviews, or retailers saying here's
2 my design, you bid, you bid, you bid. You're all bidding to
3 the exact same design. So in effect you're demonstrating
4 that everybody can make the same product. You're able to
5 make the same specification.

6 When that phenomenon has happened in past cases,
7 the Commission has recognized that showing fungibility, the
8 ability of everybody to make the same thing, and in fact
9 look at the products behind you. They're very similar,
10 regardless of who is producing them.

11 So I think the fungibility criterion is pretty
12 strong.

13 MR. GOLDFINE: Okay Thank you. That's all I have.

14 MR. ANDERSON: Thank you. Ms. Preece?

15 MS. PREECE: Thank you. I'm going to pass out--
16 this is a page from the producer questionnaire with the
17 pricing products listed on them, because I don't want to
18 have to repeat what the pricing products are. So I'll just
19 pass it out to you, and then you can give it back to me when
20 we're done with the questions. I thought it would be
21 helpful to have you see it, instead of having to refer to
22 your questionnaire. So you pass it out, and then I'll ask
23 questions. Okay, thank you.

24 So I've been working on the data in this case,
25 and the pricing data is very confusing to me. And so, based

1 on that, I wanted to go over what kind of range of prices
2 would be within reason for each of the pricing products.
3 And what is something that I need to contact people.
4 Because I just don't have a feel for this product yet.

5 So this is why I'm going through these questions,
6 just so that I can actually go back to the firms and ask
7 them what the prices--which ones are--ask them why they give
8 a price where I can see clearly that the prices they've
9 provided me are strange. Okay--

10 MS. BECK: Ms. Preece, this is Gina Beck from
11 Georgetown Economics Services. That's something that we
12 would like to do in posthearing brief, and would certainly
13 be happy to work with you and give you the specifics.

14 MS. PREECE: Yeah, I appreciate that. But I still
15 want to talk about what kind of range of prices make sense
16 within these things. So for each of these products,
17 obviously contains a range of products. So let's look at
18 product four, just because that has the stainless steel
19 drawers, or stainless steel drawer fronts.

20 If you were going to be selling, or bidding on a
21 contract where you had one product for specification with
22 stainless steel drawers and one without stainless steel
23 drawers, how much difference in price would you see between
24 these two products?

25 MS. PREECE: Can you give me an estimate/guess,

1 kind of idea --

2 MR. NICTAKIS: This is William Nictakis with
3 Waterloo. I can't give you a ballpark stainless steel
4 drawer upgrade cost X for a six-drawer or ten-drawer versus
5 a traditional -- I'd have to go and do my homework on how
6 many drawers are we talking about -- off the top, I don't
7 have the drawer cost differential.

8 MS. PREECE: Okay. So can you even give me an
9 estimate of the percentage difference? I'm floundering
10 because I'm looking at these pricing products and I'm just
11 not knowing.

12 MR. NICTAKIS: What I would tell you is, there's
13 not very many meaningful differences between different
14 workstations that you're gonna see. They may have slightly
15 different number of drawer counts. One may have a stainless
16 top, one may have a rubber top. One may have a wood top.
17 But the basic parts -- the basic construct of that are gonna
18 be very similar.

19 MS. PREECE: Okay. Let me go back that down,
20 further down in my question there, my question, because I
21 have in Product 1 I've been given pricing data for the
22 Product 1 of \$60 to \$350. I found that sort of surprising.
23 Do you think that this range of product falls within Product
24 1 or is this gonna be -- is there something -- does that
25 make sense?

1 MS. CANNON: We're struggling a bit, Ms. Preece,
2 because while we're trying to answer your question, some of
3 the answers would get us into confidential information, and
4 we're leery to tiptoe into that area in a public hearing.

5 MS. PREECE: Well, okay. I don't need
6 confidential information. What I need is -- do you have a
7 good/better/best strategy that would cause these price
8 differences? Do you have -- in those diamond sawblades,
9 they had contracts where they would sell groups of
10 different-sized diamond sawblades, and if somebody bought a
11 group, the price of each of the saw blades that were in
12 Product 1, for example, would be half what they were on
13 another sale. Is that kind of situation occurring in this
14 -- among your sales?

15 MS. CANNON: Let me start. This is Kathy
16 Cannon. We worked very closely with Waterloo to try to come
17 up with these price descriptors, mindful of the comparisons
18 you need to make, to try to define them as narrowly as
19 possible, so that the prices you would get would be
20 comparable.

21 There are, we believe, some problems with some
22 of the pricing data that you've received, that we think are
23 not responsive to these, so it's not necessarily that we
24 have the wrong price descriptor, it's that some of the data
25 we believe are not necessarily tracking what you've asked

1 for, and not so much that there's a range of types or
2 products. We also are seeing huge underselling, so frankly,
3 huge underselling is consistent with what the industry has
4 experienced, as compared to some other markets where you see
5 a tinier spread.

6 MS. PREECE: Yeah, I'm just trying to -- I'm not
7 questioning the product, I'm just questioning, what kind of
8 range of prices -- even if we have identical product -- what
9 kind of range of prices would make sense within this market?

10 Is this a market where identical product is
11 gonna have a range of prices because you sell them in
12 bunches? You know, you selling a thousand products and
13 twenty of them are Product 1 and since you're selling a
14 thousand products, you can give a 20% discount or a 50%
15 discount -- I just don't -- I'm trying to get that kind of
16 idea.

17 I don't wanna get that the day before I get the
18 final report out, which is what happened with diamond saw
19 blades.

20 MR. SALLEE: This is Matt Sallee, Vice President
21 of Marketing and Innovation at Waterloo. What I think, in
22 general, the product descriptors that we've put together,
23 are very representative of what we see in the retail market,
24 and to answer your question, there are certainly big price
25 ranges.

1 I'll use an example of the unit behind you, the
2 Husky branded product, it can be in the market anywhere from
3 \$199 range at retail to -- I think if you looked on the Home
4 Depot website, you'd see it go all the way up to \$500 or
5 \$600 for similar-looking product. I don't know if that
6 answers your question, but these are very much the standard
7 sizes that we see at retail.

8 MS. PREECE: Yeah, that's completely not what I
9 meant -- yes. The first part is what I'm interested in.
10 There is a large range of prices of this product, so I'm not
11 gonna be surprised if one person is selling it at half this
12 price of another person, even if it's the same Product 1?
13 Or should I be surprised?

14 MR. SALLEE: This is Matt Sallee. Yes, we have
15 seen imports that are half the price of what we can sell
16 for.

17 MS. PREECE: Okay. So, we just -- the pricing
18 data I have so far is so lousy that it's driving me crazy.
19 And if people were inconsistent within themselves, then I'd
20 ask them why they're inconsistent.

21 But when you're inconsistent between parties, it
22 makes it difficult for me to ask what's going on. I mean I
23 just don't know what makes sense as a price for these
24 products. I don't have enough background in tool chests to
25 say, "Oh, this is obviously wrong." So I'm really trying to

1 work on that problem.

2 MS. CANNON: Ms. Preece, if I might add, you
3 heard this testimony Mr. Sallee gave earlier about how one
4 particular specific product was over \$650 and two years
5 later, fell by \$200. That's huge. That's not what you
6 normally see in a market, that huge change and that
7 underselling by imports is driving those huge cuts and may
8 explain to some degree why you're seeing such traumatic
9 fluctuations in the pricing that you typically don't see.

10 MS. PREECE: Okay. It's not fluctuation
11 unfortunately. It's differences in price between different
12 sources, so that's just completely --

13 Okay. Is there anything like Black Friday
14 specials on this product? Where you have slightly different
15 product that you're selling at a discount that everybody,
16 you know, is supposed to get out on Black Friday and buy
17 tool chests? Or is this one of those things that people
18 don't buy on Black Friday?

19 MR. NICTAKIS: This is Bill Nictakis at
20 Waterloo. There's clearly promotional timeframes, Father's
21 Day, gift-giving be one, and the other would be --

22 MS. PREECE: Black Friday?

23 MR. NICTAKIS: -- the Black Friday, holiday
24 five- or six-week timeframe being the other. And there's
25 certainly a spike.

1 MS. PREECE: Okay. And do you sell a slightly
2 different product at that time that's reduced quality? I
3 mean, just sort of, you know, this or that? It's not the
4 same? Or do you sell identical product?

5 MR. NICTAKIS: We sell what the customer asks us
6 for. And again, we are a private label manufacturer and so
7 we will spec out a product according to their specifications
8 and make it against that.

9 MS. PREECE: Have you ever had somebody give you
10 a specification for Black Friday?

11 MR. NICTAKIS: Yes.

12 MS. PREECE: Okay. So there are Black Friday
13 kind of things. Thank you.

14 MR. SALLEE: If I can just add to that -- this
15 is Matt Sallee from Waterloo. I would say--just from my
16 perspective--that's a very rare occurrence. It has happened
17 in the past, but for the most part, we see our customers
18 selling the exact same product on Black Friday that they do
19 the rest of the year.

20 MS. PREECE: Okay, great. Thanks. And --

21 MR. LISS: I'm sorry -- Mitchell Liss from MBI
22 -- I agree. While there are promotions for Black Friday, in
23 our experience, it has been the same inline product that the
24 retailer would normally have.

25 MS. PREECE: Right. Thanks. That's very

1 helpful. At some point, there was an explanation that
2 sometimes these tool boxes are sold with tools? Did the
3 pricing products exclude tools? Or could you have somebody
4 throwing tools into these wonderful pricing products and not
5 noticing the fact? Is that a possible reason why the prices
6 are so -- could be cockeye?

7 You know what I mean? Does this say -- it
8 doesn't seem to me that it says "without tools", so --

9 MR. NICTAKIS: Ms. Preece, this is Bill Nictakis
10 at Waterloo. Inclusion of tools is not a frequent
11 occurrence and it would be, probably that Black Friday, type
12 of event that you referenced earlier. It doesn't happen
13 often.

14 MS. PREECE: But nobody's gonna be giving me
15 Product 5 or 3 with tools?

16 MR. NICTAKIS: I would not think so.

17 MS. PREECE: Okay, great. That's -- just
18 clarifying that.

19 MS. BECK: Ms. Preece, if I could also just add
20 in, and perhaps Mr. Sallee wants to reference this also, but
21 there have been incidents where importers have included the
22 tools, but for an even lower price. So there would be no
23 price premium for including it.

24 MS. PREECE: Okay. How long do tool boxes last?
25 Is this a wide, once-in-a-lifetime purchase? Or do you, you

1 know --

2 MR. NICTAKIS: We're very proud of our quality,
3 but we wouldn't say they necessarily are once-in-a-lifetime.
4 But they clearly are a durable good that will last a number
5 of years.

6 MS. PREECE: Twenty years? Would you think
7 twenty years is reasonable? Or would that be excessive?

8 MR. NICTAKIS: That would be on the high, very
9 high end of the durability.

10 MS. PREECE: Okay. I would think that something
11 like this would last me forty years, so -- 'course I'm
12 pretty weird. Okay. And if you're gonna replace a tool
13 chest, why are you replacing it? What's wrong with it now
14 that you -- at the end of this twenty-year period?

15 MR. NICTAKIS: This is Bill Nictakis. People,
16 we will see, tend to move up. They have an apartment with a
17 small tool box or tool chest and cabinet combo and then they
18 get a house and they go, "Oh, I have a garage. I can get a
19 bigger chest and tool box combination." So I think it's, as
20 they accumulate more space and more stuff, there's a need
21 for more tools and a place to put them.

22 MS. PREECE: Okay. Great. Great. And, um,
23 you're saying that there's no imports coming from Mexico,
24 correct?

25 MR. NICTAKIS: I'm not aware of any.

1 MS. PREECE: Okay. Because I'm -- I want to
2 hear from the other side as well, if they agree that there
3 are no imports from Mexico. That's all my questions for
4 now. Thank you.

5 MR. ANDERSON: Thank you, Ms. Preece. And now
6 I'll turn the microphone over to Ms. Kim.

7 MS. KIM: Good morning. My name is Emily Kim.
8 I'm the accountant for this investigation. Thank you for
9 attending this conference today. I have one question.
10 Either now or in your post-conference brief, please discuss
11 what your front operating income margin would be, absent the
12 effects of alleged unfair imports from China and Vietnam.
13 Also, please let me know the last time you achieved this
14 level of profitability.

15 MS. CANNON: Thank you. We'd prefer to do that
16 in our post-hearing brief.

17 MR. ANDERSON: Thank you, Ms. Kim. And Mr.
18 Guberman?

19 MR. GUBERMAN: Dave Guberman, Industry Analyst,
20 Office of Industries. I have a question. I think the scope
21 includes tool boxes made from carbon alloy and stainless
22 steel bodies. Can you describe in a little more detail the
23 types of the material, the steel that's used?

24 If the different types of steel used in
25 different boxes for different applications and if the

1 production process differs for the different types of steel?
2 I think you said carbon steel is the most common, but how --
3 and also, what's the origin of the steel for the production?

4 MR. NICTAKIS: So let me take them in order.
5 The vast majority of the category of tool chests and
6 cabinets are made from cold-rolled carbon steel. The gauges
7 will vary from 18 up to 52, 53 gauge, but if you look at the
8 industry, it is cold-rolled carbon steel.

9 A very small part of the market is stainless
10 steel. It can run on the same equipment. We have the
11 ability to do that, so that's not really a distinguishing
12 piece. In terms of the source of our steel and goods, I
13 think that's something we probably, for proprietary reasons,
14 want to cover with you offline.

15 MR. GUBERMAN: Okay. And in terms of the
16 subject tool boxes, they typically produce the same, using
17 the same methods, as far as we know? And they the same type
18 of materials? Or are there significant differences in
19 automation or other processes?

20 MR. NICTAKIS: No, the tool boxes from our plant
21 or from China, Vietnamese plants, are largely the same.
22 That's why it is a price game. The retailers just go and
23 bid out the prices. Because the tool box is the tool box.
24 There might be minor differences, but it's very
25 interchangeable.

1 MR. GUBERMAN: And do you have an idea of how
2 the -- are there different configurations that are generally
3 sold to different end-users? That you're able to summarize
4 in terms of where certain boxes are used for automotive
5 versus other -- are they generally automotive? Or what's
6 the general application?

7 MR. NICTAKIS: Well, that would be an industrial
8 channel, the automotive, which really isn't what we're
9 talking about. For retail, no, it's more of the
10 do-it-yourself, for at home projects and things like that,
11 that people use them for.

12 MR. GUBERMAN: Okay. And in terms of the specs
13 that describe the industrial grade steel tool chests and
14 cabinets, you mentioned all drawer slides rated for 200
15 pounds or more, can you -- what is that? The meaning behind
16 the 200 pounds? Is that how much weight the drawer can
17 support and operate? Or --

18 MR. NICTAKIS: Yes, sir. It's how much weight
19 it can go and open and close.

20 MR. GUBERMAN: Okay. And are there any other
21 identifiable characteristics between industrial tool boxes
22 and retail that you would say are commonly accepted, other
23 than what are mentioned here in the report?

24 MR. NICTAKIS: No, sir. It's what we talked
25 earlier -- it's the gauge of the steel, the load rating for

1 the casters and the slides.

2 MR. GUBERMAN: Okay.

3 MR. NICTAKIS: And importantly, it's the price.

4 MR. GUBERMAN: And the packaging? Is that --

5 MR. NICTAKIS: It's not packaged for retail
6 sale, so you don't have to focus on UPC codes and things
7 like that.

8 MR. GUBERMAN: Okay. All right. Thank you very
9 much.

10 MR. SALLEE: Can I add to that quick? This is
11 Matt Sallee from Waterloo. Just one more comment there,
12 that a lot of the industrial products are sold through tool
13 trucks, so to speak to packaging, the very, very different
14 method of distribution where the tool truck driver will
15 actually bring the product to the mechanic already assembled
16 and ready to go, so that they would never see packaging.
17 It's a completely different method of distribution.

18 MR. GUBERMAN: Thank you.

19 MR. ANDERSON: Thank you. And Mr. Corkran now.

20 MR. CORKRAN: Douglas Corkran, Office of
21 Investigations. Thank you all very much for your appearance
22 here today and for your testimony, which has been
23 exceptionally helpful. Had a couple of follow-up questions,
24 some which were just to get a few more details on some of
25 the testimony.

1 So for Waterloo, there was discussion earlier
2 about three facilities that have closed. Could you walk
3 through those facilities again in terms of the timing of
4 those closures, and what their product mix was? That is,
5 were they producing exclusively the retail tool boxes? Or
6 were they also producing industrial tool boxes?

7 MR. SALLEE: This is Matt Sallee with Waterloo.
8 To answer your question, the three facilities that I
9 mentioned, the U.S. facilities, Waterloo Iowa closed in the
10 mid-90s, were right -- I started in 1995 and that facility
11 closed a year or two after that. They made a variety of
12 product, from retail through industrial products.

13 I'm not gonna know -- I would have to follow-up
14 with the exact dates of the other two facilities, but
15 Pocahontas, Arkansas, and Muskogee, Oklahoma, were the other
16 two that closed. I'll have to follow-up, but roughly around
17 2000, and 2000 to 2005, we can supply that in the
18 post-conference brief. They primarily -- I'll handle them
19 one at a time.

20 Muskogee, Oklahoma, to the best of my
21 recollection, made all retail products. And Pocahontas,
22 Arkansas, was a mix of some industrial product and retail
23 product as well.

24 MR. CORKRAN: Thank you. That was very helpful.
25 I was just trying to get the general timeframe and the

1 general product mix, and that was very responsive. I
2 appreciate it.

3 One of the things that I was interested in were
4 some of the market developments that have taken place since
5 2014, or at least are ongoing since 2014. Several times in
6 your testimony, you noted the supply of Craftsman model
7 equipment. Craftsman is exclusive to Sears, correct?

8 MR. NICTAKIS: In this referenced timeframe,
9 yes, it was exclusive to Sears and licensee, Ace Hardware,
10 licensees of Sears.

11 MR. CORKRAN: Can you give me a sense, and
12 obviously exact numbers would be proprietary, but can you
13 give me a sense of how much of your product sales are to
14 Sears? Or the Craftsman line product? Very generally? I'm
15 just looking for large majority, minority, but at least a
16 sense of how much you depend on those sales?

17 MR. NICTAKIS: It's a large percentage and we
18 can get specifics off, you know, in the post-conference.

19 MR. CORKRAN: Thank you. That's helpful,
20 because it helps me put that in context. May I also ask the
21 same of MBI?

22 MR. LISS: MBI is not a supplier for the
23 Craftsman name. Is not. Is not. We do not supply
24 Craftsman.

25 MR. CORKRAN: Okay. One of the things that I'm

1 sort of wrestling with is, Sears' difficulties during this
2 time period, I think are reasonably well-known. How does
3 that tie in with Waterloo's performance? I mean, if a large
4 majority of your sales are to Sears and Sears faces its own
5 challenges, where is the linkage with the subject imports?

6 MR. NICTAKIS: This is Bill Nictakis at
7 Waterloo. The biggest challenge we've had with Sears, from
8 a Waterloo perspective is their intent to reduce costs by
9 going overseas. And they've taken new products and sourced
10 them directly from China and Vietnam. And frankly, they put
11 a gun to our head and said if we don't reduce prices,
12 they're gonna take even more of our product and move it over
13 to China and Vietnam.

14 So our challenges really aren't with Sears as a
15 retailer. It's with Sears' buying practice, relying
16 increasingly on low-cost Chinese and Vietnamese imports.
17 Being rational business people, we clearly try to diversify
18 our sales mix and pursue other customers.

19 And those efforts have been very frustrating.
20 We've been rebuffed repeatedly with the comments that our
21 prices are too high, and they can go get these products from
22 Vietnam or from China. So when we attempt to diversify,
23 we've been having trouble with that.

24 MR. CORKRAN: Thank you very much I appreciate
25 those comments. So far as you know, and I will definitely

1 as the same of the second Panel because they are probably in
2 a better position to state definitively but so far as you
3 know is the overall volume of Sears merchandise, Craftsman
4 merchandise declining in this area? Or is to the best of
5 your knowledge, is it relatively stable?

6 MR. NICTAKIS: Over the entire timeframe or
7 recently?

8 MR. CORKRAN: Over the last three years.

9 MR. NICTAKIS: I don't know how much business
10 they have taken over to China. I know some they have taken
11 over to China so I know it's happened to my business. I
12 can't speak for their overall but reading what we know I
13 would assume it has not been overly healthy.

14 MR. CORKRAN: What is the information that you
15 were relying on then you characterized some of that volume
16 as shifting to China? How are you aware of that?

17 MR. NICTAKIS: We saw a product show up on the
18 floor from China so that was a pretty clear indication and
19 we point blank have been told and threatened that if we
20 don't reduce price that they will go to Vietnam and China
21 and that has been communicated to us.

22 MR. CORKRAN: How do you sell to Sears? Is it
23 through a bidding process?

24 MR. NICTAKIS: Yes, I tell you today it is. They
25 have a product and if they don't like the price that we are

1 offering they will go to China or to Vietnam.

2 MR. CORKRAN: But do they formally offer it in
3 one year openings that you compete every year for that
4 particular product line or how does that work?

5 MR. NICTAKIS: There is no guaranteed volume. We
6 are an at-will supplier and basically have to earn that
7 business every day of the year. We can agree on a price,
8 they don't have to buy anything and if they can get a lower
9 price somewhere else they will do that.

10 MR. CORKRAN: So in your communications with
11 Sears do they tend to provide you with the price against
12 which you are competing? Or is it limited to the
13 information that you are not competitive for that particular
14 product?

15 MR. SALLEE: This is Matt Sallee from Waterloo.
16 Yes, I can think of occasions where we have been presented a
17 price with a little bit of an ultimatum to say you will hit
18 this price or we will take this product overseas.

19 MR. CORKRAN: To the extent that that's not
20 already either in your Petition or your questionnaire could
21 you please make sure you provide that information? If it's
22 since 2014 in your post-conference brief. Thank you and
23 thank you for being responsive because I know these are
24 sensitive questions and I appreciate them.

25 Also looking at developments in the marketplace

1 during the timeframe, the information in Exhibit 12 gives a
2 summary of the Domestic Industry's financial performance in
3 2014, in 2015 and in 2016. To what extent has that been
4 effected by changes in raw material cost? I am particularly
5 interested in the prevalence of cold-rolled steel in the
6 production of this product and looking at published price
7 series for cold-rolled steel it appears that those prices
8 have increased noticeably over the course of 2016.

9 So my general question is to what extent have raw
10 materials had an impact on your financial performance?

11 MR. NICTAKIS: If you look over the reference
12 2-14 to 2016 period the major raw material being cold-rolled
13 steel has been relatively flat. A lot of fluctuations in
14 the timeframe but overall from point to point it has been
15 pretty flat so it really has not been a major impact.

16 Having said that, the recent increases in steel
17 prices are becoming an extreme issue for our viability
18 because steel is, as you are well-aware and in the Domestic
19 Industry has gone up 35 plus percent since May and we have
20 not been able to get price increases from customers. The
21 response, Matt has been there and I have been there, the
22 response time after time is "we're not seeing any increases
23 from China and Vietnam.

24 So I am very concerned now with what's happened
25 in steel in 2017, how we are going to get through this.

1 MR. LISS: This is Mitchell Liss from MBI. I
2 agree with Mr. Nictakis from 2014, 2015 and 2016, the
3 degradation in our profitability is not the result of
4 commodity changes. For us as well cold-rolled steel which
5 is domestically purchased as been relatively flat and our
6 degradation has been completely price related to our
7 customers telling us that they are going to go overseas and
8 as our survey shows the average price has gone down every
9 single year.

10 For what we are able to sell the product for
11 while the commodity costs have remained relatively flat. As
12 we get into 2017 commodities stepped up from that level but
13 in the period you're looking at, relatively flat.

14 MR. CORKRAN: Thank you very much. Initially it
15 appears from our data that imports from Vietnam are a
16 noticeable share of the U.S. Market but because of
17 negligibility is at least a potential legal issues as Miss
18 Cannon alluded to. Can you please tell me your experience
19 with competing against product from Vietnam in the U.S.
20 Market?

21 MR. NICTAKIS: This is Bill Nictakis. The
22 experience of competing against importers from Vietnam and
23 China are the same. It comes back to "I can get it at a
24 cheaper price Waterloo if you don't match it, we're going
25 over there" and sometimes they just know that we can't do

1 and as the reference would be, "you're not in the ballpark -
2 - we know you can't do it so we're not going to even try.
3 We know we can get cheaper". It's the same, there is really
4 no difference in how China or Vietnam will be perceived by
5 our buyers.

6 MR. CORKRAN: One of the last things we are
7 trying to do is when you do a general search for tool chest
8 or tool cabinets through publications or through the
9 internet there are certain names that sometimes come up --
10 Kennedy Cornwell, Stanley, Black and Decker sometimes come up
11 when you do just a product search. Are you aware, do you
12 see companies like that in the market?

13 MR. NICTAKIS: Kennedy, Cornwell -- only
14 industrial. They only sell industrial product to industrial
15 companies. So they have nothing to do with our retail
16 business. The Stanley Company sells some retail. The
17 majority of the Stanley Company's business and all of their
18 own manufactured is solely industrial products.

19 MR. CORKRAN: Okay, well thank you very much.
20 Thank you for your responses today. I really appreciate it
21 and but have no further questions.

22 MR. ANDERSON: Mr. Corkran I believe Mr. Dushkes
23 has another follow up question.

24 MR. DUSHKES: Drew Dushkes Office of
25 Investigations, just one follow up question. Mr. Liss, has

1 MBI's sales experience been similar to what Mr. Nictakis
2 testified to as to maybe a bidding process but at will
3 sales, no set contracts or volumes or prices?

4 MR. LISS: Mitchell Liss, MBI. Absolutely, the
5 retail process begins with specification from a customer and
6 submitting a price and typically losing against a low bid
7 from overseas but over the course of time we have the same
8 experience of bidding on an item, that item may have
9 duration of as little as a few months to as much as maybe a
10 year. So it's the same experience.

11 MR. DUSHKES: Thank you very much, Mr. Anderson.
12 No further questions.

13 MR. ANDERSON: Thank you. I would like to follow
14 up with a few questions and thank you for all your responses
15 so far. In your exhibit, I think it is Exhibit 3 here I am
16 looking at, it is very helpful pictures of your different
17 product offerings and it does say Waterloo and Mr. Nictakis
18 I believe you said you manufacture under other brands so
19 does Waterloo make its own brand? And is that out in the
20 marketplace as a Waterloo branded tool chest or are you only
21 making private label and this is for the Period of
22 Investigation.

23 MR. NICTAKIS: We make, during the Period of
24 Investigation and today we make a very small amount of
25 Waterloo branded products but the overwhelming majority of

1 our sales are as a private label manufacturer to other
2 retailers.

3 MR. ANDERSON: Okay, are the channels different
4 or the customer base different for those two product
5 groupings?

6 MR. NICTAKIS: Matt?

7 MR. SALLEE: This is Matt Sallee with Waterloo.
8 Yes, the retailers that have their own private label brands
9 as primarily where all the business is done, their house
10 brands and the business is done within their, done under
11 their brand within their retail establishment.

12 MR. ANDERSON: Okay, but will we see with
13 Waterloo product in Home Depot or Sears lined up against
14 every label?

15 MR. NICTAKIS: Unfortunately you will not. We
16 would love to have that but it comes down to price every
17 time and that's, we lose those battles. I think importantly
18 this is a category that is private labeled. There is no
19 nationally distributed brand. So it is a buyers decision,
20 the buyer selects the assortment and he selects it based on
21 price. Whether it's a big box or a mass merchant or a
22 department store.

23 MR. SALLEE: This is Matt Sallee, one thing to
24 add there. We did have, Bill is absolutely right, it's very
25 rare. We did have one item on the floor at a major home

1 center in the 4th quarter of 2016 under the Waterloo Brand.

2 MR. ANDERSON: Okay, thank you very much for the
3 clarification. I just want to step back a little bit. Our
4 economist and we have asked a few questions about the
5 bidding and how you are winning this business or not winning
6 the business but could we just step back a little bit, can
7 you just give us a big picture, Mr. Sallee of how this
8 works?

9 How often are you in there talking and trying to
10 win sales? How are the bids made? How often are they made?
11 Do you specify what you can offer? Or is it you take a
12 configuration that the retailer wants and how many different
13 configurations are out there. I am just thinking about
14 what's behind us here and what we are going to hear this
15 afternoon about different configurations and branding and
16 marketing tactics and everything so just walk us a little
17 bit through that process of how often when the sales
18 discussions happen and how long is the contract or the bid
19 and that type of thing.

20 MR. SALLEE: Sure. This is Matt Sallee from
21 Waterloo. To answer your question unfortunately there is
22 not a regular set schedule of when line reviews will happen
23 or when a product will be replaced. The retailer will from
24 time to time look for better products or lower priced
25 products but what I can tell you is that all the products

1 are essentially the same and the retailer is setting the
2 specifications. They are out setting the specifications, it
3 is their brand and they are looking for a supplier that can
4 supply that product at the lowest price. That's what we see
5 time and time again is them shopping their specification
6 around to vendors that can give them the lowest price.

7 MR. NICTAKIS: This is Bill Nictakis if I might.
8 We try to innovate and we have tried to come up with new
9 ideas to customers but what we find is it's a price decision
10 and unfortunately we've had some good ideas that end up
11 being taken over and sourced from a lower-cost provider in
12 China or Vietnam so it does end up being a price-only.

13 The one way we know we will have a bid or a line
14 review is if we go into a customer and because of steel now
15 or whatever say "hey, we are going to take a price
16 increase". That is a guarantee, automatic they are going to
17 start shopping their business overseas.

18 MR. ANDERSON: So generally speaking, how often
19 do the bid or line reviews occur? When do these
20 opportunities roll over or turn over.

21 MR. SALLEE: This is Matt Sallee. Again, there
22 is no regular process and it very much depends on the
23 retailer. I can use a couple of examples. One retailer
24 typically will do them from every three to four years by a
25 full line. Another retailer will do it by item and do it

1 for every or multiple times a year by specific items. It's
2 really all over the board.

3 MR. ANDERSON: Okay, that's helpful. Given that
4 wide range, how important or does it matter the new
5 features, innovations. I know we have had other cases here
6 at the Commission dealing with consumer goods where our new
7 technology, new features, I know this is not going to be a
8 wifi-enabled tool chest or something like that, right but
9 how important are those features and how do you get what you
10 are seeing in the marketplace from your competition, import
11 competition as far as distinguishing features when they go
12 through these line reviews, whether it's the way it's
13 labeled or it has a new feature or a paint color or any of
14 those kind of characteristics that are changed on the
15 product to make it more desirable or to keep up with the
16 market demands as you say, what the customers want?

17 MR. NICTAKIS: Yes, this is Bill Nictakis with
18 Waterloo. The features and the innovations are pretty
19 small. For example, it could be the shape of the lead so it
20 will go to a different design lead or a different color trim
21 or something like that. But it's not big innovation like
22 you suggest.

23 The challenge is it just ends up "hey, we have an
24 idea. It's something different. It's unique." That's
25 great. They appreciate it but then next thing you know

1 anybody can do it. It's not really protected. It's
2 something that's really difficult to figure out so it ends
3 up getting shopped. The challenge is we don't own any of
4 it. We are making it for the retailer. It is their brand
5 so it's hard for us to control that, that piece.

6 MR. ANDERSON: Okay, have there been any
7 instances during the POI and where the retailer specified a
8 certain configuration whether it be drawer size or number of
9 drawers or you know the surface -- wood, metal on the top of
10 the cabinet or some kind of handle configuration or caster
11 configuration where that's been a challenge for you other
12 than the price issue that you keep mentioning.

13 Has there been any type of configurations that
14 you have not been able to meet or that your facilities
15 aren't necessarily able to produce that type of
16 configuration or product with those characteristics?

17 MR. NICTAKIS: Yes, Bill Nictakis. Absolutely
18 not. We can do anything in our plant. We have huge excess
19 capacity as you've seen from some of the data. We have a
20 talented workforce who is capable of doing anything. Our
21 average tenure is over 18 years. The challenge is not our
22 capability it's the cost of those products and where we get
23 rebuffed isn't that our product isn't good, we can't do a
24 design or anything. We can do stainless, what, you name it.
25 The issue is we can't do it at the price that the Vietnam or

1 China competition can.

2 MR. ANDERSON: Okay, thank you for those
3 responses and helping us understand the product and the
4 market a little bit better. It was a perfect segue into my
5 next topic Mr. Nictakis is that you could either now or at
6 your post-conference brief, please provide a little more
7 context for the capacity numbers that we are seeing in the
8 questionnaire for the U.S. Industry. Particularly to the
9 first year and you talked about excess capacity so if you
10 could briefly give some more context for the levels that I
11 know they're confidential so maybe in a post-conference
12 brief.

13 MR. NICTAKIS: We will.

14 MR. ANDERSON: Okay, thank you. I think that is
15 all the questions I have. I will turn and look at staff one
16 more time to see if there are any other follow up questions.
17 Any of the staff? Okay, with that on behalf of Staff I want
18 to thank you for answering our questions, for your
19 testimony, for being here today. I think we will take a 15
20 minute recess and convene at 11:35 for the second Panel.
21 Thank you very much.

22 MR. ANDERSON: Mr. Secretary, are there any
23 preliminary matters?

24 MR. BISHOP: Mr. Chairman, I would note that the
25 panel in opposite to the imposition of the antidumping and

1 countervailing duties have been seated. All witnesses on
2 this panel have been sworn in. You have sixty minutes for
3 your direct testimony.

4 I would also remind everyone to please state
5 your name when you speak. It's a large crowd and the court
6 reporter may not be able to see you. If you hear me say
7 your name, I'm just letting him know who's speaking. Don't
8 be alarmed.

9 MR. ANDERSON: Thank you. Mr. Spooner, when
10 you're ready, please proceed.

11 MR. SPOONER: Thank you. And thank you again,
12 Commission staff, for providing all of us the opportunity to
13 respond to your questions today. If I may, I hope it would
14 help Commission staff -- Respondent counsel, of course,
15 agreed on the order in which we'll present, yesterday, but
16 perhaps for staff, I should quickly outline who will go
17 when.

18 We at Barnes & Thornburg and our client,
19 Geelong, will testify first, followed by our colleagues at
20 Grunfeld, who are representing Homsteel, followed by our
21 colleagues at Crowell & Moring who are representing
22 Clearwater Metal Vietnam, followed by Baker & McKenzie who
23 is here with Sears, and then followed by our colleagues at
24 Adduci Mastriani who are here with Harbor Freight Tools.
25 And at the conclusion, we'll hear from compatriots from

1 Extreme Tools, who are also here to testify and will have a
2 portion of our time.

3 With that, I have with me key players -- Thank
4 you, Bill. We have worked hard to bring to you the key
5 people from what is a key respondent in this case, Geelong.
6 Each of our witnesses will introduce themselves, but
7 Alistair Hanson-Currie to my right is a senior official at
8 Geelong who has flown all the way from Hong Kong. Alistair,
9 I learned, as we've gotten to know each other, is humble, so
10 I will tout him a little bit, but he, interestingly was a
11 police officer in Hong Kong before getting an MBA in the UK
12 and joining the company.

13 To my left is Jamie Enger, who has worked for
14 years as the sales agent for Geelong in the United States,
15 and is now the president of the company which works with
16 Geelong in the United States. And to Alistair's right is
17 Jamie's dad, a gentleman named Jon Fiscus who is the Yoda of
18 tool chests in our view, or the guru.

19 With that, I will let our industry witnesses
20 speak for themselves. Of course, they're better than I in
21 talking about the industry and we'll begin with Jamie.

22 STATEMENT OF JAMIE ENGER

23 MS. ENGER: Thank you, Commission staff, for
24 having us here today. My name, as Mr. Spooner mentioned, is
25 Jamie Enger and I am the sales director of Jenger LLC. And

1 I've been in this industry for nearly ten years. My company
2 is a family-owned U.S. service company based in Illinois
3 just outside of Chicago. It, along with International Tool
4 Boxes and SPG International, are involved with U.S. imports
5 of metal tool chests and cabinets from China. They are
6 manufactured by Chinese producer and exporter, Geelong.

7 As Mr. Spooner indicated, my father is here with
8 me today. He is the founder and former president of Geelong
9 USA, which sold Geelong steel tool chests and cabinets into
10 the United States beginning in 2004. He is one of the most
11 experienced individuals in the steel storage market with
12 nearly thirty years in the industry.

13 We more lovingly refer to him as our "tool chest
14 dinosaur", as no one has a longer history in this business
15 than him. He's well-versed in the manufacturing side of the
16 business, as well as sales and marketing. We are proudly
17 representing our family-owned U.S. business which will
18 ultimately be destroyed if duties are imposed, especially
19 since we are involved in nearly half of the U.S. imports of
20 steel tool chests and cabinets from China.

21 My father is still actively involved in the
22 business, even in semi-retirement mode. He currently serves
23 as a member on Geelong's board. We consider ourselves the
24 subject matter expert leaders for tool chests and cabinets
25 in this country.

1 I'm also joined by my esteemed business
2 colleague, Alistair Hanson-Currie. He is the director of
3 business development of Geelong. He's here with us, as Mr.
4 Spooner mentioned, from Hong Kong and knows the Chinese
5 production facilities, the industry dynamics and products
6 very well.

7 Because collectively, we believe we know the
8 market better than anyone else, we want the Commission to
9 understand what's really going on here. In particular, we
10 would like to talk to you about two key topics today.
11 First, we want you to better understand the products at
12 issue. And second, the industry conditions, or market
13 competition, which I understand you call conditions of
14 competition.

15 The petition gives you certain misinformation,
16 and we felt it enough to travel all this way, some coming
17 much farther than others, to discuss these important topics
18 with you. We sincerely hope our experience inside
19 information is helpful. And we welcome all of your
20 questions. We want you to make a truly informed and
21 educated decision about the steel tool chests and cabinet
22 products and market.

23 On to the product. Firstly, the product
24 definitions in the petition and scope are arbitrary. The
25 definitions do not, in any way, match industry standards or

1 practice. Yes, of course, the industry refers to portable
2 and industrial tool chests.

3 Indeed, the business industrial products are
4 also known as heavy-duty or professional. But the size,
5 dimensions and physical characteristics outlined in the
6 scope have absolutely no basis in practice or industry
7 standards. My lawyers tell me this is a like-product issue.
8 To help show this, I have some products behind you.

9 And these examples will demonstrate that there
10 is no so-called bright line segregating between tool storage
11 products, despite Petitioners' erroneous definitions of the
12 like product from what is considered "like" in the actual
13 market place for tool storage.

14 Petitioners' description of industrial steel
15 tool chests and cabinets is arbitrary, misleading and
16 baseless. Industrial products come in a range of dimensions
17 and sizes. There is no industry standard requiring that a
18 body be over 6" wide or steel be more than .055" in
19 thickness. There is no standard that drawers are over 21"
20 deep or requirement that drawers must be rated for over 200
21 lbs. Industrial grade routinely means heavy-duty and
22 professional, as the Petitioners' own advertisements and
23 websites reveal.

24 The Commission should consider the industry
25 practices and realities as evidenced by market experience

1 and evidence not by petitioners' self-serving definitions
2 for purposes of these investigations only.

3 Right now, my dad, Jon Fiscus, is gonna play
4 Vanna White just to show a couple of these samples behind
5 you. We're running three samples today, the first one being
6 the Craftsman-branded. It's a Pro Series is how it's
7 classified, or Professional Series.

8 This product here, as you can see, is 41" wide
9 and 21" in depth, not meeting the scope of industrial
10 product. Throughout their own advertising, you can see over
11 here on the poster as well, they claim that this has 6x2"
12 industrial castors. This unit can support 2500 lbs. Also,
13 it has industrial-strength grip-latch drawer systems that
14 supports 200 lbs. per drawer.

15 You can see consistently "industrial" is used
16 throughout the language of this product. Waterloo itself
17 markets its products routinely for industrial uses to the
18 tool storage industry in the U.S. market. For example,
19 Petitioner Exhibit Gen-3 reveals repeated reference to
20 industry contradictions using the term "industrial" as a
21 common product definition, regardless of product dimension.

22 Waterloo frequently uses the term "heavy-duty",
23 "professional" and "industrial" to describe the same
24 products as shown in excerpts from its website
25 advertisements and petition exhibits. It also

1 interchangeably uses these terms to describe products
2 believed to be in-scope, as well as excluded products.

3 Sears commonly named its Waterloo products
4 Professional Series, Professional HD Series, and Shop
5 Series, to indicate higher quality, industrial products.
6 Some of these products appear to be within the Petitioner's
7 scope definitions and diameters, and some are outside. If
8 some of these so-called industrial products are included in
9 the scope, then all so-called industrial products must be
10 included within the domestic like product.

11 Moving onto portable tool boxes. The
12 description of portable tool boxes is arbitrary, wrong and
13 material in misleading. The description is self-serving and
14 has been created for the purpose of this petition. As with
15 the definition of industrial, there is no industry standard
16 that defines a portable tool box. While the definition
17 could include the portable tool boxes as described in the
18 petition, portable tool boxes are in no way limited to the
19 description.

20 Jon's second sample over here is an Extreme
21 Tools, as you can see from the packaging, is a 30" portable
22 black chest. As in the petition, it does not have a handle
23 on the top, but rather handles on each side so it can be
24 moved easily from one surface to the next. Again, another
25 definition of portable.

1 There's no steel storage industry standard which
2 requires a portable tool box to have a width of 21" or less,
3 and have a depth not exceeding 10", fewer than three drawers
4 and have a handle on top. This sample certainly does not.
5 The only requirement for a portable tool box is for the
6 portable tool box to be, in fact, portable. In this space
7 is a portable tool box is any tool box which is capable of
8 being carried or moved about. There is no drawer
9 limitation, no size limitation and no requirement for a
10 handle on top, as defined in the petition and questionnaire.
11 Numerous more excerpts of this will be included in our
12 post-conference brief.

13 Next, work benches. Again, same as the
14 descriptions of industrial and portable. The description of
15 work benches is arbitrary and misleading. There is no steel
16 storage industry standard which requires a work bench to
17 have fewer than two drawers. The one next to Jon here with
18 the wood top is a 46" nine-drawer mobile work bench. Again,
19 the sample here has nine drawers. There's no steel storage
20 industry standard which requires a work bench to be
21 supported by legs and have no solid frame side or back
22 panels. This sample obviously does not. Thanks, Dad.

23 The following are a few reasons why the like
24 products should be defined more broadly, consistent with
25 industry practice and experience. First and foremost, the

1 physical characteristics of in-scope tool chests and
2 cabinets are nearly identical and strongly overlap
3 industrial tool storage products. Similar look and paint
4 finishes, similar sizes and dimensions, similar features
5 and attributes, similar number of drawers and a range of
6 similar weight ratings. All are used for the same purpose,
7 to store tools.

8 The product brochures and websites of retailers
9 reveal the subject tool chest and cabinets are
10 interchangeable. DIY customers to the professional are
11 purchasing the same range of items. Both subject and
12 excluded industrial products are sold through the same
13 channels of distribution. All of the products behind you
14 were either bought at the Home Depot or Sears.

15 As the samples reviewed here today, the product
16 also demonstrates a range of prices, dependent upon the
17 products' features, but overlap greatly between subject and
18 so-called industrial products. Producer and customer
19 perception do not segregate the industrial products from the
20 certain in-scope tool chests and cabinets as Sears' own
21 brochures revealed.

22 In reality, an actual continuum of tool storage
23 product offerings that collectively have much more in common
24 than they do different. Petitioners' arbitrary definitions
25 for the scope are baseless and cannot stand. Nevertheless,

1 the Commission can correct this with properly defining the
2 domestic like product, consistent with industry practice and
3 experience. Accordingly, we believe the relevant domestic
4 like product and domestic industry producing the like
5 product should be expanded beyond the express scope
6 language.

7 The Commission should consider expanding the
8 scope horizontally to include industrial, work bench, and
9 portable tool storage products, and vertically upward to
10 include heavy-duty, professional tool chests not falling
11 within the scope. And downward to include all storage
12 chests, even if a single unit that are used to store tools.
13 This should also include plastic and wood tool chests.

14 As shown here today, defining tools chests and
15 cabinets as petitioner proposes, is simply inconsistent with
16 steel storage industry practice and standards.

17 Next I'd like to discuss the market for the tool
18 storage industry, which my lawyers tell me is called the
19 conditions of competition. As you will likely hear
20 repeatedly today, I and my colleagues know from experience
21 that Waterloo sells primarily to Sears. The large majority
22 of Sears' Craftsman brand is Waterloo's products.

23 Unfortunately, we all know what's been happening
24 to Sears and Sears' brands over the past few years. To give
25 you a very high-level overview of public information, Sears

1 has lost \$10.4 billion since 2010 and closed over two
2 thousand Sears and K-Mart stores. Their stock has plummeted
3 over 80% since then as well.

4 It goes without saying that Waterloo is a key
5 supplier to Sears, has struggled as Sears has closed its
6 doors. We believe this is the principle reason for
7 Waterloo's problematic market situation today, not its
8 competition with Chinese imports.

9 The customers that we produce for have specific
10 product requirements and specifications. Geelong, as a
11 manufacturer, offers customers flexibility to meet their
12 specific guidelines. We have a wide array of sizes, paint
13 selections, drawer dimensions and steel thicknesses, to just
14 name a few.

15 We offer a large product design and engineering
16 team, which is critical to adequately serve the changing
17 needs of our customers. We produce over four thousand
18 separate SKUs in order to fulfill a variety of brands. Even
19 very small product differences can make a large impact to
20 the brand.

21 For example, our customers, the Home Depot has
22 the Husky brand, Dewalt and Milwaukee brands. Menards has
23 the PerforMax brand. Wal-Mart has the Stanley brand.
24 Whirlpool has the Gladiator brand, all of which Geelong
25 produces. In summary, each retailer has its own unique

1 brand or brands, which have their unique requirements and
2 specification, which is why we have several thousand SKUs to
3 serve the market's differentiated demands. So in other
4 words, product range and flexibility matter a lot.

5 The tool storage market is not driven by price,
6 but by product differentiation and branding. In this
7 regard, because Waterloo's business strategy long focused
8 primarily on Sears and its brands, it is unsurprising that
9 the decline in Sears' business fortunes has naturally had a
10 negative impact on Waterloo. I want to thank the Commission
11 staff for their time and for having me today. I look
12 forward to answering any questions you may have. And now, I
13 turn it over to my colleague, Alistair.

14 STATEMENT OF ALISTAIR HANSON-CURRIE

15 MR. HANSON-CURRIE: Good morning, Commission.
16 My name is Alistair Hanson-Currie and I'm the Business
17 Development Director at Geelong. So Jamie has done a very
18 good job in explaining the actual products and the real
19 market conditions. I have only a few additional points to
20 add and reiterate.

21 I would like to introduce myself, as well. I
22 work in the Geelong Factories in Zhongshan in southern
23 China. I am English. I was educated in England and in Hong
24 Kong. I studied business and management and have degrees in
25 law, engineering, and an MBA from Cambridge.

1 Geelong is a privately owned and internationally
2 managed company. We operate Geelong using western
3 management practices of efficiency, continuous product
4 improvements, and attention to our customer needs.

5 My role is to support operations in the factory,
6 including legal matters, sales in Australia and Europe,
7 including management of sales and colleagues in these
8 markets, recruitment, factory audits, IT infrastructure and
9 development, identifying new product opportunities, and new
10 strategic opportunities.

11 My background is a mixture of industry
12 experience, including working for Geelong , and law, and
13 working as a police officer, as David mentioned, in Hong
14 Kong. I can speak Chinese, the Cantonese dialect of
15 Chinese, and that allows me to work every effectively in
16 dealing with operational matters in the factory.

17 As Jamie indicated, Geelong has produced over
18 4,000 different steel storage products, including tool
19 chests and cabinets, in its factories in Zhongshan in China.

20 Having over 4,000 various stock, identifying the
21 variety of our products, our tool chests and cabinets,
22 products range from basic--they range from basic retail
23 products to so-called industrial or heavy duty and
24 professional tool storage.

25 The Sears brochure, which David--Jamie showed you

1 earlier--demonstrates its continuum of steel tool chests and
2 cabinets which we produce for the retail market. As you can
3 see, dimensional sizes of the tool chests overlap. Weight
4 capacities overlap. And the load ratings overlap. This is
5 a continuum of product.

6 There are no bright lines between so-called
7 retail and industrial models. Additionally, we produce this
8 wide range of tool storage products entirely on the same
9 machinery, using the same factory facilities in Zhongshan in
10 China. We do not have one factory for large, heavy duty or
11 industrial tool chests and cabinets and another factory with
12 different equipment to produce smaller, so-called
13 non-industrial tool storage products. We use the same
14 machinery and the same factory facilities to produce tool
15 chests and tool boxes which are sold as portable tool
16 chests.

17 We use the same machinery and the same factory to
18 produce tool chests and cabinetry sold as work benches. All
19 the tool chests and cabinets produced are all produced in
20 the same two Geelong factories, using the same machinery,
21 the same design and production processes, and the same
22 employees. It's simply the requirements and specifications
23 for each brand and retailer that differ.

24 Our U.S. customers similarly demonstrate the
25 range of product specifics on their websites, a few of which

1 we have provided you copies of today, and Jamie has already
2 covered.

3 That's all I wanted to add at this point in the
4 discussion and I'd be happy to answer any questions from the
5 Commission. Thank you.

6 MR. SPOONER: And if I may, I'd like to briefly
7 interject. Alistair referred to a Sears marketing brochure.
8 That's in our exhibits on page 17, and it's a brochure I
9 also referred to in my opening statement. It's one of many
10 examples we could find of Sears offering a range of heavy
11 duty premium, heavy duty, and professional grade type
12 products.

13 With that, I'd like to turn it over briefly to
14 Bruce Malashevich, who I am sure you all know well, of ECS
15 for a few comments about--general comments about the
16 questionnaire data.

17 STATEMENT OF BRUCE MALASHEVICH

18 MR. MALASHEVICH: Almost good afternoon,
19 according to the clock. I am Bruce Malashevich of Economic
20 Consulting Services, retained as an economist by counsel to
21 Geelong.

22 Our team is continuing to study the
23 questionnaires received thus far, and we expect another
24 release, I understand, sometime tomorrow. So that process
25 continues. Consequently, my remarks at this point in time

1 are limited to describing important conditions of
2 competition.

3 Whether or not Petitioners propose the
4 like-product definition as affirmed, or modified as
5 Respondents suggest, should there be a final injury phase in
6 this case.

7 U.S. demand for the subject merchandise, as you
8 heard this morning, originates primarily with the so-called
9 big box stores. I have been told that in most cases the
10 purchaser is also the importer, a situation the Commission
11 frequently has seen in other cases involving products sold
12 into that channel.

13 And I noticed and heard this morning Ms. Preece's
14 I thought very insightful questions concerning the pricing
15 data and respectfully I say Petitioner has no answer. So
16 the rest of my testimony basically is geared to answering
17 your questions about the variations in the pricing data
18 reported thus far for the individual products.

19 Almost all of the numerous skews offered by
20 Petitioner and subject exporters are for dual-use
21 applications by professionals and DIY individual consumers.
22 There's no bright line along the product continuum described
23 earlier.

24 There is, however, an established practice among
25 the various producers to offer a product line of good,

1 better, and best. You had mention of this in the morning
2 session. It's a marketing concept that the Commission knows
3 well from past cases involving products destined for the
4 mass market in the United States.

5 That practice must be considered when evaluating
6 the Commission's traditional price comparisons. Also
7 noteworthy is that final demand for these products is very
8 much driven by the strength of the brand or brands owned or
9 licensed by the big box stores and other mass merchandisers,
10 as well as a growing number of physical specifications
11 designed to accentuate product differentiation in the eyes
12 of consumers and professionals.

13 Demand is not driven by price. It's this
14 condition of competition that puts this case among a very
15 short list of other cases involving grand competition, and
16 marks a departure from the norm of cases involving
17 industrial products for which branding is not a major force,
18 but commonly accepted industrial standards is. There are no
19 commonly accepted standards in this industry. The whole
20 point is to make something that's different, or that
21 customers perceive as different.

22 For example, think of the Benson & Hedges
23 cigarette introduced in the 1960s, a silly millimeter
24 longer. Now if you consider how small a millimeter is, it's
25 nothing. How much more could it have cost to produce that

1 cigarette?

2 But, it was perceived as something new, funky,
3 and they sold a lot of cigarettes, unfortunately. I'm not a
4 smoker. Likewise, think about if you buy a Lacost Polo
5 shirt versus an unlabeled polo shirt of the same quality and
6 material. You're going to pay a lot more for the former
7 than the latter, and you'll pay more for it if you buy it at
8 Nordstrom's than if you buy it at Macy's.

9 The essence of the pricing data here are
10 influenced by the lack of common products, and also--common
11 standards, excuse me, and also the sense of the emphasis
12 being on product differentiation to expand the value of the
13 brand. The competition is between the brands, not between
14 the products.

15 Thank you.

16 STATEMENT OF JULIE LEBELL

17 MS. LEBELL: Good morning. My name is Julie
18 LeBell. I am Vice President of Sales for Shanghai Homsteel
19 Industry Company, Limited. I have been employed by Homsteel
20 in this capacity since 2008.

21 Shanghai Homsteel is a producer of steel and
22 stainless steel custom-designed products. Shanghai Homsteel
23 was started in 2003 when it began manufacturing and selling
24 barbecue grills for private and national brands in the
25 United States.

1 In 2004, Homsteel entered the tool chest market
2 with its all stainless steel tool chests. Starting in 2006,
3 we began to sell our products to Lowe's. We manufacture
4 tool chests and cabinets, work benches, and portable tool
5 boxes. We also produce other specialty products such as
6 work carts and store fixturing.

7 Our products are primarily designed for the
8 higher end of the tool storage market. Nearly all of our
9 tool chests are sold to Lowe's for resale under their Cobalt
10 brand. In my testimony today, I would like to discuss the
11 ongoing business relationship between Homsteel and Lowe's
12 and why in my opinion the high-priced, high-quality,
13 innovative tool chests made by Homsteel, which Lowe's sells
14 under its Cobalt private brand, have not injured Waterloo.

15 Lowe's first approached Homsteel in 2005 to
16 design and manufacture a stainless steel combination toolbox
17 which they wanted to introduce into their product line. At
18 that time, Waterloo was manufacturing Cobalt brand tool
19 storage for Lowe's but was unable to meet Lowe's product
20 specification requirements for a stainless steel product.

21 Homsteel was able to meet these requirements and
22 began its business relationship with Lowe's. These
23 stainless steel tool chests were more expensive than other
24 chests in the market at the time.

25 In 2006, Lowe's decided to expand the stainless

1 steel line further and also to develop a stylized look that
2 would differentiate the Cobalt tool storage line from its
3 competitors. To create this line, Lowe's held a product
4 line review and invited bids from domestic and international
5 manufacturers.

6 Homsteel bid on the entire Cobalt line and won
7 the bid for the Cobalt product. We won for reasons having
8 nothing to do with price. Lowe's wanted a stylized high-end
9 look with champered edges, double-wall construction,
10 innovative features such as the integrated power supply,
11 recessed powdered handles, stereos, and refrigerators. We
12 also offered Lowe's a tool chest with seamless
13 construction, which is stronger than the tool chest with
14 seams, and which gives the chest a cleaner appearance.

15 Homsteel was willing and able to meet all of
16 these requirements. Waterloo was not. At that time,
17 Waterloo was selling the same product to Craftsman and to
18 Lowe's. This was a traditional box-like product without
19 features and with a single-wall construction.

20 The only difference between the product Waterloo
21 produced for sale under the Craftsman brand to Sears and the
22 Cobalt brand to Lowe's was the brand name. When Lowe's
23 wanted to upgrade and differentiate its product line,
24 Waterloo refused to go along. They believed that it was
25 more important to keep its Craftsman Sears business than to

1 innovate and continue to sell to Lowe's.

2 For the next 10 years, we at Homsteel maintained
3 our ongoing business relationship with Lowe's by continuing
4 to supply highly innovative, stylized, high-quality product.
5 Lowe's conducted two more formal line reviews between 2006
6 and 2013, and in each case we retained their business.

7 Again, our success was not based on price; it was
8 based on quality and innovation. Lowe's Cobalt brand tool
9 chest dominated the higher quality, higher priced end of the
10 market.

11 In October 2015, Lowe's initiated another
12 full-scale product line review. In this review, Lowe's
13 decided to redefine and expand its tool storage business in
14 an effort to attract a wider range of customers. Homsteel
15 was successful in maintaining all of the Cobalt highly
16 customized feature-rich and innovative business which we had
17 been designing and supplying for the past decade.

18 Waterloo did not compete for the tool chest
19 products we were awarded. Even in 2015 to 2016, Waterloo
20 still did not produce stainless steel tool chests, fully
21 double-walled tool chests, and other innovative feature-rich
22 tool chests that we introduced to the market over 10 years
23 ago.

24 Waterloo also is limited on their color options.
25 They offered Lowe's only two different colors. We offered

1 Lowe's tool chests in eight. In this recent line review,
2 Lowe's awarded its opening to mid-level price point business
3 to Waterloo. These are expected to be the higher volume
4 SKUs.

5 We bid for these products, but we were not able
6 to meet Waterloo's low prices and domestic distribution
7 model. Homsteel lost business in this category of product
8 to Waterloo, eight SKUs based on price.

9 To summarize, we initially entered the market
10 because of Waterloo's refusal to meet Lowe's requirements
11 and introduced new innovations, and just recently we were
12 able to compete--unable to compete with Waterloo for the
13 lower to mid-priced tool chests because of their pricing
14 structure.

15 Given these facts, we do not understand how
16 Waterloo can claim that Chinese tool chests are injuring
17 their business. Our success in the U.S. market has
18 reflected our ability to supply high-quality products with
19 innovative features to our major customer, Lowe's. Lowe's
20 success in capturing market share has not been based on
21 price, but has been based on its consumers' desire to buy a
22 higher end, feature-rich product.

23 We have shared in that success over the years and
24 hope to continue to share in that success in the future. I
25 thank you for listening to my testimony, and I will be happy

1 to answer any of your questions.

2 STATEMENT OF MICHAEL HOLDEN

3 MR. HOLDEN: Good afternoon, Commission staff.

4 My name is Michael Holden. I am the Vice President of Sales
5 and Marketing for CSPS Industries, Inc, the U.S. affiliate
6 of Clearwater Metal, the leading producer of tool chests and
7 cabinets in Vietnam.

8 I previously worked for Home Depot for over a
9 decade as a merchant where I was responsible for purchasing
10 decisions, vendor relationships, marketing, developing
11 product line strategies, and reporting financial results
12 from multiple product lines.

13 I am here today to discuss Clearwater Metal's
14 products and our role in the U.S. market. Clearwater Metal
15 currently produces tool chests and cabinets for the Husky
16 and Milwaukee Tools Brands for the Home Depot in the U.S.
17 market. We have been in the U.S. market for 16 years.

18 Clearwater Metal is one of the most innovative
19 and high-quality producers of tool chests and cabinets in
20 the world. It is innovative in terms of product function,
21 appearance, and manufacturing processes. It has an in-house
22 product design team that works closely with its customers to
23 manufacture customized products.

24 In 2001, Clearwater Metals, Taiwan's predecessor,
25 CSPS Company, Limited, was the first producer of stainless

1 steel combination tool chest and cabinets for Cosco. In
2 2005, CSPS created Clearwater Metal, which became the first
3 Vietnamese tool chest manufacturer. In 2006, CSPS Company
4 Limited won Supplier of The Year Award by Sam's Club and
5 Wal-Mart. In 2008, CSPS sold Waterloo Industries, the
6 Petitioner, the first clear-coated stainless steel tool
7 chest for
8 Sears.

9 As an example, the research and development phase
10 of the clear-coated stainless steel tool chest well exceeded
11 a million dollars. In 2015, we became the first vendor to
12 introduce soft-closing drawer slides in tool storage for
13 big-box retail on the Milwaukee Products at the Home Depot.

14 In 2016, we introduced our patented manual
15 adjustable height mobile workbench and work table. In
16 addition to the product innovation, Clearwater Metal
17 powder-coats 100 percent of products and offers numerous
18 features for each design, such as adjustable pegboards,
19 power centers with USB ports, and power adjustable tops
20 that will be introduced in the fourth quarter of 2017.

21 Finally, Clearwater Metal, through CSPS
22 Industries, offers unparalleled wholesale customer support
23 to both our customer but also our customer's customers. We
24 opened our office in Atlanta specifically to serve the Home
25 Depot.

1 We work with Home Depot's inventory management
2 team to maintain consistent product flow. We address
3 customer inquiries forwarded to us by the Home Depot,
4 deliver replacement parts, and collect and analyze end-user
5 feedback and competitive advantages to continuously improve
6 our manufacturing process, new product design, and
7 ultimately customer satisfaction.

8 This strategy has resulted in a very high level
9 of customer satisfaction. Though we strive to reduce costs
10 where possible and improve our production efficiency, we do
11 not do so by using lower-quality materials. Thus,
12 Clearwater Metal competes in the U.S. market based on its
13 innovative high-quality products and customer service, not
14 on price.

15 We do not compete in the U.S. market at all with
16 Waterloo Industries, the Petitioner. Eight years ago we
17 collaborated and then competed with Waterloo on the
18 Craftsman Brand at Sears. We also used to supply Costco,
19 Wal-Mart, and Sam's Club. Due to competition with
20 low-priced imports from China, however, our only major U.S.
21 customer is now Home Depot.

22 Our collaboration with Home Depot focuses on
23 product development, customer after-sales service, and
24 bringing the end-user's feedback into product development.
25 Waterloo's products are not sold to Home Depot.

1 Over the years we have moved up the value chain,
2 beginning with products in the \$300- to \$400 range, and now
3 are focusing more on products in the \$500 to \$1,000 range.
4 Our product mix focuses on larger units with more drawers
5 and heavier gauge steel.

6 Clearwater focuses--our focus is on 41- to
7 56-inch tool chests and 46- to 60-inch mobile work centers,
8 mobile work benches. Based on the industry knowledge, the
9 only products that Waterloo has attempted to sell Home Depot
10 are smaller than our focus.

11 Thus, given that we do not compete with Waterloo
12 at all, there is no way we can be the source of any injury
13 to Waterloo. We have not captured any market share at
14 Waterloo's expense, or caused Waterloo to cut its prices.
15 If Waterloo suffers injury from import competition, it is
16 from competition with Chinese imports.

17 Clearwater Metals US innovation and sales cycles
18 follow like this: We develop a new original innovative
19 design typically in collaboration with Home Depot. We
20 successfully pitch the new model to Home Depot and begin
21 selling it to the Home Depot.

22 Eventually the holiday time frame comes around
23 for fourth quarter Black Friday pitches, which accounts for
24 the highest volume of sales the Chinese pitch, a very
25 similar product to ours, but for rock bottom prices and

1 massive volumes.

2 It is economic dumping in the true sense of the
3 word. In addition to the day-to-day, nonpromotional
4 competition with Chinese imports, major retailers like Home
5 Depot have full product line reviews generally every three
6 years.

7 Retailers, major suppliers, or producers will be
8 invited to submit their product bids. Selection is based on
9 innovation, quality, production capacity, and price,
10 generally in that order.

11 Home Depot can award by region or stores. Home
12 Depot will select us if we have more innovative and higher
13 quality products than those offered from the Chinese
14 vendors. If the Chinese producers have been able to catch
15 up and incorporate our innovative design, we will always
16 lose on price.

17 In the last Home Depot product line review in
18 August 2015, we picked up some products due to innovation
19 and lost some based on aggressive holiday pricing
20 strategies.

21 To summarize, competition exists not only in the
22 U.S. market but around the world. This is why we must
23 compete on the basis of innovation, quality, and customer
24 satisfaction and avoid competition based on price.

25 That concludes my testimony. Thank you, and I'm

1 happy to answer any questions you may have.

2 MR. O'BRIEN: Good afternoon, Commission staff. I
3 am Kevin O'Brien from Baker & McKenzie. We will now hear
4 from Tom Arvis, [sic] Division Vice President, Sears Holding
5 Corporation.

6 STATEMENT OF THOMAS ARVIA

7 MR. ARVIA: Thanks. Correction. That's Tom
8 Arvia. For the record, it's Thomas, but you can call me
9 Tom.

10 Thanks for the opportunity address the conference
11 today. Again, my name is Tom Arvia. I'm the Division Vice
12 President for Product Management for Sears Holdings.
13 Specifically, I work for a wholly owned subsidiary of Sears
14 Holding called Sears Brand Management Corporation.

15 Essentially it's the unit that's charged with the
16 Kenmore, Craftsman, Die-hard Brands. We lead all product
17 management and all brand management functions for the
18 company.

19 I have 23 years with Sears Holdings. The first
20 20 years was on the sears retail side, the entire time with
21 the Tools Department. And then the last three years, I now
22 lead the product team. So I did everything for Craftsman,
23 whether it be for tools, lawn and garden, anything from the
24 Craftsman space comes up through my team. So I have
25 experience on both sides with Sears.

1 There are two things I'd like to talk about
2 today. The first is Craftsman and Sears long history of
3 marketing tool chests and cabinets in the United States.
4 And second, though, is our relationship with the Petitioner,
5 Waterloo.

6 We will start with Craftsman. Craftsman is an
7 iconic American brand. Its core to the lifestyle of its
8 enthusiasts. For 90 years, Craftsman as a brand has been
9 fueled by innovation. I promise you, I didn't plan this,
10 but if you go to Google Alerts today, just today there was a
11 press release where Craftsman was recognized with three
12 Edison Awards for product innovation.

13 We won an award for reinventing the hammer. We
14 won an award for reinventing the tape measure. And we won
15 an award for a smart lawn tractor, a blue-tooth connected
16 tractor. The point is, when you think of Craftsman we like
17 to think of it as synonymous with product differentiation
18 and innovation, and hope to establish that here for your
19 today.

20 Our product development pillars are quality,
21 performance, durability, and product innovation. Any time
22 we initiate a product project, it starts with consumer
23 insights. We have several million loyal Craftsman Club
24 members that we lean on heavily to gain those insights.

25 Throughout that development process, Craftsman

1 will not sacrifice anything for any of those strategic
2 pillars. It has to perform. It has to have the quality. It
3 has to have the durability.

4 The Tool Storage Category is a great example of
5 Craftsman's commitment to delivering products of the highest
6 quality. Craftsman is the leading market share for Tool
7 Storage, a position the brand has held for decades.

8 Our reputation for quality and durability is a
9 key driver of that share position. But also product
10 differentiation is a very important purchasing attribute for
11 our Craftsman customer. We set a very high bar for product
12 innovation, and our loyalists expect that Craftsman will
13 continue to be a leader in product differentiation and the
14 addition of new features.

15 I would like to talk to you about a few of those
16 features within the tool storage category. And there's one
17 I didn't originally have on my statement, but I feel
18 compelled to talk about now, Mr. Anderson, based on your
19 comments earlier.

20 You made a comment that said, well of course
21 we're not going to have a tool storage that's wi-fi
22 connected. And you're right, we don't. However, that tool
23 storage unit behind you, that black one, if I were prepared
24 I could open and close it from across the room. It is
25 blue-tooth connected. It is a very meaningful innovation,

1 one of the more meaningful innovations in the category over
2 the past several years.

3 Additionally, it's got a proximity sensor in
4 there, similar to the key fob on your car. So what that
5 means is, you can, if you choose to, set it to lock and
6 unlock automatically. You walk up to your tool box, and
7 when you get to within a certain range, it will unlock
8 automatically. Then when you walk away, it will lock
9 automatically as well. Peace of mind. You always know that
10 your tool box is secure.

11 I think that's important. We partnered with
12 Waterloo to launch that in Q-4. So the characterization
13 that there's no innovation in tool storage, I think we would
14 say it quite differently, that it's vitally important,
15 especially for the Craftsman brand to deliver that product
16 innovation and differentiation. Again, a very meaningful
17 example behind you there.

18 Additionally in the fourth quarter, we introduced
19 a tool storage unit with a power tool charging drawer.
20 Essentially it's got a drawer that has a custom-molded spot
21 to hold your power tools. Additionally, it has spaces to
22 charge those power tool batteries.

23 So one section of your tool storage you can both
24 charge and store with specific holders for each power tool.
25 We have a tool storage with a full-width work station. It's

1 a pull-out drawer that gives you a work surface that you can
2 work on. You can lift it up and there's storage underneath,
3 but additionally for safety we added a locking feature to
4 make sure that while you're working on that work surface
5 that your work surface is safe and secure.

6 Those are just a couple of examples. I could
7 give you more, if you'd like, but I think the takeaway is
8 that it's a regular cadence of innovation and unique
9 features that enables Craftsman to maintain its share
10 leadership position.

11 Next I'd like to talk about Craftsman and Sears'
12 relationship with the Petitioner, Waterloo. This is a true
13 partnership. We have worked closely together to deliver
14 market-leading product for over 70 years, one of our longest
15 Craftsman relationships. We value this relationship very
16 much, and we're proud of the fact that the products we've
17 delivered together are manufactured in a factory right here
18 in the United States.

19 This is a very important point. Craftsman and
20 Sears have a vested interest in seeing Waterloo succeed.
21 We're partners. However, from time to time there are
22 products that are desired by Craftsman that Waterloo can't
23 provide, or sometimes does not have the desire to provide.

24 We have a couple of specific examples as recently
25 as 2016. Early in the year, Craftsman identified product

1 features that would be meaningful in the marketplace and we
2 wanted to launch those products in time for the peak selling
3 season which is the last six to eight weeks of the calendar
4 year.

5 These were not low-priced product offerings, but
6 differentiated product solutions at the mid to high price
7 points. And again, some of these I spoke of earlier with
8 some of those features in addition to the one for the box
9 outline with Waterloo.

10 Waterloo had an opportunity to quote and be the
11 supplier for those products in 2016. Our teams discussed
12 these projects on multiple occasions. However, ultimately
13 Waterloo advised Sears and Craftsman that it would not bid
14 for that business on those products.

15 We were not in a situation where Waterloo had a
16 quote that was uncompetitive. They just didn't provide a
17 quote. And that's okay. They had their business reasons,
18 and we launched the product and we met the demand that we
19 recognized in the marketplace.

20 The resulting products that you see that were
21 launched in the marketplace make up the vast majority of the
22 products that you see on the Commission's importer
23 questionnaire. The key point here is it would be entirely
24 incorrect to conclude that Sears's decision to source those
25 products was based on price. It was based on unique

1 features and offerings, and again those that Waterloo had
2 the opportunity to bid on.

3 The final point I would make is that Sears is
4 consistently among the top 10 importers of products in the
5 United States. As such, Sears understands the capabilities
6 of those offshore suppliers very well.

7 Having said that, the majority of our business
8 continues to be sourced through Waterloo. But as the retail
9 market share leader, Craftsman and Sears must innovate. We
10 must differentiate with the understanding that any product
11 that does not live up and deliver on trusted performance
12 will ultimately not be received and launched in the
13 Craftsman brand.

14 Sears' decision to source additional products
15 offshore isn't about price. It's about access to
16 differentiated product solutions. That's all I have today.
17 Thanks for your time.

18 MS. TANNER OKUN: Mr. Secretary, could we have a
19 time check, please?

20 MR. BISHOP: You have 14 minutes remaining

21 STATEMENT OF DEANNA TANNER OKUN

22 MS. TANNER OKUN: Okay, and just for staff's
23 convenience, the Respondents had granted the Extreme Tools
24 representatives three minutes of the Respondent's time. So
25 I will watch my time and make sure that that's reserved for

1 them, and they will follow my remarks.

2 Good afternoon. I think it is afternoon, now.

3 Thank you so much for the time that we have here today. I
4 am Deanna Tanner Okun from the Law Firm of Adduci Mastriani
5 & Schaumberg. I am joined here by my colleague Lou
6 Mastriani. We are here on behalf of Harbor Freight Tools
7 USA and its eight suppliers.

8 You have heard testimony from experienced
9 industry witnesses representing a vast majority of the
10 subject imports. You have heard testimony from Waterloo's
11 most important customer, Sears. My role is to put this
12 evidence into perspective, and also describe the legal
13 analytical framework that the Commission analyzes for
14 purposes of its preliminary determination.

15 I am going to focus my discussion on the proper
16 domestic like-product and domestic industry, but will also
17 briefly discuss volume price and impact factors that Mr.
18 Malashevich went through earlier.

19 While we acknowledge that the Petitioner controls
20 the scope of the investigation, I think it is worthwhile to
21 note that the Department of Commerce has expressed
22 considerable reservations regarding the scope set forth in
23 the Petition.

24 These reservations from the Department of
25 Commerce have prompted three amendments by Petitioners in a

1 vain effort to cure the inherent deficiencies in the scope
2 and, in turn, how the Commission should look at domestic
3 like-product.

4 One example is the Department of Commerce's
5 request to which Petitioner has yet to affirmatively respond
6 that all reference to the physical characteristic prepackage
7 for retail sale be removed from the Petition.

8 As the Federal Circuit explained in *House of*
9 *Denver's Advanced Display Manufacturers*, the Commission may
10 define the domestic like-product to include products not
11 included in the scope. The facts of this investigation
12 support the Commission exercising that authority.

13 Moreover, the Petitioners overly contrived scope
14 should signal to the Commission that the conditions of
15 competition, the volume, price, and impact data collected at
16 this preliminary stage, do not and cannot support an
17 affirmative determination.

18 Our client, Harbor Freight, like the witnesses
19 you've heard from, Geelong, Homsteel, and Clearwater, is
20 bewildered by the proposed scope and the Petitioner's
21 description of the U.S. tool chest and cabinet market.

22 The arbitrary exclusions and inclusions in the
23 scope section, and the Complaint, do not reflect the tool
24 chest market where Harbor Freight and, for that matter, any
25 other supplier of tool chests and cabinets, competes.

1 With respect to the domestic like-product, Harbor
2 Freight sees no clear dividing line between what the
3 Petitioner describes as industrial versus retail tool chests
4 and cabinets. They all compete with each other on a
5 continuum of, as one has described, good/better/best, or a
6 lower end and better end.

7 Waterloo is excluded from the scope. As you
8 know, using different sizes, weights, and I think in
9 response to one of the questions earlier, and I think what
10 you've heard from one of the witnesses, these are not based
11 on industry standards. There's not a dividing line for
12 industrial--so-called "industrial" or higher end, versus
13 retail on the types of characteristics that Petitioners
14 have put forward.

15 Harbor Freight agrees that having these--agrees
16 with the other witnesses today that having these products
17 out of the scope and the definition of the domestic
18 like-product in these investigations artificially
19 circumscribes the market and therefore artificially is
20 reflected in the information you've collected.

21 To be clear, there are no segregated markets for
22 tool chests and cabinets. These products cover the spectrum
23 of grades and they all compete in the same market.

24 Let me just briefly go through the six domestic
25 like product factors that Mr. Goldfine referenced earlier.

1 With respect to physical characteristics and
2 uses, all steel tool chests and cabinets are either
3 stationery or on casters or wheels, have drawers, can be
4 painted, can vary in size, et cetera. They are
5 overwhelmingly used to store tools. Whatever the grade of
6 the tool chest, there are substantial overlaps in the
7 physical characteristics such as the gauge of metal, size of
8 casters or wheels, the local bearing for the tool chest, the
9 weight bearing rate for drawer slides, drawer latching
10 mechanisms, and others.

11 Interchangeability. Virtually all tool chests
12 and cabinets are interchangeable. They're just different
13 sizes and lower versus higher value.

14 Channels of distribution. Tool chests and
15 cabinets are purchased online, as admitted by the Waterloo
16 testimony this morning. Yes, there are retailers. There
17 are distributors. And you have a range in all of these
18 different places of the types of tool chests that are
19 offered.

20 With respect to customer and purchaser
21 perceptions and products, I don't think I could say it any
22 better than the representative from Sears and what you've
23 heard from the other witnesses in terms of this being a
24 market with differentiated features and products and
25 branding is important. And that the Commission needs to

1 take into account when looking at the data that it has
2 collected. Brand matters in this case. Product
3 differentiations matter in this case.

4 With respect to common manufacturing facilities,
5 production processes, and production employees, I think
6 you've heard from our witnesses that this is not a dividing
7 line in terms of what can be produced. And even with
8 respect to Waterloo, they produce both. And I don't think
9 you heard the representative from Waterloo say anything
10 different than you could do different sizes. They don't.
11 But they do produce them all, and you have a variety in the
12 market. So that is not a dividing line.

13 With respect to price, we must have heard several
14 times this reference to dividing line, because it's ten
15 times more expensive for an industrial cabinet versus a
16 retail cabinet. In the postconference briefs I think you'll
17 heard from all the witnesses here describing why that
18 description is not accurate of the continuum. Yes, there
19 are more expensive cabinets than others, but again there's a
20 continuum and you see some of that lined up behind you.

21 If the Commission expands the domestic like
22 product, of course there are other manufacturers. And we've
23 talked about some of them today. In the interest of time,
24 I'm just going to briefly focus on a couple of the statutory
25 factors.

1 Tool trucks that went to over 4,500 shops weekly.

2 So I have quite a bit of experience on the
3 professional automotive and industrial side of the market.
4 And part of the reason we're here today is our company, we
5 are a company that's an import distributor who designs and
6 patents products in the United States, and imports our
7 high-end tool boxes from China.

8 To support our position and the reason we believe
9 that this Petition in regards--as it regards to Extreme
10 Tools by Waterloo Industries is unwarranted, on behalf of
11 the high-end tool box channel, and we'll provide some
12 background details.

13 First and foremost, the wide skepticism between
14 the high-end tool box market and the retail price point tool
15 box market, there's a differentiation. Extreme Tools, like
16 other high-end tool box sellers such as Cornwell Tools,
17 Snap-On, Matco, Mack Tools, Montezuma, sell superior quality
18 product, which we also have in Home Depot because there's
19 demand for high-end tool storage in that market.

20 Why hasn't Waterloo entered into that space?
21 We're not as competitive as Waterloo. Extreme tool boxes
22 have a higher value due to thicker gauge steels, steel
23 hardness, premium cold-rolled steel--premium cold-rolled
24 steel, and structural reinforcements that also can support
25 multiple heavy-duty side lockers and side boxes. We use

1 stronger gussets and stiffeners, full-extension heavy duty
2 ball bearing slides with a much higher drawer cycle count
3 for the professional heavy usage. Stronger inner panels
4 that are also roll-formed that the roller bearings attach
5 to, excluding any kind of rivets that typically are found in
6 DIY toolboxes. And inner panels that are also reinforced.

7 We use premium capacity catchers that also hold
8 up to the chemicals that are on the floors in the
9 professional environment that have a longer life span.

10 We use higher quality gas struts that have a
11 higher duty cycle rate for opening and closing the chest
12 lids. Some of the materials that we use on our hinges are
13 stainless steel so they don't bind and get corroded from
14 some of the elements that are in the professional shops.

15 And one of the things I want to point out, too,
16 is that I noticed on some of the import boxes that, you
17 know,
18 China has been very frugal as far as using their steel. On
19 the Waterloo box, you'll see they never used any of the
20 imperfected steel on the back of the boxes. They always
21 use--everything is high grade. To cut costs to be more
22 competitively priced, they've used some of the steel that
23 has imperfections on the back of the box, on the bottom
24 around the frame. They've used textured powder coating.
25 And this has given them the ability to be more competitive

1 against Waterloo, because Waterloo hasn't capitalized on
2 these opportunities, which I think is really important,
3 especially when you're doing some comparisons with the
4 weight of the steel, the gauge of the steel, the hardness of
5 the steel, the hardness of the glides. How many ball
6 bearings are in the glides? How deep are the drawers in
7 some of these boxes that are 26-inch and 41-inch boxes? Are
8 they using rivets? You know, the balls that are in the
9 glides, what's the ball count?

10 So I think all these things need to be taken into
11 consideration in comparison. I also want to say some of the
12 most popular size tool boxes being sold in the industrial
13 market are the 26-inch and 41-inch boxes. And I think the
14 scope of the Petition is not in line with the rest of the
15 market because the boxes that are being sold in the channel
16 are--the majority of those boxes are 60 inches and below.

17 We saw the MSC supply. We saw the global supply.
18 You know, that is our channel of distribution. So I don't
19 think those statements by Waterloo were accurate.

20 Professional high-end tool boxes are also
21 designed to be serviced and not to be a throw-away tool box.
22 There is more labor in the construction of the high-end tool
23 boxes by using more spot welds and plug welds for a higher
24 long-term load capacity.

25 What I mean by that is, you can have a tool box

1 that's rated for 100-pound drawers, and it's not going to
2 hold up as long say as an Extreme tool box because there's
3 not as much deflection in the side wall, the inner panels,
4 because we roll-form them, reinforce the inner panels so
5 they don't cantilever over if the drawers are loaded to
6 where it puts stress on the ball bearing glides where they
7 can fail prematurely.

8 Those are just some of the differentiating
9 designs in some of the way we engineer our products. And,
10 you know, in relationship to some of the price point
11 products out there.

12 This also allows the tool boxes to be transported
13 over the road if needed and fully loaded without failure for
14 commercial use. High-end tool boxes can have the same
15 rating in some cases, but as I mentioned it all comes down
16 to the engineering to have the stability of the components
17 used in the boxes so they have a longer life expectancy.

18 There are also some other factors, too. When you
19 look at the DIY boxes in comparison to the professional
20 series, support brackets are used in the higher end boxes so
21 that way the drawers don't sag on the bottom, which requires
22 more folds in the steel in the support brackets and more
23 spot welds that require more labor and time also.

24 So that's pretty much it. I'm open for any
25 questions.

1 MR. SPOONER: If I may, Mr. Anderson, this is
2 not substantive, it's just -- I'd like to ensure, or
3 request, I should say, that our physical samples remain part
4 of the record or become part of the record.

5 MR. ANDERSON: Are you offering to leave them
6 here? Is that what you're saying?

7 MR. SPOONER: We can talk about logistics, if
8 necessary, but yes.

9 MR. ANDERSON: Okay, well, let's talk about that
10 offline. There are implications. But I appreciate that.

11 MR. SPOONER: Okay, thank you.

12 MR. ANDERSON: All right. I want to thank this
13 panel very much for your testimony and helping us understand
14 the market and the product better and thank you all for
15 coming here to Washington, D.C., and being here at the
16 Commission today.

17 And I'd like to open up the questioning and let
18 our Supervisory Investigator, Doug Corkran, start first.

19 MR. CORKRAN: Thank you very much. And thank
20 you to all the panel for your appearance here today, and for
21 your very helpful testimony. I just wanted to ask one
22 opening framing question, which hopefully will help us
23 organize our thoughts as we discuss this product and this
24 market today.

25 If I understood correctly, I thought I was

1 hearing a couple of different variations of like product
2 argument. This is my characterization and I apologize if I
3 overgeneralized, but I thought I heard one line of argument
4 that, essentially if it holds tools, irrespective of size
5 and irrespective of material, it should be considered part
6 of a single domestic like product.

7 I thought I heard a second line of argument that
8 seemed to focus somewhat more narrowly on both retail and
9 industrial tool chest and cabinets should be considered a
10 single like product. And then at the end, I thought I
11 possibly heard an issue regarding distinctions within the
12 current domestic like product, or the current proposed
13 domestic like product in the petition, that drew a
14 distinction between do-it-yourself and higher-end tool
15 boxes.

16 Can you please tell me whether I've
17 characterized the different arguments correctly or if
18 there's a better characterization?

19 MR. FISCUS: Good afternoon. Jon Fiscus,
20 formerly Geelong, retired. Nice to be with y'all this
21 afternoon. I think to sum it up, and because it's been
22 obviously a lot -- you can hear me okay, all of you? Okay,
23 great -- sum it up because it's been a lot of discussion and
24 conversation and comments on this.

25 We firmly believe that you have to look at the

1 scope of this product and the end-user, and you could look
2 at it this way, simplified. The end-user is the person who
3 is buying this product for a particular purpose, and it
4 could be anywhere from a DIYer, a home-owner guy, to a small
5 business owner, to an auto mechanic, to a company that makes
6 Boeing aircraft, and it's all parts in between; therefore,
7 this market can extend to retail and what we like to call
8 truck-jobbers or industrial type product. And hopefully
9 that's the scope here that we can look at today. Did I
10 answer your question okay?

11 MR. CORKRAN: Well, that was helpful, but I
12 thought I heard from your panel toward the end that you were
13 also including carry-away hand tool boxes, that you were
14 including product, whether it was plastic or wood -- I
15 thought it was a much broader proposition that you had.

16 MR. FISCUS: It is a broader proposition. It's
17 a material issue, as well as a user issue. So what you're
18 really looking at there is, the product could be plastic,
19 get a portable tool storage, you get a mobile tool storage
20 that can be wood, it can be plastic, it can be -- primarily
21 it's steel, but there's a lot of different compositions that
22 are used in this category.

23 MR. HANSON-CURRIE: Can I just add -- this is
24 Alistair Hanson-Currie from Geelong -- the point we're
25 making is there's no demarcation in the products that were

1 laid out in the petition. That was a key point we were
2 making. We felt, when we read the petition and the
3 definitions of the products therein, that they were
4 arbitrary and they did not reflect in any way what is the
5 reality of the market.

6 MS. OKUN: If I could just jump in briefly on
7 that, and obviously the parties will have an opportunity to
8 brief this post-conference and look at the record that's
9 been collected, but I think just from the testimony that I
10 gave, we were not expanding to other products, but using the
11 metal because that seems to make sense with what is most
12 arbitrary about this particular scope and looking at this
13 fixed domestic like product. So we will brief it, obviously
14 others will as well, so I think there could be a
15 distinction there.

16 MR. SPOONER: I would just briefly add -- we
17 were going to say, too, that we should probably coordinate
18 and give you more precise language or brief it later this
19 week, but Mr. Corkran, the picture you held up from
20 Petitioners' exhibits, I think, highlights the like product
21 issue well.

22 Because if you look at the petitions' definition
23 for a portable tool box, of which this is supposed to be an
24 example, the petition itself says a portable tool box must
25 have less than three drawers. And the example that

1 petitioners themselves provided you today has three drawers
2 apparently. At least that's what the photo looks like. And
3 I think it only serves to highlight our like product
4 concerns well. But we'll brief it in post-hearing.

5 MR. CORKRAN: Thank you very much. We'll return
6 to the normal questioning, but I just wanted to lay out what
7 appeared to me to be the -- at least the two main arguments.
8 Thank you.

9 MR. DUSHKES: Drew Dushkes, Office of
10 Investigations. I'd like to echo my thanks to all of you
11 for being here today. I want to start with two requests.
12 And this is for everyone related to your post-conference
13 briefs. One is maybe more specifically for you, Mr.
14 Spooner. Related to all of these products you would like
15 included in the domestic like product, if you can give a
16 sense in your brief of to what extent the U.S. industry
17 produces each of these, not necessarily exact figures, but,
18 you know, whether production occurs and to maybe what
19 degree, a large amount, some amount, etcetera.

20 And my second request is for everyone related to
21 some of the testimony I heard around bids and specific
22 proposals for innovative designs and bids that are lost
23 around that or won around that, if you could provide any
24 documentation and support of that in your brief as well,
25 that would be very helpful.

1 Now, turning to my questions, I want to start
2 with a few questions that I'm direct to our Geelong
3 representatives here. But I'm gonna pause and give everyone
4 a chance to answer as well. I just want to get them out
5 there first. So related to all of these products, the work
6 benches, the tool chests, the storage chests, etcetera, of
7 all the different materials, do you all produce all of those
8 and export them to the United States?

9 MS. ENGER: Yes, we do produce all those type
10 items and export them to the U.S.

11 MR. DUSHKES: And are those all sold through the
12 retail store channel?

13 MS. ENGER: Yes, they are.

14 MR. DUSHKES: Do you sell at all to end-users
15 any of these products? Directly --

16 MS. ENGER: Directly to end-users? No, we do
17 not.

18 MR. DUSHKES: Okay. And would anyone else,
19 Clearwater or Homsteel, is your business different any way
20 from that?

21 MS. ENGER: No.

22 MR. HOLDEN: No, we export directly to Home
23 Depot.

24 MR. DUSHKES: Okay, so you all make all products
25 and you all sell them exclusively to retail, not directly to

1 end-users?

2 MR. HOLDEN: Correct.

3 MS. ENGER: Correct.

4 MR. DUSHKES: Okay. So would this include some
5 of what we've heard earlier that petitioners believe are
6 clearly in out-of-scope, industrial tool boxes, you know,
7 your 100+", very heavy-duty used by an auto mechanic, used
8 by someone that's maybe not going to a Home Depot to
9 purchase? Is that included in sort of your product
10 capabilities and what you sell?

11 MS. LEBELL: Julie LeBell with Shanghai
12 Homsteel. I would say that the products that -- the
13 customers aren't differentiated. An industrial, as what's
14 been defined as an industrial customer, may enter the DIY
15 mass retailer and buy the same product. So the products --
16 it depends on what the customers' needs are. So there's not
17 a differentiation of the continuum between the industrial
18 and the DIY customer. So our products are often used in the
19 industrial setting, whether they're specifically marketed
20 there or not.

21 MR. DUSHKES: Sure, I understand. I guess what
22 I'm getting at is, is there a type of tool chest that would
23 be used by an end-user that wouldn't go to a Home Depot or a
24 Sears because it's not available there to them? A certain
25 size, a certain thickness, that you're aware of? That is

1 not sold through that channel and is not available?

2 MS. LEBELL: No.

3 MR. DUSHKES: Thank you. Quick clarifying
4 question. The black Craftsman that everyone was referencing
5 here, who is that made by? Was that made by the
6 Petitioners? Was that made by --

7 MR. ARVIN: Yes, that's made by Waterloo.

8 MR. DUSHKES: By Waterloo? OK, thank you very
9 much. I think I just missed that. So I appreciate you
10 clarifying that.

11 I was wondering if -- I think you referenced
12 four thousand SKUs and that you all sell wide range of
13 products. I'm wondering, though, if you could comment on
14 sort of the three sizes the Petitioners says sort of
15 dominant the retail market, the, I believe it was the 21",
16 40" and 60", small, intermediate, large. Where do you see
17 that same trend in your own sales, and whether, while you
18 offer a wide range of products, there's certain few that
19 really drive the majority of your sales?

20 MS. ENGER: Yeah, I would say those three
21 product categorizations do make up the majority of our
22 sales, which is the 27", 41" and a 52". Those are the most
23 common, in the business, just the differentiating factors,
24 or what's in them, what, in the way of features,
25 steel-gauge, ball-bearing drawer slide rating, load

1 capacity, etcetera, but we do see similar trends to those
2 sizes as you indicated, yes.

3 MR. DUSHKES: Thank you. I also heard mention,
4 I think it was from Ms. LeBell in Homsteel, around a lot of
5 collaboration going to some of these innovation in the
6 products. I'm wondering -- after that collaboration occurs,
7 is that then opened up to everyone, even though -- is that
8 collaboration with a specific company? Or are they
9 collaborating with multiple companies, then opening up for a
10 wide bid?

11 MS. LEBELL: That depends on the product. The
12 way Lowe's operates is, when they're having a line review,
13 is that they have their Kobalt brand team, which will come
14 up with designs that are specific to that brand, and they
15 may have their designs and then open that product up for
16 bid. And then there's the other side of the business where
17 we create innovations for them and then the Kobalt brand
18 team will align it with their branding language, and then
19 we'll make it specifically for them. But it started with
20 our concept and design.

21 MR. DUSHKES: Have you ever lost a bid where the
22 innovations stemmed from your company and not a request
23 from, say, Lowe's -- have you ever come to them with
24 innovation, they said, "Yeah, we'd like that," but not you
25 did not receive the bid to produce that product?

1 MR. LEBELL: Yes. We, for probably every ten
2 new designs and innovations we bring to Lowe's, they may
3 take one.

4 MR. DUSHKES: Thank you. I want to turn now
5 really quickly to sort of the discussion around portable and
6 the fact that this Extreme Tools tool box was referenced as
7 a portable tool box. In the petition, there's a footnote
8 and a product description that says the portable tool boxes
9 are suitable for transporting by hand when filled with
10 tools. I look at this. I don't think I would be able to
11 even carry that empty, bolt by bolt, because I'm not the
12 strongest person, but I'm wondering how you define, and
13 maybe Mr. Grela, this is a question best for you -- how,
14 when you're marketing a portable tool box, how are you
15 defining it, versus what I think a functionality of being
16 able to carry it myself?

17 MR. GRELA: Well, what happens is, a lot of the
18 technicians, they'll remove the tool box and throw it in the
19 back of their service truck to go out in the field and
20 service vehicles that are broken down. They also put them
21 on tow trucks, they'll take them out where they work on farm
22 equipment and the farms, put them back on the service trucks
23 to go out to the field to repair tractors, things like that.
24 They are weatherproof resistant, there's a weather strip
25 seal on there, so they can be left outside or they can be

1 brought inside.

2 But my issue with the portable is, in the
3 petition, it says anything, you know, regarding less than
4 three drawers. We have a portable work station that has two
5 drawers in it that I wouldn't categorize it as, you know, a
6 DIY retail box that should be even considered in the scope
7 of this petition. But these boxes are very portable.

8 There's a lot of strong farmers out there that
9 lift bales of hay every day. I can tell you, I meet them
10 all the time, and I wouldn't consider them weak. But they
11 carry these things around. That box weighs less than 100
12 pounds. Fully loaded, it may be 150 pounds, but they have
13 no problem moving these boxes around.

14 MR. DUSHKES: So then I -- is this purely, I
15 guess a marketing differentiation? Is it lack of castors --

16 MR. GRELA: It's innovation. This is something
17 that Waterloo hasn't been able to provide. This is our
18 number one seller, our highest volume selling product. This
19 is what got us in Home Depot.

20 MR. DUSHKES: Meaning, I guess, I guess here's
21 what I'm getting at. When I look at that, and let's say you
22 need two people to move that tool box, right? But it is
23 moveable, you can put it on a truck, you can move it around.

24 MR. GRELA: Yes.

25 MR. DUSHKES: Less so with the other two behind

1 me, but they're also, you know, one person can push that
2 around on wheels. Is it the lack of castors, say, that
3 makes something portable? Where it has to be manually
4 moved?

5 MR. GRELA: Yeah, it's durability. You can take
6 it over the road, close the load, and all the tools stay in
7 their place. They don't fall out, and yet everything gets
8 disorganized. It's a very unique, innovative design that
9 keeps the tools organized that a typical tool chest wouldn't
10 do, because there's pegs on there.

11 When you close the lid, the lid goes over the
12 pegs, so that the wrenches, the sockets, the extensions, all
13 that, don't fall out of place. It's the same order and
14 condition as when you put the tools in there, when you
15 transported it and moved it and put it back. They can drive
16 those to the fields, farm fields, job sites, contractors use
17 them. It's just a very universal type of tool box, because
18 it's a portable workstation.

19 MR. DUSHKES: Thank you very much. Turning back
20 to sort of the production of tool boxes. You mentioned that
21 you produce all of this on the same machinery, a lot of you
22 or all of you, what is the downtime for switching sizes,
23 models, styles, etcetera, color?

24 MR. HANSON-CURRIE: Yeah, it depends on what's
25 being changed over, what's being made. We do use the same

1 machinery for all kinds of different products. There are
2 all various kinds of machinery used in the factories,
3 different types of presses, roll formers and so on. We also
4 use powder coating booths as well to paint the units. And
5 that's used universally for all products.

6 The downtime depends on the products could be
7 be minutes, could be a bit longer than that. For example,
8 on the powder coating booths, it's just twenty minutes. We
9 spent a lot of money on installing powder coating booths to
10 paint our products and the downtime on that is just twenty,
11 thirty minutes, but for forming and stamping, it could be
12 ten minutes, it could be twenty minutes. It depends on the
13 type of tooling that's used and the type of machine.

14 MR. DUSHKES: Thank you. And are there any sort
15 of minimum size runs that you would need to produce? Or is
16 there any volume you're going to do?

17 MR. HANSON-CURRIE: No, actually this is one our
18 advantages as a manufacturer. We can do very large runs or
19 very small runs. The problem of course, with the small run
20 is, it takes up more time because you do have these tooling
21 changes and changes in coloring and so on, but one of our
22 selling points we feel is that we can offer very small
23 number of manufactured numbers and also large numbers, too.

24 MR. DUSHKES: All right, thank you. I think I'm
25 gonna stop there for now. I've taken up enough time. I do

1 have one more request. If each producer/seller/importer
2 would mind including in their brief, maybe the highest
3 valued product that you offer, the dimensions, the
4 innovations around it, things like that, the whole product
5 description. I just want to get a sense of what is sort of
6 the top of this market that you're serving, and what you're
7 capable of producing. So thank y'all very much. Mr.
8 Anderson, I turn it back to you.

9 MR. ANDERSON: Mr. Goldfine.

10 MR. GOLDFINE: Good afternoon. Thank y'all for
11 coming. I wanted to ask a few questions on the like product
12 issue. And maybe for Mr. Spooner, for Ms. Okun, for anyone
13 else also. So just to be clear, will you not agree, for the
14 purposes of this -- I know you have issues with the like
15 product, that's very clear. But for purposes of this
16 preliminary investigation and determination by the
17 Commission, will you not agree with the proposed definition
18 by the Petitioners. You do not agree with that for purposes
19 of this prelim, is that right?

20 MR. SPOONER: That's correct. Again, we'll of
21 course elaborate post-conference.

22 MR. MARSHAK: We don't agree with what
23 Petitioners' like product. We believe the record is pretty
24 clear, especially based on the testimony from Sears, that
25 the Commission can reach a negative determination at

1 preliminary, accepting the like product definition for
2 purposes of the preliminary.

3 MR. GOLDFINE: Okay.

4 MR. SPOONER: I'm sorry to interject again.
5 This is David Spooner with Barnes & Thornburg. I should've
6 highlighted that, of course, in our opening statement. We
7 were very careful to make that point because, in our view,
8 it's true of course, but that, despite the like product
9 issues, there's ample reason not to proceed to the final.

10 MS. OKUN: Deanna Okun, Adduci Mastriani &
11 Schaumberg. On behalf of our client, we agree with that as
12 well, which is, yes, for purposes of the prelim and the
13 domestic like product, we think there is sufficient evidence
14 on the record that supports a negative determination;
15 however, if the Commission goes to an affirmative, we
16 support expanding the domestic like product along the lines
17 that we've proposed.

18 MR. GOLDFINE: Okay. On the like products, just
19 so I understand the proposed definition you all are
20 advocating, and I might say because it might be helpful, I
21 don't know, to think about how you're gonna, in terms of the
22 post-conference brief, if you all get together and address
23 this issue in one brief or in all of your separate filings,
24 but I was just --

25 MS. OKUN: But then we wish we had more than

1 three days and we could probably -- assure you we could do
2 that. But we appreciate and we've talked about and
3 understand what you're saying.

4 MR. GOLDFINE: So I see in the scope language,
5 there's basically four exclusions for nonmetallic, plastic
6 and wood, the industrial, portable, and then the work
7 benches, so I'm clear, your argument here is that all four
8 of these exclusions that are excluded from the scope, all
9 four of those exclusions are part of the like product?

10 MS. ENGER: I would probably say that metal
11 would be the key one to consider.

12 MR. GOLDFINE: But do I have that right? That
13 all four exclusions are in the like product? That we should
14 expand the like product to include --

15 MR. SPOONER: Yes, of course. I hope it's clear
16 that the gist of our testimony is that there's a spectrum of
17 products with various differentiating features, all of which
18 hold tools and serve the same purpose, but I think it's, I
19 think and hope it's also clear that the vast majority, and
20 that's putting it mildly, of the market are metal products.

21 MR. GOLDFINE: What was that last part?

22 MR. SPOONER: I think it's clear, at least among
23 all of us, that metal is key in the industry, that metal
24 dominates the industry.

25 MR. GOLDFINE: Okay. So you're arguing for one

1 like product? Not for multiple like products?

2 MR. SPOONER: That's correct.

3 MR. GOLDFINE: Okay. And you've said that -- so
4 it's one like product consisting of all four of those
5 exclusions, are there any limitations on the like product?
6 Or is it just all tool chests and cabinets? All industrial,
7 all portable, and all work benches? I mean, are there any
8 limitations?

9 MS. ENGER: Yeah, no limitations.

10 MR. GOLDFINE: No limitations, okay. And --

11 MS. OKUN: And just, Mr. Goldfine, if I could
12 just add, and again, we will try very hard to get with our
13 respondents and provide for you the best evidence we have
14 for addressing the six side-- six like -- six factors --

15 MR. GOLDFINE: Okay, that would be very helpful,
16 yes.

17 MS. OKUN: -- centers. And then how that in
18 itself would impose limitations, based on the information
19 that we'll provide, which is I think the best way for the
20 Commission to make the decision.

21 MR. GOLDFINE: Okay, thank you for that. Do you
22 agree with your -- do you agree that Waterloo and MBI are
23 the only producers of the in scope merchandise here?

24 MS. ENGER: No, I don't agree with that
25 statement as there's other domestic manufacturers that

1 produce within the scope.

2 MR. GOLDFINE: I'm talking about the scope that
3 the petitioners have drafted, not what -- not your scope.

4 MS. ENGER: Right, yeah. I mean, I would say
5 there's Snap On, Mac Tools, Mac Co. all produce products
6 within the scope that the petitioners have defined.

7 MS. OKUN: Harbor Freight also agrees with that
8 that there are products in scope produced by other
9 companies.

10 MR. GOLDFINE: Okay. It would be helpful, you
11 know, to -- if you could include, you know, some of that you
12 know information in your post conference brief. And --

13 MR. GRELA: I would also like to point out, too,
14 that there's other products within the scope of the petition
15 that are described. You could reference to garage
16 organization base cabinets. Medical cabinets are basically
17 tool chests with bumpers on them.

18 MR. GOLDFINE: Yeah.

19 MR. GRELA: So this petition is far too broad.
20 It goes into just beyond the tool chests and cabinets in
21 retail. It encompasses, like I said, garage organization,
22 medical cabinets because you know, the hospitals, they use
23 them in the emergency room, they're one color. The nurses
24 use the yellow one for supplies. And also stainless steel
25 tool boxes are used in the O/R room. So you know what is

1 defined here in the petition is that really it encompasses
2 everything that extends out beyond just title-- creating a
3 title that says tool chests and cabinets.

4 MR. GOLDFINE: This might be for Mr. -- I'm
5 going to mispronounce a little, I'm having a hard time
6 reading it, but Mr. Arvista -- Arvia.

7 MR.: Arvia.

8 MR. GOLDFINE: Arvia. Do you -- does Sears
9 purchase in scope? When I'm saying in scope, I mean the
10 scope that the like product, the scope, the petitioners have
11 set forth here. Do you purchase in scope merchandise from
12 anyone besides Waterloo and MBI? MR. ARVIA:

13 So you -- the others you mentioned say like Snap On, Mac Co,
14 Mac, no, we do not.

15 MR. GOLDFINE: And --

16 MR. ARVIA: I want to make sure I'm answering
17 the question correctly. You're saying do we purchase any
18 product?

19 MR. GOLDFINE: I'm talking about do you purchase
20 any in -- products that's in the scope of this investigation
21 as the petitioners have set forth here from companies other
22 than MBI and Waterloo?

23 MR. OBRIEN: And you're referring to U.S.
24 domestic producers, is that correct or?

25 MR. GOLDFINE: Yes, yes, yes, U.S. domestic

1 producers.

2 MR. ARVIA: And no, from U.S. domestic
3 producers, the answer to that is no.

4 MR. GOLDFINE: And why is that?

5 MR. ARVIA: We have a 70 year relationship with
6 Waterloo. And again, that's a relationship we value.
7 They're one of our longest Craftsman partners. They meet
8 and exceed all of our priorities that deliver product with
9 trusted performance. They're a great partner.

10 MR. GOLDFINE: And to your knowledge, are there
11 any in that space? Are there any other domestic producers
12 that offer the same product as Waterloo and MBI? Are there
13 any other producers of that product?

14 MR. ARVIA: In the domestic space, the ones
15 mentioned are the ones that I'm aware of.

16 MR. GOLDFINE: Okay. Okay, turning to -- I
17 would encourage all the respondents in their post conference
18 brief to address if there are any related parties issues,
19 you know, with your expanded like product definition to be
20 sure to include that, you know, if any other -- if there are
21 any domestic producers that are qualified as related parties
22 and whether you want them excluded or not. So please do
23 that. And if negligibility is an issue, please address that
24 as well.

25 And finally, if you want to say anything now,

1 it's fine for the post conference, but do you agree with the
2 petitioners that subject imports from China and Vietnam
3 should be cumulated? If not, you know, please address the
4 relevant factors on that. And that's --

5 MR. CARYL: Mr. Goldfine?

6 MR. GOLDFINE: Yeah.

7 MR. CARYL: Were you asking for response now or
8 post hearing?

9 MR. GOLDFINE: Well --

10 MR. CARYL: Well, we may -- Vietnam may address
11 the cumulation issue post hearing.

12 MR. GOLDFINE: Okay.

13 MR. CARYL: Or post conference, sorry.

14 MR. GOLDFINE: All right. Thank you. And I
15 have nothing else. Okay, Ms. Preece?

16 MS. PREECE: Okay, I'm handing out again the
17 pricing products. These should have been in your importer
18 questionnaires if you filled one out.

19 This page is the same page that came from the
20 producer questionnaire. So -- but the products should be
21 identical. If they're not, I'm in big trouble. And the
22 only difference will be the number of the top of the page
23 with a few things like that.

24 So anyway, I want to get you to give me an idea
25 of what you think. For example for product 1, what do you

1 see would be the range of prices of a product that would fit
2 within that product definition? And what characteristics
3 would lead to this range of prices? So anybody who can
4 answer, I'd love to hear from you.

5 MR. FISCUS: Firstly, Jon Fiscus, formerly with
6 Geelong. Ms. Preece, are you referring to cost or user
7 prices, end user costs?

8 MS. PREECE: It would be --

9 MR. FISCUS: Or manufacturing costs?

10 MS. PREECE: I would be referring to the price
11 as would be reported by -- in the questionnaire where you
12 would have reported a purchase price, including freight to
13 the United States for a firm that was a retailer, which was
14 imported for itself and a price of the selling price of an
15 importer that would be selling to a retailer. So that I'm
16 talking about a price that's comparable to the price that
17 you would have been reporting in your questionnaire.

18 MS. ENGER: Yeah, this is Jane Enger with
19 Jenger. And I think -- I completely understand your
20 confusion when it comes to these prices. And as you say,
21 they were kind of all over the board, but just for
22 confidential reasons and sitting among all of our
23 competitors here, we'd like to address that in the post
24 conference brief.

25 MS. PREECE: Okay. So even just the kind of

1 range that would be occurring within a -- one of these
2 pricing products is not something that you could talk about?

3

4 MS. ENGER: I think we'd -- our preference would
5 be
6 to --

7 MS. PREECE: Okay

8 MS. ENGER: -- comment on it in the post
9 conference brief. Yeah.

10 MS. LEBELL: Ms. Preece?

11 MS. PREECE: Go ahead.

12 MS. LEBELL: This is Julie LeBell with Homsteel.
13 I think that the difficulty in narrowing down a price within
14 the ranges I mean, as you said before, I think mentioned
15 previously was that the price for product 1 can range from
16 \$60 to \$300. And that's because the product's not clearly
17 defined. Within that range, any of these product ranges,
18 the different features and the different construction and
19 the different quality of each of the components of the tool
20 boxes makes is very difficult to narrow down a price. And
21 that's why you're seeing such disparity in the costing,
22 because the scope is so wide.

23 So a 27 inch top with five drawers can range
24 from \$30 up to \$350 in our case. So it just depends on what
25 the materials, the construction, the entire specs of the

1 entire box.

2 MS. PREECE: Okay. Then when you do respond in
3 the brief, I would like you to differ -- to explain what the
4 differences in the products could be and what the difference
5 in the price could be. So just go through these are the
6 characteristics that would increase the price and these are
7 the, you know, end characteristics. That would be great.
8 That would be really helpful.

9 Then if we had identical items, say product 1,
10 but you had identical two product 1s, how would you, I mean,
11 what you have different prices say for quantity -- because
12 of quantity discounts or discounts because somebody was
13 purchasing a will -- we're -- you know, they're purchasing
14 only 10 of these, but you're purchasing a whole range of
15 products from us. So we'll give you this discount.

16 What -- or it's Christmas. We're going to Black
17 Friday. So we're going to give you a special discount on
18 that. So in your briefs as well, I would like a discussion
19 of for a specific product. And then you maybe just a
20 percent and what kind of discounts would be reasonable
21 within a specific product. I don't care what the specific
22 product is. If there's a -- if it differs between products
23 you can tell me, for product A, it would go from here to
24 here. And for product B, it would go from here to here.
25 And these are the kinds of things that would give us

1 discounts. And these are the amount of the discounts for
2 these things. Okay? Is that clear? Thank you.

3 We all heard in the earlier about the
4 differences in the price of product 1. And I'm just still
5 tearing my hair a little bit on that one. So I'll let you
6 answer that in your report.

7 Would -- why would a price a firm pays differ
8 between say Vietnam and China? Does anybody have any --
9 would the -- would you expect the product was different or
10 would you expect that they just were different?

11 MR. HOLDEN: Michael Holden from Clearwater
12 Metal.

13 MS. PREECE: Go ahead.

14 MR. HOLDEN: It would be -- part of it could be
15 scale of production, manufacturing process. You know, as
16 far as we're --you know, we're a much smaller supplier. And
17 from a manufacturing perspective than some of the other
18 Chinese manufacturers. So just, you know, you talked about
19 being able to change a line in 10 to 20 minutes. It takes
20 us a little bit longer. So there's production down time,
21 things like that, so.

22 MS. PREECE: Okay, thank you very much. That's
23 very helpful. Okay, I have two more questions. One is this
24 question about stuff coming in from Mexico. Do you agree
25 with the petitioners that generally, tool boxes aren't

1 coming in from Mexico? Obviously if you include wood boxes,
2 that may be handcrafted or something like that, there may be
3 one or two coming in, but when we're talking about the
4 product going into retail sales, do you agree that it's not
5 coming in from Mexico? I don't really care. All I know is
6 I -- if you all agree that I can drop it from my charts.

7 MS. ENGER: Yeah, I think you can go ahead and
8 drop it. We, I think, all agree that no product is coming
9 in from Mexico.

10 MS. PREECE: Great. That makes my life to much
11 easier. Thank you very much. Okay. And then the
12 petitioner said that tool box chest lasts maybe up to 20
13 years. And typically, people then upgrade, because they've
14 got more tools and they're older and they got a bigger
15 house. How -- do you see your tool boxes lasting for 20
16 years, longer, shorter? What's -- what do you -- how --
17 where is your story on that one?

18 MS. ENGER: Yeah, I'll go ahead. Yeah, I mean,
19 absolutely. I think some -- our boxes last longer than 20
20 years. I think it just depends on the end user. And like
21 it was alluded to before, change in life you know, from
22 apartment to a home or just having more tools to store, et
23 cetera, but we make a wide range of products. And some of
24 them are certainly lifetime.

25 MS. PREECE: And would an industrial -- one use

1 by say a garage be more likely to last -- be used longer
2 than a household one?

3 MS. ENGER: You know, I think again it just
4 depends on the amount of use and things like that, that the
5 end user utilizes. But again, it's a -- they're durable
6 steel box. Difficult to say. I'd say they have, you know,
7 a life of anywhere from five years to life, a full life. I
8 wonder if anyone would have anything.

9 MS. LEBELL: It's Julie LeBell with Shanghai
10 Homsteel. I would say for the most part, the tool boxes are
11 -- generally will last probably a lifetime. It's the
12 components that you might have to change and change out like
13 you would change your tires on a car. You might have to
14 update and change the castors on your tool box. You might
15 have to -- drawer guide might need to be replaced
16 occasionally. But they're might be some maintenance on it,
17 but for the most part, they should last. They could last a
18 lifetime.

19 MR. GRELA: It's Larry Grela, Extreme Tools. I
20 think there's definitely a difference in the quality built.
21 You'll see that some of the price point boxes, they'll use
22 aluminum rivets to attach the roller bearing glides to the
23 interpanels. And other retail price point boxes you'll see
24 where the interpanels are punched and the glides are tabbed.
25 So they slide into the panels.

1 And the difference between the two different
2 designs is the aluminum rivet will stretch out over time.
3 And as -- and with the movement of the drawer, it kind of
4 creates a saw effect over time as it stretches the aluminum
5 rivet out, because it's not the same steel tensity as the
6 glide. And it'll -- it acts like a saw sometimes. And
7 it'll actually wind up cutting the rivet.

8 And the problem with these designs on these low
9 price point boxes is that they're not serviceable. They're
10 not designed for somebody to be able, you know, get a
11 replacement part and put it there that easily without
12 drilling out the rivets and repairing the box. In a lot of
13 cases, there's difficulty in getting parts and they just get
14 rid of the box and they buy another box. And sometimes they
15 only last sometimes two years.

16 MS. PREECE: Okay, thank you very much. I'm
17 hoping to inherit one of these boxes someday. And that's
18 the end of my questions. So huge panel. Very much
19 appreciate your time. It was very helpful.

20 MR. GOLDFINE: Okay, thank you, Ms. Preece. Ms.
21 Kim?

22 MS. KIM: Good afternoon and I have no question.
23

24 MR. GOLDFINE: Mr. Guberman?

25 MR. GUBERMAN: Guberman Industry, Office of

1 Industries. Can any -- would anybody like to talk about
2 maybe some innovations? We've discussed some of the
3 innovations, but overall trends in terms of consumer demands
4 and changes in the specs of the tool boxes that were subject
5 tool boxes over the last couple decades in terms of what
6 features or -- have evolved and how a tool box that we see
7 now would compare to one maybe 20, 30 years ago, other than
8 some of the things that were already mentioned in terms of
9 features, and the quality -- the actual materials.

10 MR. FISCUS: Mr. Guberman, Jon Fiscus, formerly
11 Geelong. As was stated earlier, I've been in this business
12 for 30 years. So I've seen a lot of changes in the
13 marketplace. And there's -- and you could certainly list
14 them. But one of the biggest changes, I think, I've seen is
15 the fact that probably 10 or 15 years ago, a lot of the
16 market was these eyebeam slides, that you know, that's where
17 the drawers ride on. And we've seen a lot of that --
18 virtually all that switched to -- ball bearing slides now.
19 So ball bearing slide was a big, I won't say innovation in
20 the category, but it was certainly an area that it was
21 really pushed into these tool -- these tool storage items
22 anywhere from what you might find at Sears or the big box
23 stores. And certainly they got -- they extend all the way
24 up to the truck jobbers, meaning Snap On, Mac Tool, et
25 cetera.

1 MR. ARVIA: This is Tom Arvia from Sears. I
2 think the other thing is thinking about how customers are
3 using their tool storage product and what other features
4 they may look to put on there. Probably the best and
5 easiest to explain example is the power strip, which 20
6 years ago I think you'd be hard pressed to find one. And
7 now it's -- it's not quite table takes, but it's close. You
8 see power strips offered by most major brands and channels,
9 relatively new feature.

10 MR. GRELA: Larry with Extreme. We've seen some
11 trends too in the drawer pull latching systems. Over the
12 years, the roller bearing glides had a rubber detent that
13 was in the back of the glide that the drawers would latch
14 onto. And we've seen, you know, that that's a wearable
15 item. So what can happen is when the end user is rolling
16 around their tool box, the drawers could roll open and
17 potential tip the box over, creating a injury or damage to
18 the tool box.

19 And we've seen Waterloo come out with their
20 drawer pull system that's been very successful for
21 Craftsman, but what's been coming in from China is even
22 better innovation. It's a more stable, heavy duty drawer
23 latching system that is solid when you use it on the bigger
24 boxes. It doesn't flex as much. And it's more durable,
25 especially for the high end user. And I think that, you

1 know, that's definitely been something that there's been a
2 demand for. And also, the soft closed drawers that Geelong
3 has used that the end users have really appreciated in the
4 retail space.

5 MR. HANSON-CURIE: Yeah, Alistair Hanson-Curie
6 from Geelong. Like you said, the soft closed drawers are a
7 big innovation. They've come online in the last few years.
8 Also, I'd like to say the way coloring has changed. I think
9 coloring has changed a lot. The paint job's finished. We
10 now use textured finish and things -- more attractive
11 finishes that weren't used previously. I would say it's
12 more black and red now. More colors available and
13 different types of finishes are available too in the
14 product.

15 MS. LEBELL: And Julie LeBell from Homsteel.
16 And I would add we've added features such as the recessed
17 gripped handles. We've had innovations in the market. Like
18 we're the first manufacturers that had stereo with speakers
19 and Bluetooth in our tool boxes, which we brought out about
20 eight years ago. We actually had a tool box with the
21 refrigerator in it that was a big seller.

22 What he focused on is when you do the market
23 studies, there's all different kinds of customers from
24 whether they're a home DIY customer or the professional
25 customer and what their needs are in looking at whether or

1 not you're the customer with the man cave, which has been a
2 big theme in the market lately. So you've got customers who
3 want tool boxes that look not -- just don't have just the
4 features that they want, but they want them to look good
5 and they want them to look cool.

6 We have some products coming out for Q4, for --
7 I'm sorry for Q2, which is Father's Day, coming up.

8 And then for Q4, this is for the holiday season,
9 which has some new innovations whether they're in features
10 or in colors that we would address in your post conference
11 brief that are coming out in the market, because those are
12 very important trends going on and especially when you find
13 it like what's going on in automotive. Colors, trends, and
14 themes. In automotive, we try to closely emulate.

15 MR. GOLDFINE: And what about stainless steel,
16 because you mentioned that before?

17 MS. LEBELL: Yes, we're looking to evolve that
18 line. And again, that's something we can address in our
19 post conference brief because there are products coming out.
20 But there are some new innovations in that product line as
21 well.

22 MR. GOLDFINE: Are they in different -- I don't
23 know if you can address it here, but are there differences
24 in the production process for those types of products that
25 are stainless steel versus the other subject --

1 MS. LEBELL: Yeah -- yes, we use the same
2 equipment to manufacture them, but the process is a little
3 bit different. It takes longer and it's more labor
4 intensive because we have to protect the materials to keep
5 them from getting scratched. And the welding and finishing
6 work is a lot more detailed. So it's a lot more labor
7 intensive.

8 MR. GOLDFINE: Would stainless steel only apply
9 to the retail type tools storage cabinets or would that also
10 be something that would be bought -- purchased by the higher
11 end?

12 MS. LEBELL: I would say it's both. As again as
13 the market's been evolving into customers doing more of like
14 I said, the high end man caves, the garages that are
15 finished, their cabinets and higher like I would say the
16 more, you know, I guess the higher end steel customers to
17 answer it.

18 MR. GOLDFINE: And --

19 MR. GUBERMAN: Another question -- have there
20 been any innovations or changes and differentiations in the
21 production process in any of the companies that would like
22 to discuss and maybe the manufacturing advantages that could
23 be discussed.

24 MR. HANSON-CURRIE: Yeah I mentioned earlier
25 about these public change product codes, we use a lot more

1 tar presses than we used to use that's an innovation process
2 that we have used on these better quality machinery that
3 used to be available.

4 MR. GUBERMAN: What would you say the most of the
5 company's manufacturing are the same, pretty much
6 comparable?

7 MR. HANSON-CURRIE: I couldn't answer. I don't
8 know what other people use. I know what we use but it is
9 all available in the market place so I don't see why not.

10 MR. GUBERMAN: That's true -- and you had talked
11 about some of the distinctions between the higher end tool
12 boxes and the less expensive models -- would you
13 characterize the greatest percent of difference in the price
14 on the manufacturing process, the labor intensiveness of
15 those products or is the actual materials that are
16 required, are they more expensive?

17 It sounds like it is more labor intensive.

18 MR. GRELA: I would love to explain this because
19 this is where I have some disagreement with the scope of the
20 Petition is that you can have two boxes that are a 55 inch
21 or a 56 inch tool box and they can have the same load rating
22 on the roller bearing glides, seeing a lot of drawers on
23 that but what makes the difference is the amount of spot
24 welds, the plug welds which takes up more labor and time.

25 The folds in the steel, the extra gussets and

1 stiffeners in the right places that create a rigidity in key
2 areas to withstand commercial use or you are not going to
3 find that in some of the price point retail boxes.

4 The support brackets are the drawers. You know
5 we use 8 folds in the steel, 3 rows of spot welds. In the
6 DLY market you may see 4 rows or 2 rows of spot welds and 4
7 folds in the steel so structurally it is not going to have
8 the same load capacity even though they have the same
9 ratings.

10 And like I said on the inner panels of the strain
11 boxes you know we put support brackets between the inner
12 panels and the sidewall of the shell of the box so that way
13 there is no flexing -- it minimizes the flexing from side to
14 side and we roll form the top of the inner panel of the tool
15 box so that way it gives it rigidity so that way the sides
16 can't fold in and causes flexing on the ball bearing to you
17 know, fail prematurely.

18 MR. GUBERMAN: And you had mentioned that some of
19 the imported boxes have cut costs by substituting panels
20 with is it lower quality steel?

21 MR. GRELA: Yeah I think you know when you look
22 at you know some of these holiday bushels and these
23 promotions you know they have got to get the cost down and
24 the way they do it is they will leave steel out below the
25 bottom of the chest. They will cut corners with the steel

1 around the frame of the box. Structurally it is fine for
2 what a DIY person would be using it for.

3 And the rolls of steel when they are
4 manufacturing these boxes you know at some point sometimes
5 they get imperfections in the steel -- a slight little
6 crease, a ding or a dent. They will throw it on the back of
7 the box or they will put it below or on the inside just to
8 cut costs and I you know, from what I have seen on the
9 Waterloo products you know they are held to a little bit
10 higher standard than some of the imports because they have a
11 brand name to protect.

12 They are also producing Craftsman tool boxes so
13 they are less likely to be inclined to cut corners to you
14 know, lower their quality threshold because you know, they
15 are a U.S. manufacturer and they have to maintain a certain
16 level of quality and I think that's where possibly there
17 could be you know, some issue with me as far as saying that
18 they can't compete with Chinese import boxes because they
19 are not using the same practices in production.

20 MR. HANSON-CURRIE: In Geelong we don't use any
21 kind of defective products or any kind of shortcuts. We
22 take a great pride in making sure our products are top notch
23 regular quality and innovative as well. We are not into
24 making sure or not caring that our products may contain
25 defective steel or whatever other kind of second rate

1 product. We ship a very good product part.

2 MS. LEBELL: Julie Lebell from Shangai. I would
3 say the same Homesteel doesn't use a defective or less than
4 quality materials in our product and just as a side I can
5 speak on behalf of what Lowe's expectations are for us.

6 Is that as an import vendor our expectations are
7 actually higher than they are for Waterloo or for anybody
8 else who wants to be a domestic vendor. Our testing has to
9 be 150% of what are stated ratings are so everything that
10 goes -- all of our products are tested extensively and they
11 are inspected before every shipment.

12 And so their expectations for our product are
13 actually higher than what they expect for a domestic
14 manufacturer and that's written into the scope of the
15 protocols.

16 MR. HOLDEN: Michael Holden with Clearwater.
17 Home Depot is the same way. You have extremely high
18 standards. When you present a promotional item the
19 expectation is it is the same quality and same product
20 material, same basic materials that you would produce for a
21 regular core, everyday product in their building.

22 They have a brand to protect. They are the third
23 largest retailer in the world and Husky brand is one of the
24 most recognized brands in the tool industry so they have a
25 lot at stake as well.

1 MS. ENGER: And just to really reiterate -- this
2 is Jamie with Jenger, I want to reiterate what Julie and
3 Mike had stated as well as there is more extensive testing
4 for our goods and certainly more inspections that
5 domestically produced products. They are held to a higher
6 level of standard.

7 MR. HANSON-CURRIE: Just to add we actually have
8 our own testing facility in house. We do all of our own
9 testing. We spend a lot of time and effort on that and we
10 are required also to get formal specification from outside
11 laboratories but we do a lot of in house testing to make
12 sure our products are really up to standard and beyond.

13 MS. LEBELL: This is Julie LaBell and if I could
14 just add to that too -- we also have our own testing
15 facilities on site and we probably have the only tool box
16 that is CSA approved as the entire tool box so that requires
17 additional standards and testing annually to meet the CSA
18 and UL requirements.

19 MR. GUBERMAN: Thank you, no further questions.

20 MR. ANDERSON: Okay thank you Mr. Guberman. Mr.
21 Corkran your turn?

22 MR. CORKRAN: Douglas Corkran, Office of
23 Investigations and thank you again for all of your
24 testimony. I have just a couple of follow-up questions
25 here. One was I wanted to make sure I was certainly

1 understanding Mr. Holden your testimony earlier today.

2 I believe you talked about some volume that
3 transitioned to other suppliers or even some accounts that
4 transitioned to other suppliers and I think you stated that
5 if you were competing solely based on price that you would
6 typically lose that volume.

7 Were you referring to Waterloo? Were you losing
8 that volume to Waterloo?

9 MR. HOLDEN: No, Geelong.

10 MR. CORKRAN: Who were you losing it too?

11 MR. HOLDEN: We lost it to Geelong.

12 MR. CORKRAN: Okay thank you.

13 MS. LEBELL: Sir, this is Julie with Homsteel.

14 We lost business at Lowe's to Waterloo based on price.

15 MR. CORKRAN: Yes, thank you. You lost 8 skew?

16 MS. LEBELL: Correct.

17 MR. CORKRAN: That occurred very recently right?

18 MS. LEBELL: Yes the sorry -- the line review was
19 finished just a couple of months ago and it is rolling out
20 this July and I would say that we actually lost 8 skews. We
21 may have lost more because Lowe's has expanded their whole
22 tool box line so I am not clear on exactly how many tool
23 boxes in that line that Waterloo has picked up so it may
24 have been more than 8 but I have lost 8 physical skews,
25 correct based on price.

1 MS. ENGER: And I will say that Geelong has
2 recently lost some skews to Waterloo as well at Wal-Mart so
3 we will follow up with those details in our post-conference
4 brief.

5 MR. CORKRAN: My next question was for Mr. Arvia
6 and that was -- you heard the testimony earlier this morning
7 when I asked Petitioners about their experience with Sears
8 and their testimony emphasized some elements that were not
9 in your testimony.

10 If I recall they talked about buying practices
11 essentially being told that their price was too high and at
12 least in certain instances which they have been asked to
13 document if I understood correctly that actual price levels
14 were revealed to them, is that consistent with your
15 experience with Waterloo?

16 Does Sears make a practice of discussing its
17 competitive situation with potential suppliers?

18 MR. ARVIA: Not at all. We don't -- we cannot
19 reveal any confidential information. We have both supply
20 agreements and universal terms and conditions that would
21 prevent us from doing that.

22 MR. O'BRIEN: Mr. Corkran, if I could just add --
23 I'll be interested to see the transcript because it seemed
24 to my ear to be bouncing back between Sears and then other
25 companies and I don't think it is at all clear at least to

1 my ear when the testimony was referring to which.

2 But Mr. Arvia is responding specifically to Sears
3 and is perfectly happy to answer any questions about that.

4 MR. CORKRAN: Just a general question. How
5 prevalent is stainless steel in terms of this product
6 offering? And I am kind of looking toward my right-hand
7 side of the room because that's where most of the testimony
8 that I was hearing about stainless steel was coming from.
9 How common is that in terms of this product line?

10 MS. LEBELL: Oh I would say stainless steel is
11 probably between 5 and 10% of the market. It hasn't been --
12 Lowe's pretty much exclusively which means Homsteel has
13 provided the stainless steel products for the last 10 years.

14 In the last year or so there has been some new
15 stainless steel products on the market and there is --
16 intermittently products come and are gone but consistently
17 in the market Lowe's has been the only retailer to carry it
18 on a consistent basis so there hasn't been a lot of
19 competitors out there for that market.

20 MR. CORKRAN: Mr. Holden was that your
21 experience? I think you testified about stainless steel as
22 well?

23 MR. HOLDEN: Yes so we were solely a stainless
24 steel supplier up until 2008 and we got out of it. We have
25 just recently looked into a couple of new items that we are

1 presenting but it is insignificant for our business at this
2 point in time.

3 MR. FISCUS: Yes, Jon Fiscus again -- just as far
4 as stainless steel it has been a trend in the marketplace
5 that's kind of gone up and down. I think stainless steel
6 entered the market in terms of tool storage and I'm sure Tom
7 would know this as well as I would probably in the early
8 2000-2002 and it was a big trend and of course like trends
9 go often times it goes up and then it levels off and then it
10 comes back down.

11 So I think probably at least from my experience
12 until up to about a year and a half ago, we are probably in
13 a period where it has kind of leveled off, still intriguing
14 the consumer. It's just part of the whole package, it is
15 part of the whole offering out there. I think you will see
16 it not only with Sear's assortment you will see that with a
17 Lowe's assortment and other retailers and also other types
18 of distribution including truck drivers, et cetera. Thank
19 you.

20 MR. CORKRAN: Thank you and with that I have no
21 further questions but thank you very much to the panel.

22 MR. ANDERSON: Thank you Mr. Corkran and Mr.
23 Dushkes?

24 MR. DUSHKES: Drew Dushkes, Office of
25 Investigations. Thank you all for your patience. I just

1 have two quick questions I apologize. First we heard
2 specifically from Miss Preece who asked about imports from
3 Mexico and you all testified that you are not aware of any
4 imports of the currently scoped tool chest from Mexico.

5 Are you aware of any other sources globally that
6 import to the United States?

7 MS. ENGER: Yes we are. SPG International has a
8 factory in Quebec, Canada that imports product into the
9 United States.

10 MR. DUSHKES: Thank you very much. My second and
11 final question how does the U.S. market compare to other
12 global markets you sell to in terms of size, in terms of
13 price and any demand trends up or down?

14 MR. FISCUS: Jon Fiscus here. U.S. market is
15 certainly for these types of products, tool chest cabinets
16 wherever they are sold it is by far the largest market in
17 the world. There's really nothing really that close. I
18 mean you could look at Europe. You could look at South
19 America, go over to Asia. This is just a unique market with
20 the tool chest cabinets I would say probably if we had to
21 guess it's probably 75% of the world market is probably
22 here for these types of products.

23 Europe in particular uses a different product
24 assortment and variation than they would in the United
25 States and North America.

1 MR. HANSON-CURRIE: This is Alistair. We sell
2 them around the world of course not only to the U.S. but the
3 culture of different countries affects what kind of product
4 we sell and this particular is very spiked in the U.S. but
5 is sold in places like Europe as well.

6 In Europe they have less space available, you
7 could say less cash, less ready cash so it affects market
8 choice as well.

9 MR. DUSHKES: Thank you all very much that
10 concludes my questions.

11 MR. ANDERSON: Okay with that, thank you
12 especially with your indulgence with staff's questions and
13 you know they have done an able job and thank you for
14 responding to them. I just had two or three really short
15 follow-ups and I believe Mr. Malashevich these are mostly
16 directed to you.

17 I just want to clarify did I hear you correctly
18 in your testimony saying that we heard about the 4,000
19 products or 4,000 skews. I thought you said most of them
20 have dual use. If that is correct can you explain what you
21 mean by dual use?

22 MR. MALASHEVICH: The two are actually separate.
23 The fact of the matter is that there is -- you listened
24 today there is no clear bright line dividing so-called
25 professional tools from consumer tools or DIY if you will.

1 That's one point that I mentioned.

2 A separate point went to product differentiation.
3 At least in the case of Geelong there are roughly 4,000
4 skews different products, the variations can be very slight
5 but they are driven by the designs required by the big box
6 stores and others who are very particular in some cases
7 about exactly how deep the drawers should be and the
8 materials used and that's why there are 4,000 different
9 ways of making these products -- at least in the case of
10 Geelong.

11 MR. ANDERSON: Okay when you say a dual use you
12 are saying that something at the very low end could be used
13 but in two different completely streams of customers,
14 professional mechanic versus a person do it yourself, the
15 \$30.00 tool box would be bought by both?

16 MR. MALASHEVICH: Yes that's exactly right and
17 the reverse is also true of course the proportions would
18 vary. Certainly in my case I'm rather incompetent do it
19 yourselfer -- I'm not going to go out and buy a \$3,000.00
20 tool chest to hold my two pairs of pliers and a couple of
21 screw drivers.

22 But there are those who do. I have a very good
23 friend who is a nut about making his own furniture and other
24 things and he has a very, very large tool box that I
25 wouldn't touch but it is a professional quality. He has it

1 in his basement in his home.

2 MR. HANSON-CURRIE: Can I just interject there
3 that I agree as far as dual use is concerned. These
4 products can be used by professionals or by home users
5 alike. You talked about the \$30.00 tool box. That could be
6 used by a professional or someone at home just using DIY.
7 They are interchangeable yes.

8 MR. ANDERSON: Okay thanks for the clarification.
9 And then to follow on your comment about good, better, best
10 and the variations -- if it were possible to categorize what
11 products were in a good, a better or best like the number of
12 skews or whatever, just if that were possible -- within that
13 category let's take the best category.

14 You mentioned that it doesn't come down to price
15 but if we had data on products that were just in the best
16 category wouldn't price be a purchasing factor?

17 MR. MALASHEVICH: Well first off I think others
18 here in their position to comment at that level detail but I
19 do think just from experience in other cases that what is
20 best for one company would be a different product than
21 what's best for another.

22 So I am not aware of any standards saying okay we
23 are a best product has to have these characteristics -- at
24 least not in this industry, that's what I have heard in the
25 testimony today.

1 The purpose for the context of my testimony for
2 raising it at all was it helps emphasize that there is a
3 continuum of product and actually there is testimony this
4 morning from one of the Waterloo executives talking about --
5 the question was what's the life of the tool chest and I am
6 paraphrasing his testimony but part of the reason for good,
7 better and best is to acquaint a customer with the good who
8 liked it enough that when he moves from an apartment to a
9 house or just becomes more active in DIY activities is going
10 to buy the next level of the same brand.

11 And it helps to build brand loyalty and it is one
12 of the many pieces of evidence that this is a single
13 continuum along a broader like product.

14 MR. ANDERSON: Okay that's helpful. Would it be
15 better to characterize the good, better, best along the
16 lines of price points? You are going to have purchasers
17 that are within the limits of their ability to purchase
18 financially and so wouldn't they be looking at price points
19 also?

20 MR. MALASHEVICH: In my experience the -- it
21 means different things to different people. I don't think
22 the terms price points and good, better, best are
23 interchangeable. I think the good, better, best concept is
24 quite frankly a fuzzier way of differentiating what the
25 different product offerings do.

1 My impression of price points is a much more
2 specific determination that there are several, several types
3 of consumers out there and one is not going to pay more than
4 \$100.00 for this in a million years.

5 Others may be between one and two hundred dollars
6 and there are those that buy a polo shirt and pay a lot of
7 money for it to have the crocodile on it and those who would
8 never bother. That's my lay person's way of characterizing
9 it but I invite the wonderful talented executives here to
10 add to that from their own perspectives.

11 MR. FISCUS: Mr. Anderson, Jon Fiscus again I
12 would like to add to that and just talk about price and some
13 other elements very briefly. Price is really only one
14 element of the whole equation of a purchase. And you really
15 have to look at the consumer and his mindset -- this is okay
16 we have price as one thing but it is also looking at
17 features benefits, the use of that item and other things as
18 far as the purchases availability of purchase.

19 When can I get it? Some of the retail element is
20 hey is this supplier a dependable supplier beyond the price
21 equation so there is a lot of other things that go into it,
22 quality is another element. So do you look 4, 5 or 6 things
23 beyond price that make a difference in the end user and also
24 the purchaser of the product.

25 MR. ANDERSON: Okay thank you very much. That's

1 very helpful and also Mr. Malashevich you mentioned brand
2 and brand recognition, product with a polo shirt. If either
3 now or in your post-conference brief and I invite all of the
4 parties to do this -- if there is any literature, any other
5 support for the idea particularly in the tool market or tool
6 chest market excuse me, brand recognition studies, consumer
7 reports, the equivalent type of information the Commission
8 would find that very helpful.

9 MR. MALASHEVICH: I'm happy to search the
10 literature that exists in business and economics generally
11 but I think with respect to tool chest markets the others
12 around the table are in a much better position to answer
13 that question than I.

14 MR. ANDERSON: Okay thank you and then for all
15 parties my last recommendation or request is that if you
16 would care to look at the pricing data that is coming from
17 the questionnaires and given the importance of brand, the
18 importance you have emphasized of quality features,
19 characteristics, et cetera -- could you discuss that in
20 terms of the trends and pricing for the four products that
21 we have seen.

22 We have heard in earlier testimony that prices
23 are declining and I wondered if you could comment on that in
24 light of what your testimony has been about non-price
25 activities for these products during the period of

1 investigation. So with that I thank you again on behalf of
2 staff for your time and for the witnesses being here and
3 enlightening us and I guess I need to get back in the tool
4 chest market. I didn't know WIFI was in the catcher -- my
5 tool chest is very, very old and it is a lifetime tool chest
6 in my mind.

7 So thank you very much for that and so thanks to
8 this panel and I think we will just take a couple of minutes
9 and allow for parties to gather together and then in a few
10 minutes we can have the closing arguments, thank you very
11 much.

12 Break at 1:51 p.m.

13 MS. BELLAMY: Closing remarks on behalf of
14 Petitioner Kathleen W. Cannon, Kelley Drye & Warren LLP you
15 have 10 minutes Miss Cannon.

16 CLOSING REMARKS BY KATHLEEN W. CANNON

17 MS. CANNON: Thank you. Let me
18 start by saying it's not surprising that the focus of
19 Respondent's testimony today has been on the like product in
20 the domestic industry, an effort to radically change the
21 database.

22 They want you to look at the effects of the
23 product that we have defined as the in scope product, a
24 retail product on U.S. companies that don't make those
25 products or compete in this business. They know that if you

1 look at the database as it is presented in the questionnaire
2 responses you will see surging volumes from China and
3 Vietnam and low pricing that's undercutting our prices as
4 well as the two affected manufacturers that are actually
5 competing with the subject imports that we have targeted
6 devastated by these imports.

7 We didn't target imports of industrial tool chest
8 because frankly we are not seeing large volumes of imports
9 or competing with those in the products that we have
10 identified. Yet they would have you cast a hugely wide net
11 picking up all types of other products and producers.

12 I even heard them mention plastic and wood
13 cabinets just to avoid the inevitable results of your
14 survey. As I understood their like product explanation and
15 I appreciate some of the questions you had because I had the
16 same questions -- but I believe they said it boils down to
17 use. If it is something you can put tools in it is part of
18 their like product definition. It doesn't matter if it is
19 plastic, wood -- it doesn't matter if it is a little tiny,
20 you know very cheap toolbox that you were given in plastic
21 at a CVS presumably all the way up to the huge
22 multi-thousand dollar products that an aerospace industry
23 would use.

24 That does not define a product or an industry
25 within the Commission's normal six factor test. They simply

1 don't meet those standards. And even if they refine that
2 analysis to just try to encompass the industrial products,
3 that's also picking those up -- that also doesn't work.

4 In fact if you have heard some of their testimony
5 some of the points that they were making demonstrate the
6 differences. The witness for Extreme pointed out quite
7 extensively some of the differences that the industrial
8 product has as compared to our product. So we will be
9 briefing this more extensively obviously in our brief.

10 I'm also going to add that another point of
11 difference we did not get to mention earlier as to Waterloo
12 that sells a small amount of the industrial products is that
13 it uses an entirely different sales force when it does that
14 -- again punctuating the differences in the markets there.

15 One of the factors that they pointed to was some
16 advertising and they said see if you see this marketing then
17 you will see their own advertisements about Sears shows that
18 we are really marketing an industrial product.

19 Well I would note that the handout that they gave
20 is not our advertisements, it is Sear's advertisements.
21 This is simply marketing. They characterize it as an
22 industrial version -- an industrial version of the grip
23 latch latching system. They are trying to promote to the
24 end user what a strong sturdy product it is, that's
25 marketing.

1 That isn't what the product is. We have defined
2 the product for you. The extreme tool sample that they
3 brought I think I understood them to say that this was a
4 portable tool box. I'm struggling to see how that is
5 portable. I certainly couldn't carry it.

6 But if anybody has any doubts if that's an end
7 scope product that is not an end scope product, that doesn't
8 have the two drawers, it is not anything that we have
9 defined to be in the scope of the Petition anyway. So
10 that's out.

11 The portable toolbox -- there was a question
12 about the photo we gave you because the photo had three
13 drawers. And even though it may have more than two drawers,
14 it doesn't meet other aspects of the scope as we have
15 defined it including in particular, the dimensional
16 characteristics of the scope so that product is out as
17 well.

18 There was a discussion Miss Okun testified to the
19 Commerce Department is working with us on the scope language
20 and adjustments that were made and she is correct. We did
21 work with Commerce to make adjustments.

22 I frankly cannot think of a case where we have
23 brought a case on a new product that the Commerce Department
24 hasn't seen before where we haven't gone back and forth and
25 made some types of adjustments. They are usually not major,

1 they weren't major here nor were they driven by any concern
2 about industrial product.

3 The issue on the retail packaging that we have
4 been working with Commerce on is purely an enforcement
5 issue. It has to do with when Custom's sees it what if they
6 take it out of the box and it doesn't have a box and they
7 put a box on here -- something we are worried about as well.

8 So that's the issues that we worked through with
9 Commerce not expanding the product. I would also add that
10 the Commerce Department has a process that's coming up where
11 it is specifically focused on the scope of the product.

12 We haven't reached that process stage yet and we
13 have already talked with Commerce about working with them so
14 if there are any other tweaks or reasons to further modify
15 the product they will have a chance to come in as
16 Respondents to propose you know, changes that will make it
17 clear that these industrial products are out and to clarify
18 what's in -- that's a normal part of the process too and one
19 that might help clarify where they are seeing some
20 confusion.

21 Because obviously with the new product we always
22 go through a bit of that but I think as you have defined the
23 product in your questionnaire everybody knew what you were
24 talking about. You got a very solid database from this
25 industry both on the U.S. side and on the import side that's

1 making and selling this product.

2 You also heard a lot about quality and customer
3 service and all of these other things that define the
4 product. You heard a little bit about claims that imports
5 were being bought for quality but I think I heard as many
6 statements by Sears and by others that Waterloo produces a
7 quality product.

8 They call the Craftsman brand that they supply
9 iconic. We would agree. We are producing a quality
10 product. We have partnered with Sears and Craftsman,
11 Waterloo has to try to innovate, to try to make that the
12 defining characteristic in buying decisions but
13 unfortunately it's not it is price. And that is why we are
14 struggling.

15 That's why the industry is
16 struggling to continue to supply the products because the
17 higher quality materials and no cutting corners -- that was
18 another thing that they said in compliment to the domestic
19 industry should lead to a higher price but it isn't.

20 The other factor I would mention is that if
21 import quality were superior why are they undercutting our
22 prices by so much? They should be able to charge premium
23 prices if they really are making premium products. In the
24 end they are not. In the end people are producing to a
25 specification. The U.S. industry is making it, the imports

1 are making it and prices are driving those purchasing
2 decisions.

3 Mr. Malashevich testified that you should focus
4 on brand and that pricing drives brand and you should be
5 looking at brand. Be careful when you look at brand.
6 Branding is important when you and I go into a Home Depot, a
7 Lowe's, somewhere to buy a tool chest. We might look at the
8 Craftsman product and we might decide that's an iconic brand
9 and we want to pay more for it, that's where the brand comes
10 in.

11 It doesn't come in when Waterloo or the Chinese
12 supplier or the Vietnamese supplier is picked to supply it.
13 Yes they have to have a quality product but their product
14 they don't have the Craftsman brand. They aren't the ones
15 that own it -- that was owned by Sears.

16 So it was the one benefitting from that premium
17 not Waterloo. And if they can get that product at the
18 quality they need which they said they could from somewhere
19 else they will go -- it's price.

20 Now a few comments on stainless steel -- I think
21 the witness admitted it's a very small part of the market.
22 We think it is even less than they estimated but very small.
23 There was a description about a supply of the stainless
24 product but I think I understood the witness to say it was
25 in 2006 well before the period of investigation anyway.

1 But the bottom line is Waterloo and MBI can
2 manufacture stainless products as well. The retailers will
3 not pay the price to cover the cost of stainless products.
4 That is why they are not selling that product. They could
5 produce stainless on their equipment just like they can
6 produce tool chests from the cold rolled carbon steel. It's
7 simply a matter of whether the retailer will pay the price
8 for the stainless product in the end or not. And
9 unfortunately the answer has been or not.

10 And my last comment goes to the testimony from
11 Clearwater on Vietnam. They claim that they were not
12 competing with Waterloo at Home Depot. First that's wrong
13 and we will give you evidence of Waterloo's attempts to
14 supply.

15 But I would say the vast majority of MBI sale,
16 the other domestic producer you heard from Mr. Liss this
17 morning is to Home Depot it's Husky. In fact the product
18 behind Mr. Goldfein is the product made by MBI.

19 So the fact that Husky is going to Clearwater
20 again is because of price it is not because -- not an
21 attempt to compete. That concludes my statement. I thank
22 you very much for your attention today.

23 MR. ANDERSON: Thank you Miss Cannon.

24 MS. BALLAMY: Closing remarks on behalf of
25 Respondents Deanna Tanner Okun on behalf of Adduci,

1 Mastriani & Schaumberg. Miss Tanner -- I mean Miss Okun you
2 have 10 minutes.

3 CLOSING REMARKS BY DEANNA TANNER OKUN

4 MS. OKUN: Thank you very much and let
5 me begin by thanking all of you for your attention today for
6 the long morning and afternoon that you have spent asking
7 questions and that you will spend in the days and weeks
8 ahead as you look through what I think has been a robust
9 response to questionnaires.

10 There is a very robust data set on which the
11 Commission will be able to make a decision.

12 Miss Cannon began her opening today saying that
13 this would be an all too familiar story to the Commission.
14 I think that if you sat through the testimony of our
15 witnesses, the many industry witnesses who are willing to
16 come here today from a major purchaser -- a major purchaser
17 of Waterloo's brands who comes in to tell you what happened
18 and what the relationship is with Waterloo.

19 I would say this is not at all a familiar case to
20 the Commission. And we appreciate the many questions that
21 you asked both the Petitioners and to Respondents and to the
22 opportunity that we have in the post-conference brief to
23 respond to those questions as you familiarize yourself with
24 this industry.

25 And I urge that you look closely at what you

1 heard today and that what you will see on the questionnaire
2 responses. I submit that when you do you will see that the
3 inconvenient facts do not match up with the Petitioner's
4 version of the story today.

5 The facts support a negative determination on
6 this record accepting the confusing domestic like product --
7 the confusing scope that the Petitioners put forward. But
8 even accepting their definition this industry is not --
9 Waterloo is not injured during this period of investigation
10 by reason of subject imports. So let me just touch on that
11 on a couple of statutory factors as we wrap up today.

12 We talked some about demand and obviously we will
13 have more in the post-conference briefs but what you have
14 heard is a story of interesting innovations, interesting
15 changes in the consumer market. If you look behind us and
16 if you looked at products from 10 years ago in the 1990's
17 when Waterloo's two other factories closed you will see
18 there has been changes and the industry witnesses talked
19 about some of those.

20 Those industry changes -- those innovations that
21 all the witnesses talked on have increased the market demand
22 for this product and that is where you see the Chinese and
23 the Vietnamese producers coming in. Brands matter and we
24 will in response to your questions talk about brands in this
25 marketplace and what that means but I think the testimony

1 from Sears is really important on that issue as they talked
2 about the Craftsman brand as well as the testimony from
3 Homsteel with regard to Lowe's because I think that
4 explains a lot of what is going on in the market and with
5 respect to brands.

6 With respect to price -- there is a reason the
7 pricing data is all over the place and we will do our best
8 to respond specifically to the questions that we had today.
9 But I think what you heard from the witnesses and what you
10 heard from the purchaser is that there are different
11 configurations, different features, they demand and command
12 different prices and that this is not the all too familiar
13 case of low price imports simply coming in and taking
14 market share from an industry and moving up the ladder.

15 So again the familiar case low price imports come
16 in, take the low end, move up the high end we have seen
17 those cases before -- this is not that case. With respect
18 to impact again I would take you back to the testimony of
19 the Sears witness Mr. Arvia.

20 It is again rare in a preliminary conference to
21 have a major customer come in. We are often talking about
22 Respondents are often arguing about what the purchasers
23 think, what we will see in purchaser questionnaires,
24 wondering what we will see.

25 Well the Commission knows, you have that so while

1 this is a preliminary case and the standard is not that this
2 is a fishing expedition. The Commission doesn't need to
3 collect more data. In this case again it has heard the
4 reason that Waterloo has suffered injury and the domestic
5 industry has suffered injury is not by reason of subject
6 imports.

7 So we will brief domestic like product. I would
8 say that what you saw today is what I can say with respect
9 to domestic like product is all these industry witnesses,
10 these purchasers when they read the definition they just
11 don't get it so we will brief the facts the way the
12 Commission looks at domestic like product and we will
13 hopefully provide something coherent to you.

14 But again even accepting the domestic like
15 product we believe we win on this record and that any injury
16 suffered by Waterloo is not by reason of subject imports.
17 And with that I want to thank you for your time today and we
18 look forward to the post-conference brief and answering the
19 additional questions you asked, thank you very much.

20 MR. ANDERSON: Thank you Miss Okun. With that on
21 behalf of the Commission and staff I would like to thank all
22 of our witnesses and our counsel for being here today and
23 helping us gain a better understanding of the tool chest
24 market and the conditions of competition for this product.

25 Before concluding I want to mention a few key

1 items and key few dates excuse me. The deadline for
2 submission of corrections to the transcript and for
3 submission of post-conference briefs is Friday, May 5th.

4 If briefs contain business proprietary
5 information a public version is due on May 8th and the
6 Commission has tentatively scheduled its vote on these
7 investigations for Thursday, May 25th and it will report its
8 determinations to the Secretary of the Department of
9 Commerce on May 26th.

10 Commission's opinions will be issued on June 5th
11 and with that thank you all for coming and this conference
12 is adjourned.

13 (Where up at 2:13 p.m. the hearing was
14 adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Tool Chests and Cabinets from China and Vietnam

INVESTIGATION NOS.: 701-TA-575 and 731-TA-1360-1361

HEARING DATE: 5-2-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

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