

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
DRAWN STAINLESS STEEL) Investigation Nos.:
SINKS FROM CHINA) 701-TA-489 and
) 731-TA-1201 (Final)

REVISED AND CORRECTED TRANSCRIPT

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
DRAWN STAINLESS STEEL) Investigation Nos.:
SINKS FROM CHINA) 701-TA-489 and
) 731-TA-1201 (Final)

Thursday,
February 21, 2013

Main Hearing Room
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at 9:32 a.m., before the Commissioners of the United States International Trade Commission, the Honorable IRVING A. WILLIAMSON, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:Commissioners:

IRVING A. WILLIAMSON, CHAIRMAN
DANIEL R. PEARSON, COMMISSIONER
SHARA L. ARANOFF, COMMISSIONER
DEAN A. PINKERT, COMMISSIONER
DAVID S. JOHANSON, COMMISSIONER
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APPEARANCES: (Cont'd.)

Staff:

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 DAVID FISHBERG, ATTORNEY
 ELIZABETH HAINES, SUPERVISORY INVESTIGATOR

In Support of the Imposition of Antidumping and
 Countervailing Duty Orders:

On behalf of Elkay Manufacturing Company:

RONALD C. KATZ, Chairman of the Board, Elkay
 Manufacturing Company
 STEPHEN C. ROGERS, Chief Operating Officer, Elkay
 Manufacturing Company
 MARK WHITTINGTON, Vice President & General
 Manager, Traditional Plumbing, Elkay
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 CHARLES R. SMITH, Manager, Elkay Manufacturing
 Company
 KATHLEEN J. DEIGHAN, Vice President, Chief Human
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 PAMELA HAMILTON, Director of National Accounts,
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 MARK HIRD, Senior Products Manager-Stainless Steel
 Sinks, Elkay Manufacturing Company
 PAUL JUST, President, Just Manufacturing Company
 BRIAN WEAVER, Vice President-U.S. Operations,
 Franke Consumer Products, Inc.
 BUD PARKER, Vice President and General Manager
 Retail, Franke Consumer Products
 MICHAEL G. SZUSTAKOWSKI, Consultant, King &
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JOSEPH W. DORN, Esquire
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 Washington, D.C.

APPEARANCES: (Cont'd.)

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

On behalf of AmeriSink, Inc., Chemcore Industries, Inc.,
Kraus USA, Lenova Sinks (A&C Global, Inc.) and MR
Direct International:

JOHNNY CRAIN, President, Chemcore Industries, Inc.
BRIDGETT CRUZ, Operations Manager, AmeriSink, Inc.
RUSSELL LEVI, Vice President, Kraus, USA

WILLIAM E. PERRY, Esquire
Dorsey & Whitney, LLP
Seattle, Washington

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P R O C E E D I N G S

(9:32 a.m.)

1
2
3 CHAIRMAN WILLIAMSON: Good morning. On
4 behalf of the U.S. International Trade Commission I
5 welcome you to this hearing on Investigation Nos.
6 701-TA-489 and 731-TA-1201 (Final) involving Drawn
7 Stainless Steel Sinks From China.

8 The purpose of these investigations is to
9 determine whether an industry in the United States is
10 materially injured or threatened with material injury
11 or the establishment of an industry in the United
12 States is materially retarded by reason of subsidized
13 and less than fair value imports from China of drawn
14 stainless steel sinks.

15 Schedules setting forth the presentation of
16 this hearing, notices of investigation and transcript
17 order forms are available at the public distribution
18 table. All prepared testimony should be given to the
19 Secretary. Please do not place testimony directly on
20 the public distribution table.

21 All witnesses must be sworn in by the
22 Secretary before presenting testimony. I understand
23 that parties are aware of the time allocations. Any
24 questions regarding the time allocations should be
25 directed to the Secretary.

1 Speakers are reminded not to refer to
2 business proprietary information in their remarks or
3 answers to questions. Please speak clearly into the
4 microphone and state your name for the record for the
5 benefit of the court reporter. Finally, if you will
6 be submitting documents that contain information you
7 wish classified as business confidential, your
8 requests should comply with Commission Rule 201.6.

9 Madam Secretary, are there any preliminary
10 matters?

11 MS. BARTON: No, Mr. Chairman.

12 CHAIRMAN WILLIAMSON: Very well. Let us
13 begin with opening remarks.

14 MS. BARTON: Thank you. Petitioner, Joseph
15 W. Dorn of King & Spalding, LLP.

16 CHAIRMAN WILLIAMSON: Welcome, Mr. Dorn.

17 MR. DORN: Good morning. Thank you. This
18 case is about dumped and subsidized imports of drawn
19 stainless steel sinks from China that have rapidly
20 increased, undersold comparable U.S. sinks by large
21 margins and grabbed substantial market share at the
22 expense of U.S. producers and U.S. workers.

23 Absent the imposition of antidumping and
24 countervailing duties, the condition of the domestic
25 industry will continue to deteriorate. Further

1 reductions in output will force Elkay Manufacturing
2 and other members of the domestic industry to shut
3 down U.S. production facilities as their dwindling
4 sales inflate their per unit cost of production and
5 make them even less competitive with unfairly priced
6 imports.

7 The Commerce Department has defined the
8 scope of the imported articles subject to
9 investigation to include all drawn stainless steel
10 sinks. The Commission should reject any suggestion to
11 carve out undermount sinks as a separate like product
12 distinct from top mount, dual mount and other sinks.
13 Rather, the Commission should find a single like
14 product coextensive with the scope of these
15 investigations.

16 The record clearly indicates an overlap
17 between top mount and undermount sinks with respect to
18 each and every like product factor. Any minor
19 differences between top mount and undermount sinks do
20 not warrant separating them into distinct like
21 products. The Commission has never found that
22 different modes of installation provide a clear
23 dividing line to create two separate like products.

24 The subject imports have large dumping
25 margins and also benefit from numerous Chinese subsidy

1 programs. The domestic industry is materially injured
2 by reason of these unfairly priced imports. First,
3 both the volume of imports and the increase in the
4 volume of imports are clearly significant.

5 In 2011, imports from China were equal to 85
6 percent of imports from all countries and 58 percent
7 of U.S. consumption. As shown on the slide, the
8 volume of subject imports jumped 57 percent from 2009
9 to 2011 and another 17 percent from January to
10 September 2011 to January to September 2012.

11 As shown on the next slide, subject imports
12 increased their share of U.S. consumption from 40
13 percent in 2009 to 58 percent in 2011 and from 58.5
14 percent in interim 2011 to 61.3 percent in interim
15 2012. The ratio of subject imports to U.S. production
16 increased even more dramatically over the POI as
17 imports increased and U.S. production decreased.

18 Second, the subject imports have had
19 negative price effects. Drawn stainless steel sinks
20 are sold primarily on the basis of price, and Chinese
21 and domestic sinks meet head-to-head in all channels
22 of distribution and in all customer segments.
23 Contrary to Mr. Perry on behalf of Respondents, the
24 U.S. industry aggressively markets to countertop
25 fabricators, and U.S. sinks are offered on a multitude

1 of internet sites where they appear side-by-side with
2 Chinese sinks. There is no attenuation of
3 competition.

4 Subject imports undersold comparable U.S.
5 products in 78 of 90 possible comparisons with
6 underselling margins averaging 32 percent. The
7 underselling caused U.S. producers to suffer
8 substantial lost sales. U.S. producers also had to
9 reduce prices to avoid losing even more sales. The
10 lower priced imports caused U.S. producers to
11 experience a cost/price squeeze from 2009 to 2011.
12 Thus, domestic prices were suppressed within the
13 meaning of the statute.

14 Third, the subject imports have had a
15 negative impact. From 2009 to 2011, the domestic
16 industry suffered declines in capacity, production,
17 capacity utilization, shipments, market share and
18 employment. The domestic industry's financial
19 condition is confidential, but I can tell you that
20 Elkay's financial indicators all dropped sharply from
21 2009 to 2011, notwithstanding the 8 percent increase
22 in U.S. consumption over the same period.

23 Because the domestic industry is materially
24 injured, there is no reason for the Commission to
25 address threat, but the threat of additional injury is

1 real, imminent and alarming. The Petitioner
2 identified 90 Chinese sink producers, only five of
3 which bothered to respond to this Commission's
4 questionnaire in the final phase.

5 The capacity of the Chinese industry dwarfs
6 that of the U.S. industry. Moreover, Chinese
7 producers are encouraged and subsidized by the Chinese
8 Government. Chinese producers are export oriented,
9 and the United States is a key export market. Unless
10 definitive duties are imposed, imports from China will
11 continue to take volume from U.S. plants and capture
12 any increase in market demand.

13 The U.S. industry is at a critical juncture.
14 It has done all that it can do to reduce production
15 costs to compete with lower priced Chinese sinks. The
16 Commission should make an affirmative determination to
17 give this industry a chance to survive. Thank you.

18 CHAIRMAN WILLIAMSON: Thank you.

19 MS. BARTON: For Respondents, William E.
20 Perry of Dorsey & Whitney, LLP.

21 CHAIRMAN WILLIAMSON: Welcome, Mr. Perry.

22 MR. PERRY: Thank you very much. Good
23 morning. My name is again William Perry from the law
24 firm of Dorsey & Whitney, and I am here representing a
25 few of the importers in the case. We will be making

1 several points in our response to the domestic
2 industry's presentation this morning.

3 First, Elkay and the U.S. industry is doing
4 better and not materially injured because the housing
5 market is doing better. As AmeriSink will testify,
6 their business is up because in 2011 and 2012 the
7 housing market has increased substantially, especially
8 in the new builders market.

9 As you may know, it is difficult for new
10 buyers to qualify for a loan for a new house. This
11 has caused many people to turn to rentals, which in
12 turn means an increase in apartments. More apartments
13 means more sinks, and that is exactly where Elkay and
14 the rest of the domestic industry have a substantial
15 advantage. Importers simply cannot fill out all the
16 documents and obtain the bonds necessary to sell to
17 large home builders, but Elkay can. Since the housing
18 market is up, especially the new builders, Elkay must
19 be doing better.

20 Second point. As Kraus and Chemcore will
21 testify, any problems Elkay has are directly related
22 to its outdated distribution methods and refusal to
23 sell to certain segments of the market. We note that
24 after the Commerce Department and the ITC's
25 determinations, all of a sudden Elkay is selling to

1 companies it refused to sell to before and moving to
2 online sales on the internet much more aggressively
3 than before. Elkay knows what its problems are and
4 they have learned from this case, and it is not
5 Chinese imports.

6 Finally, you will probably note in the
7 preliminary injury investigation I represented more
8 than 10 importers. Now I represent only three
9 companies. Why? Most of the other importers have
10 already voted with their feet and they've moved to
11 other countries. One of those importers, Nantucket
12 Sinks, is in the audience. They've already moved to
13 Korea.

14 Following the idea that there is a small
15 amount of sinks from third countries that can replace
16 Chinese sinks is simply ludicrous. As Petitioner has
17 stated, steel sinks are a commodity product.
18 Following the Presidential Brass, General Metals and
19 Mittals and, more importantly, the Supreme Court cases
20 cited in our brief, the Commission at a minimum must
21 use a but for test.

22 As Justice Kennedy stated in the
23 Pricewaterhouse case, what we term but for cause is
24 the least rigorous standard that is consistent with
25 the approach to causation our precedence describe. If

1 a motive is not a but for cause of an event, then by
2 definition it does not make a difference to the
3 outcome. Any standard less than but for, however,
4 simply represents a decision to impose liability
5 without causation. If the Commission goes affirmative
6 in this case, it will be imposing liability.

7 In looking at the domestic industry's brief,
8 they kept poking on the issue of whether this is the
9 future or the past and being but for. I think that's
10 ridiculous again because the Commission has already
11 been told the standard. It's in the Mittals case and
12 it's quoting from the Pricewaterhouse case.

13 But for causation -- this is from the
14 Pricewaterhouse case. But for causation is a
15 hypothetical construct in determining whether a
16 particular factor was a but for cause of a given
17 event. We begin assuming that that factor was present
18 at the time of the event and then ask whether even if
19 that factor had been absent the event nevertheless
20 would have transpired in the same way.

21 If the Chinese imports weren't here, the
22 domestic industry would be in the same position
23 because there are imports flooding in from other
24 countries. Thank you very much.

25 CHAIRMAN WILLIAMSON: Thank you. Okay.

1 MS. BARTON: Will the first panel please
2 come forward?

3 CHAIRMAN WILLIAMSON: Okay, Mr. Dorn. You
4 can begin when you're ready.

5 MR. DORN: Thank you. Thank you, Mr.
6 Chairman. Mr. Katz will begin our presentation.

7 MR. KATZ: Good morning. My name is Ron
8 Katz. I am the chairman of the board and principal
9 shareholder of Elkay Manufacturing Company. This past
10 January, I celebrated my sixtieth anniversary with
11 Elkay. During that time, I have held many positions,
12 from product inspector on the shop floor to chief
13 executive officer.

14 Elkay was founded in 1920 on Chicago's near
15 north side by my grandfather, Leopold Katz, and my
16 father, Louis Katz, who are shown on the slide.
17 Elkay's first products were hand-hammered residential
18 butler and pantry sinks, which on occasion were
19 personally delivered by my grandfather to customers
20 via Chicago streetcars.

21 Throughout its history, Elkay has been a
22 market leader, from being the first company to mass
23 produce stainless steel sinks, which we started in
24 1938, to being the first domestic producer of
25 undermount sinks. Elkay is one of the few remaining

1 stainless steel sink companies with production in the
2 United States. We have three drawn stainless steel
3 sink plants, which are located in Lumberton, North
4 Carolina; Broadview, Illinois; and Ogden, Utah.

5 At Elkay we are defined by our values, which
6 we demonstrate day in and day out. Our overriding
7 value is that we are in business forever, which means
8 we are forever committed to providing high quality
9 products to our customers, good jobs to our employees,
10 economic vitality to the communities where we are
11 located and a reasonable return to our shareholders.

12 Another Elkay value is that our strength is
13 in our people. I firmly believe that Elkay's past
14 success is due to the efforts of our outstanding
15 employees, over 86 percent of whom work on shop
16 floors. Unfortunately, unfair competition from
17 Chinese sinks has caused us to significantly reduce
18 employment at our sink facility. I am very gratified
19 to see that the imposition of preliminary tariffs has
20 already allowed us to regain some of the business we
21 lost to China.

22 Another Elkay value is that making a profit
23 is an honorable endeavor. It is our belief that all
24 of our business partners, shareholders, employees,
25 customers and suppliers alike must benefit from our

1 relationship or we cannot be in business forever.
2 Fortunately, Elkay has been very successful over its
3 93-year history, but the flood of dumped and
4 subsidized sinks from China has seriously damaged our
5 company and threatens our continued existence as a
6 U.S. manufacturer of stainless steel sinks.

7 In the face of decreasing volumes and
8 revenues directly caused by unfairly traded Chinese
9 sinks, Elkay has worked even harder to improve
10 efficiencies in our plants to lower cost. While these
11 actions have helped to maintain margins on some of our
12 remaining sales, they have resulted in the loss of
13 many jobs and reduced capital investment. If the
14 preliminary tariffs are not maintained, we will
15 continue to shrink, resulting in the closing of our
16 sink plants and the loss of hundreds of U.S.
17 manufacturing jobs.

18 As my father and grandfather told me and I
19 continue to impress upon the next generation of Katz
20 shareholders, as well as all of our employees, we are
21 more than owners of this company. We are caretakers
22 with the responsibility to leave the company in a
23 better position than it was when it came into our
24 care.

25 Elkay undertook the significant financial

1 burden of bringing these petitions to address the
2 single biggest threat to the continued existence of
3 our 93-year-old sink business -- the flood of unfairly
4 priced stainless steel kitchen sinks. Chinese kitchen
5 sinks. Pardon me. We have done all that we can, and
6 now we need your help to assure that Elkay continues
7 to provide good manufacturing jobs in the United
8 States.

9 I respectfully ask the Commission to reach
10 an affirmative final determination so that Elkay can
11 continue its proud commitment to U.S. sink
12 manufacturing operations. Thank you.

13 MR. ROGERS: Good morning. My name is Steve
14 Rogers. I am the Chief Operating Officer of Elkay
15 Manufacturing. I joined Elkay in 2004 as Vice
16 President of Engineering for the Plumbing Division. I
17 served as President of the Plumbing Division from 2007
18 to 2009. When I began chief operating officer in
19 2009, my responsibilities expanded to include all of
20 Elkay's manufacturing operations, including sinks,
21 faucets, water coolers and cabinetry.

22 Elkay's petition asks for relief on all
23 drawn stainless steel sinks regardless of mounting
24 type. In particular, imports of undermount sinks from
25 China have consistently undersold our undermount sinks

1 by large margins and have taken a huge volume of sales
2 from Elkay. Thus, Elkay is being materially injured
3 by all subject imports, including undermounts.

4 All drawn stainless steel sinks are produced
5 in the same manner. The raw materials, production
6 equipment, production processes and production
7 employees are the same regardless of the sink
8 dimension, shape, features and intended method of
9 installation. All styles of stainless steel sinks can
10 be produced in the same manufacturing facility on the
11 same equipment by the same employees. Each of Elkay's
12 facilities produces both top mount and undermount
13 sinks.

14 This video we provided your staff shows our
15 sink production in our Broadview facility. The
16 production of all drawn sinks begins by cutting a
17 stainless steel coil into a blank on a forming line.
18 The blank is then formed or drawn on a large hydraulic
19 press. Deeper bowls have to be lubricated and drawn a
20 second time and in some cases a third time.

21 Once the final depth is reached, a hole is
22 punched for the drain. If a multiple bowl sink is
23 specified, the bowls must be welded together and the
24 weld seam finished by grinding to fully hide that
25 seam. To this point, the steps are identical whether

1 the sink is a top mount or an undermount.

2 Next, top mount sinks will undergo a rim
3 forming operation, while an undermount sink is trimmed
4 to obtain the correct dimensions and to remove sharp
5 edges. After the edge treatment is finished, all of
6 the sinks will be washed, sprayed with sound deadening
7 material, polished, inspected and packaged in the same
8 manner. All of our sink plants produce both top mount
9 and undermount sinks. We are not aware of any sink
10 plant that produces only top mount or only undermount
11 sinks.

12 Elkay and the other domestic manufacturers
13 have been materially injured by imports of sinks from
14 China. Already significant in 2009, imports from
15 China have grown rapidly and captured all of the
16 modest increase in demand. Imports from other
17 countries are not significant. The major increases in
18 market share for Chinese sinks have come almost
19 entirely from domestic producers.

20 Elkay has been a leader in designing the
21 residential sinks that are desired by the U.S.
22 consumer. Chinese manufacturers did not increase
23 their market share in the United States by designing
24 innovative products that were not offered by domestic
25 producers. Instead, they copied the highest volume

1 Elkay sinks and focused production of their facilities
2 on supplying those products to the U.S.

3 Because the Chinese have intentionally
4 copied Elkay sinks, including Elkay's popular
5 undermount models, the Chinese product often looks
6 indistinguishable from Elkay versions. The Chinese
7 Government subsidizes the manufacture of these sinks,
8 and the Chinese manufacturers then dump the sinks into
9 the U.S. market. The only difference is price.

10 The resulting low prices put a significant
11 and unfair price pressure on the domestic market.
12 Elkay has attempted to fight the Chinese imports by
13 lowering its prices where it can. Our injury
14 information on lost revenues provides ample evidence
15 of situations where Elkay has had to significantly
16 lower its prices to meet Chinese quotes.

17 The fact is, however, with Chinese imports
18 being sold significantly below our costs competing on
19 price is unprofitable in the short run and ruinous in
20 the long run. Because Elkay cannot compete with
21 Chinese imports on price, which is the most
22 significant factor in the purchasing decision, Elkay
23 has lost significant volume in employment in our
24 plants.

25 Elkay has also attempted to combat Chinese

1 imports by undertaking significant initiatives to
2 lower costs and increase efficiencies of our plants.
3 We have invested heavily in our U.S. operations.
4 These investments include \$25 million to build Elkay's
5 Ogden, Utah, plant, \$9 million to upgrade Elkay's
6 Lumberton, North Carolina, facility and \$12 million to
7 convert Broadview, Illinois, into a state-of-the-art
8 rapid production center for specialized stainless
9 steel sinks.

10 I firmly believe that Elkay operates the
11 most efficient, productive drawn stainless steel sink
12 facilities in the world. Allow me to show you a short
13 clip of the Ogden robotic line we use to produce our
14 highest volume models.

15 (Whereupon, a video was shown.)

16 MR. ROGERS: This is our automated press
17 line in Ogden. You see that versus the video that you
18 saw of Broadview you do not see people.

19 Now, we did, however, move our entire staff
20 from our old plant, all of our employees, which was in
21 Ogden to this new plant, so we retained all of our
22 employees and we actually increased employment because
23 we were able at that time to increase our throughput.

24 Here you see some of our employees finishing the
25 sinks, and now here is the robotic finishing line.

1 MR. DORN: And that plant was built before
2 the POI, right?

3 MR. ROGERS: Yes. That plant was built in
4 2005.

5 To reduce costs, we have implemented lean
6 manufacturing principles across all of our facilities.

7 In 2009, we adopted a detailed costing model to
8 analyze our manufacturing steps in detail. We can
9 detect waste in real dollars and in real terms and
10 eliminate it. Conservatively, since 2009 we have
11 removed more than \$15 million of costs from our plants
12 by removing waste from our processes.

13 While Elkay continuously strives to lower
14 cost and improve productivity, these improvements
15 cannot make up for continually decreasing volumes. It
16 doesn't matter how efficient your plants are if you
17 have insufficient volume to defray fixed costs. Elkay
18 has a proud tradition of innovation in its industry.
19 The imports from China have impeded Elkay's ability to
20 invest in its plants and innovate new products. As
21 explained in our questionnaire response, the erosion
22 in the volumes and revenues caused by unfairly traded
23 sinks from China has forced Elkay to significantly
24 reduce investment in its facilities.

25 The loss of sales volume for high volume

1 commodity sinks, both top mount and undermount, is
2 particularly damaging to Elkay's sink operations.
3 Each sink model requires its own specific tooling
4 costing from \$130,000 to \$200,000. Once the tooling
5 is purchased, however, it can be used to make tens of
6 thousands of sinks.

7 The Chinese producers actively monitor and
8 copy Elkay's largest volume sink models and invest in
9 tooling to produce essentially identical sinks. The
10 Chinese producers then make millions of those sinks
11 and sell them at unfairly low prices in the United
12 States. Their highest selling sink models are the
13 bread and butter of our mass production facilities
14 such as Ogden.

15 If the current trend continues, domestic
16 manufacturers will be left with only small volume sink
17 models, each requiring that same expensive tooling.
18 Because of the unfairly priced Chinese sinks, U.S.
19 producers cannot justify continued investment in that
20 tooling for such low volume sinks. Thus, despite our
21 long history and our efficiency the U.S. manufacture
22 of drawn stainless steel sinks will come to an end if
23 duties are not imposed. Elkay and other producers
24 will be forced to shift production to China and become
25 mere marketers of foreign produced sinks.

1 As Chinese imports have dominated the market
2 for high volume sink models due to their prices, our
3 production output has decreased significantly. As
4 explained in our questionnaire response, the continued
5 operation of one of our plants is particularly at risk
6 if production volumes are not increased. That plant
7 is designed to be highly efficient and run large
8 volumes. Take away the requisite volume and that
9 plant no longer makes economic sense.

10 I also want to emphasize the Chinese
11 producers have the current capability to supply the
12 entire U.S. market. I have attended the major China
13 Kitchen and Bath Show held in Shanghai each May for
14 the past six years, as well as the Canton Trade Fair
15 in Guangzhou on two occasions in recent years. An
16 increasing number of Chinese manufacturers have been
17 exhibiting at these shows.

18 Many of these producers are export oriented
19 and focus on the U.S. market. Their tooling is
20 dedicated to the sink sizes used in the U.S. market,
21 not the smaller sizes used in China. The existing
22 unused capacity in their plants is more than
23 sufficient to displace all U.S. production and to
24 supply the U.S. market many times over. I can also
25 attest to the vigorous cut throat competition that

1 exists in the Chinese home market. Facing such stiff
2 competition in their home market, Chinese producers
3 must rely on export markets to sell their products.

4 We are gratified for the preliminary duties
5 that have been imposed, and I am happy to report that
6 the preliminary duties have already had a positive
7 impact on our U.S. sink manufacturing operations.
8 While the Chinese built up significant inventories of
9 sinks prior to imposition of the additional tariffs,
10 those inventories are being used up. Some major U.S.
11 customers have been aware of this case and have been
12 anticipating the impact of high duties on imports from
13 China. As a result, we are regaining customers
14 formerly lost to Chinese imports.

15 Based on regaining these customers and the
16 prospect of final duties, we have begun to add
17 employees, which should allow us to add shifts in
18 Lumberton and Ogden. We have also approved additional
19 capital investment at the Lumberton plant to handle
20 the anticipated increase in volume. These volume and
21 employment gains are predicated on the duties staying
22 in place. If the duties are not maintained, these
23 newly hired employees will be let go and our
24 investment will be stopped.

25 Instead, with the resumption of volume

1 losses Elkay will be forced to close at least one
2 plant in the short run and additional plants
3 thereafter until we are left with no U.S.
4 manufacturing. If duties are continued, however,
5 Elkay is confident that fair pricing will be restored
6 in the U.S. market and that Elkay's U.S. manufacturing
7 operations will continue to serve the U.S. market. We
8 ask the Commission to give us the chance to continue
9 our long tradition of manufacturing in the United
10 States.

11 MR. DORN: I would just note that the
12 entirety of that first video that we showed the
13 snippet of is available to you through your staff.

14 MR. WHITTINGTON: Good morning. My name is
15 Mark Whittington. I'm the general manager for the
16 Traditional Plumbing channel at Elkay Manufacturing.
17 I joined Elkay in 1999 as the plant manager of our
18 Broadview sink manufacturing facility. In 2003, I
19 became director of Sink Operations and then Vice
20 President of Operations for all our plumbing
21 manufacturing facilities. In 2006, I moved to a
22 regional sales role, and two years ago I assumed the
23 responsibility for sales for our plumbing divisions
24 and products.

25 Drawn stainless steel sinks, whether they

1 are top mount, undermount or dual mount, are typically
2 used in a residential application. Although they make
3 up a much smaller part of the market, drawn stainless
4 steel sinks are also used in classrooms, health care
5 and commercial building applications.

6 Top mount sink, also called drop-ins, have a
7 rim around the bowl so that the sink can be dropped
8 into the countertop from above during the
9 installation. The result is the sink rim is visible
10 because it rests on top of the countertop. An
11 undermount sink is installed from below the countertop
12 and has a flat, trimmed edge that is mounted flush on
13 the underside of the countertop. In this installation
14 method the sink edge is not visible. A dual mount
15 sink has a rim that allows it to be installed from
16 above or below. This slide shows a dual mount
17 installed on top of the counter. This slide shows a
18 dual mount installed under the counter.

19 All stainless steel sinks, whether top
20 mount, undermount or dual mount, have exactly the same
21 characteristics with respect to being strong,
22 lightweight, flexible, tough and stain and temperature
23 resistant. The manufacturing processes are virtually
24 identical for all drawn sinks. This results in top
25 mount, undermount sinks and dual mount sinks being

1 available in virtually the same bowl, the same depths,
2 the same steel gauges and the same shapes.

3 The only difference between top mount,
4 undermount and dual mount sinks is the installation
5 method which reflects the consumer's personal choice.

6 This is no difference than consumer preferences for
7 other available options such as the number of bowls,
8 the depth of the bowl, the size of the bowl or the
9 drain location.

10 All drawn stainless steel sinks move through
11 the same channels of distribution. Top mount, dual
12 mount, undermount sinks are all sold through plumbing
13 wholesalers, big box retailers, builders, direct to
14 fabricators and over the internet. Top mount,
15 undermount and dual mount sinks are displayed and
16 advertised side-by-side in the same stores.

17 The next two slides show Elkay and Chinese
18 top mounts and undermounts displayed next to each
19 other at Home Depot. The next slide shows a Franke
20 undermount displayed next to a Chinese top mount at
21 Lowe's. The next slide shows Chinese top mounts and
22 undermounts offered next to each other at Menards, and
23 this slide shows top mounts and undermounts in the
24 same display at Ferguson Supply.

25 Top mounts and undermounts are also

1 displayed next to each other on the same websites.
2 Elkay knows of no store or internet site that
3 specializes in only top mount or undermount sinks.
4 Furthermore, we are not aware of any U.S. producers or
5 sellers that offer only top mount sinks or only
6 undermount sinks. Respondents claiming that top mount
7 and undermount sinks are not interchangeable would be
8 no different than claiming that single bowl and double
9 bowl sinks are not interchangeable or that sinks with
10 different bowl sizes are not interchangeable.

11 There's a broad price range for drawn
12 stainless steel sinks. Prices differ based on size
13 and quality. There is no price basis for
14 differentiating between top mounts, dual mounts or
15 undermounts. They are available at overlapping price
16 points.

17 Now I would like to talk about the domestic
18 market for drawn stainless steel sinks. Because drawn
19 sinks are sold primarily for residential kitchen
20 applications, demand is largely dependent on new home
21 construction and on residential kitchen remodeling.
22 The economic recession of 2008 and resulting housing
23 crash resulted in significant contraction in the U.S.
24 market for drawn stainless steel sinks. The
25 Commission's data, however, shows that the U.S.

1 consumption of drawn sinks increased almost 8 percent
2 from 2009 to 2011 and another 11 percent from interim
3 2011 to interim 2012.

4 The problem for us is that imports from
5 China, which were already significant in the
6 marketplace in 2009, increased for 57 percent from
7 2009 to 2011 and another 17 percent from interim 2011
8 to interim 2012. Chinese imports have not only taken
9 all the market growth we've seen over the last four
10 years, but have taken additional share from domestic
11 producers.

12 Clearly the growth of Chinese sinks has come
13 at the expense of the U.S. industry, whose sales
14 volume has decreased over this period of the
15 investigation. We are now starting to see improvement
16 in the leading indicators that we monitor with respect
17 to new housing starts, remodeling activity, consumer
18 confidence and unemployment.

19 Without the imposition of the duties,
20 however, this is only good news for the Chinese
21 manufacturers. A recovering and expanding domestic
22 market for stainless steel sinks is of no benefit to
23 Elkay and other domestic producers if unfairly priced
24 Chinese imports take the increase in demand by
25 underselling U.S. products as they did over the entire

1 period of this investigation.

2 The imports have gained market share by
3 underselling our sinks. China has been flooding the
4 U.S. market with sinks that are completely
5 interchangeable with the sinks produced here in the
6 United States. Chinese competitors have copied the
7 designs of Elkay's top selling models. In fact, one
8 internet resaler was so bold as to use a photograph of
9 an Elkay sink to advertise his Chinese knockoff.

10 We have brought two physical samples. The
11 sink to the left is a Chinese sink purchased from an
12 internet source that emphasizes low price. The sink
13 to the right is the comparable Elkay sink. These
14 samples show there is no meaningful distinction
15 between the Chinese and Elkay products except for the
16 major discrepancy in sales price.

17 I would like to emphasize that Elkay and
18 other producers are heavily represented within the
19 online distribution channel. The next three slides
20 show shots displaying Elkay product from websites of
21 eFaucets, the Home Depot and Google. Our products are
22 displayed next to Chinese products on over 30 internet
23 websites offering stainless steel sinks.

24 The domestic industry increasingly faces
25 Chinese sinks that are indistinguishable from ours in

1 the eyes of the consumer. The high level of
2 interchangeability means price is significant, and
3 that is a factor in the consumers' purchasing
4 decisions. Thus, distributors are driven to buy the
5 lower priced Chinese sinks because they know consumers
6 will not notice any difference between the imported
7 sink and the domestic sink. They also know that many
8 other distributors will sell Chinese sinks at
9 extremely low price points, and as a consequence
10 prices are driven lower and lower.

11 The growth we have seen in Chinese imports
12 is fueled by underselling in all market segments and
13 throughout the quality spectrum of drawn stainless
14 steel sinks. Chinese producers have expanded their
15 marketing activities over the period of this
16 investigation and have increased their presence at
17 many trade shows. For example, at the industry's
18 largest U.S. trade show, the Kitchen and Bath Industry
19 Show, the number of Chinese companies displaying sinks
20 increased from 13 in 2009 to 22 in 2012. In fact,
21 Chinese sinks are displayed within an entire pavilion
22 at the convention center now.

23 Chinese producers and importers of Chinese
24 sinks have also successfully targeted the home center
25 channel of distribution. In 2010, Elkay lost

1 significant volume at a major home center retailer
2 after being unable to meet the price quotes from the
3 Chinese supplier on comparable models and in fact 20
4 percent lower than Elkay's prices.

5 To maintain existing stock business with
6 major retailers, OEM and private label customers and
7 wholesale accounts, Elkay has been forced to
8 significantly lower our price and to refrain from
9 trying to get any price increases needed to cover
10 increased material cost. Since 2009, we have seen a
11 significant decrease in price points from an
12 increasing number of Chinese suppliers. This price
13 competition has forced Elkay to make the difficult
14 decision to either retain sales volume by
15 significantly lowering the prices to a point of
16 achieving negative profit margins or lose that sale
17 completely.

18 We cannot understand how the Chinese can
19 discount so deeply. The low prices can only be
20 possible by dumping and illegal subsidies. Because
21 drawn sinks from China have taken such a significant
22 share of the market, new lower priced benchmarks have
23 been established. The price pressures in the U.S.
24 market will increase, not abate, unless the duties are
25 imposed and sustained.

1 Elkay has already lost significant sales
2 volume and revenue due to the sink imports from China.

3 The only action that will allow domestic producers to
4 regain volume is if the Chinese are forced to compete
5 fairly. In fact, what has happened since the
6 preliminary tariffs were put in place clearly shows
7 the only reason Chinese imports were able to gain such
8 significant market share was because of unfair
9 pricing.

10 Because of this case, Elkay has been able to
11 quote and win back business with customers who were
12 buying Chinese sinks. Elkay was able to provide
13 competitive bids only because the purchasers were
14 confident that the Chinese pricing would go up because
15 of this trade case. This anticipated new business has
16 allowed us to increase employment levels at our
17 operations.

18 While Elkay domestically produced sinks have
19 replaced imports from China at some fabricators, the
20 vast majority of fabricators appear to be waiting
21 until the tariffs become final before switching their
22 business from the unfairly priced imports to domestic
23 products. In part, this could be due to
24 communications from Chinese producers indicating that
25 these duties will in fact be revoked in March.

1 If the tariffs are not maintained, all these
2 positive effects will go away. Instead, the situation
3 will worsen. Many Chinese producers have focused on
4 the U.S. market, which is highly attractive. Given
5 their tremendous production capability, without the
6 tariffs Chinese producers will continue to increase
7 shipments to the United States.

8 In conclusion, despite Elkay's well
9 established market presence and the quality sinks it
10 manufactures in a highly efficient manner, Elkay is
11 being forced out of the market by unfairly priced
12 imports from China. We've done everything we can to
13 compete more effectively, but the situation has become
14 untenable. The only action that has made positive
15 impact is the imposition of the preliminary tariffs.

16 If these are not maintained, Elkay and other
17 U.S. producers will be forced to close production
18 facilities and exit a business built on a 93-year
19 history. On behalf of the domestic industry and its
20 workers, Elkay asks this Commission to not let this
21 happen.

22 MS. HAMILTON: Good morning. My name is
23 Pamela Hamilton. I am employed by Elkay as Director
24 of National Accounts. I would like to address the
25 argument in the Respondents' prehearing brief that

1 Elkay ignored the granite countertop fabricators,
2 which forced importers to bring in undermount sinks
3 from China.

4 In 2006 and 2007, I assisted Elkay's sales
5 team in conducting metropolitan statistical analyses,
6 or MSAs, of a number of major U.S. markets. I was
7 asked to determine the flow of stainless steel sinks
8 in the United States and, more particularly, Elkay's
9 share of this product market to our different customer
10 segments, including plumbing wholesalers, home
11 centers, fabricators, builders and kitchen and bath
12 dealers.

13 The purpose of the studies was to determine
14 those customer segments where Elkay was losing market
15 share to others, including imports from China, and to
16 develop initiatives to regain lost share. I traveled
17 to 15 different metropolitan markets. While I called
18 on customers and potential customers in each category,
19 I focused on fabricators.

20 I asked over 600 fabricators if they sold
21 stainless steel sinks to their customers and, if so,
22 whose brand they carried. If the fabricator purchased
23 sinks through any of our wholesale partners, I thanked
24 them for their business. If not, I advised them of
25 Elkay's Revere link of sinks that was specifically

1 designed for our fabricator customers and that could
2 be purchased from Elkay either directly or through our
3 sales representatives.

4 Elkay had six regional sales managers who
5 were also charged, along with our independent sales
6 representatives, with conducting MSAs in 25 other
7 markets. In total, Elkay performed MSAs in 40 major
8 markets of the United States. The consistent finding
9 with respect to countertop fabricators was that Elkay
10 was losing a substantial volume of sink sales to
11 fabricator customers due primarily to fabricators
12 switching to significantly lower priced Chinese sinks.

13 As a result of the findings, in 2007 Elkay
14 placed me into a newly created position titled
15 Marketing Manager Special Markets. I focused 100
16 percent of my efforts on increasing Elkay's sales to
17 countertop fabricator customers, which primarily
18 required strategies to compete with the lower priced
19 Chinese imports.

20 Elkay utilized two lines of value priced
21 sinks, including top mount and undermount models, to
22 specifically supply the fabricators and compete with
23 sales of imports from China to the fabricators. The
24 Dayton line was targeted to fabricators through the
25 plumbing wholesale customers or buy/sell reps. That's

1 a sample of it there.

2 The Dayton fabricator program is available
3 exclusively to customers whose principal business is
4 the fabrication of countertops using kitchen and/or
5 bath applications. The Revere line was intended for
6 direct sales to fabricators initially either directly
7 or through independent buy/sell reps that called on
8 fabricators and later through a dedicated fabricator
9 website. That's an example.

10 And this is the dedicated website. We had
11 two actually, fabricatorsinks.com and reveresink.com.

12 To sign up as a customer and shop our fabricator
13 online store please click here, and it was password
14 protected for the fabricators.

15 Elkay also focused on obtaining orders from
16 large fabricators and stone suppliers that purchased
17 containers of sinks from China for distribution to
18 smaller fabricators. In addition to providing two
19 lines of value priced sinks and multiple avenues to
20 purchase these sinks, including internet direct, Elkay
21 also took other actions to compete with imports from
22 China.

23 These included advertising in major stone
24 fabricator trade magazines, participation in
25 fabricator industry trade shows, reducing order

1 turnaround time from seven days to 48 hours,
2 introduction of a dedicated faucet line, creating a
3 display program and development and distribution of
4 sales literature, which I brought a sample of.

5 These efforts did not yield the desired
6 results because Elkay was unable to match the
7 extremely low Chinese prices. In sum, the suggestion
8 that Elkay ignored countertop fabricators is
9 completely false. Thank you.

10 MR. SMITH: Good morning. My name is
11 Charles Smith. I'm the manager of pressing and
12 grinding operations at Elkay Plumbing Products Company
13 in Lumberton, North Carolina. I have worked at the
14 Lumberton facility since 1986. This plant
15 manufactures a wide diversity of top mount and
16 undermount drawn stainless steel sinks, as well as
17 dual mount sinks.

18 The Elkay facility is one of the largest
19 employers in Lumberton. As one of the oldest
20 manufacturers in the area, it is a vital part of our
21 community. Elkay has become particularly important
22 since textile manufacturing jobs have been lost. The
23 current unemployment rate in the Lumberton area is
24 12.8 percent. The manufacturing jobs provided by
25 Elkay are thus crucial to our community. Elkay offers

1 good wages and benefits. We are a preferred employer
2 in Robinson and surrounding counties. As a result,
3 the average length of employee tenure is 12 years.

4 During my 27 years at the Lumberton plant, I
5 have held positions ranging from sink finishing
6 operator to production manager. I have operated
7 hydraulic presses which draw the stainless bowls, as
8 well as finishing and grinding machines which apply
9 finishes to the drawn bowls.

10 The manufacturing process for top mount,
11 undermount and dual mount sinks is exactly the same
12 from beginning to end except for the formation of the
13 rim. The same workers, same presses and grinding
14 machines are used to produce top mount, undermount and
15 dual mount sinks.

16 Since 2002, I have held management positions
17 at Lumberton which have given me the opportunity to
18 supervise many of our hard working production workers.

19 Unfortunately, I have witnessed a significant
20 decrease in the number of production workers at the
21 facility. The decreases have come through elimination
22 of shifts, reduced hours and layoffs within shifts.

23 As a manager at the facility, it has been my
24 job to carry out these layoffs. During 2009 through
25 2012, we had to terminate 140 jobs at Lumberton. It

1 is very difficult to lay off workers who have provided
2 years of dedicated service to Elkay and need the job
3 to support their families and contribute to the local
4 community, but layoffs have been necessary in the face
5 of falling production volumes.

6 Volume is the single most important driver
7 of staffing levels at the plant. While we have
8 continued to reduce costs through lean manufacturing
9 initiatives, we cannot reduce costs sufficiently to
10 compete with dumped and subsidized product from China.

11 Lumberton is the largest of Elkay's sink
12 manufacturing facilities. It is significantly
13 underutilized, as are the other two facilities. If
14 the Commission does not provide trade relief, the
15 volumes at Lumberton and other Elkay plants will
16 continue to decline, and even more jobs will be lost.

17 This will affect not only the workers and their
18 families, but also our Lumberton community.

19 This is equally true for the communities
20 that also rely on manufacturing jobs provided at other
21 U.S. production facilities, whether they are Elkay
22 plants or those of our domestic competitors. I
23 respectfully ask for you not to let this happen. On
24 behalf of the Lumberton workers, I want to thank Mr.
25 Katz for bringing these trade petitions and

1 respectfully ask the Commission to keep the tariffs in
2 place.

3 MR. PARKER: Good morning. My name is Bud
4 Parker, and I am the Vice President and General
5 Manager for Retail for Franke Consumer Products. I
6 joined Franke in February of 2010. Previously I was
7 Vice President of Retail Americas for Fluidmaster.
8 I've spent 15 years in the retail channel of
9 distribution and a total of 20 years in the building
10 products industry with different companies in varying
11 capacities.

12 Franke Consumer Products is the U.S. entity
13 of Franke Kitchen Systems, a division of the Franke
14 Group based in Aarburg, Switzerland. Franke Kitchen
15 Systems' portfolio of products include sinks, faucets,
16 hot water dispensers, water filtration products, range
17 hoods and kitchen appliances. Franke has a number of
18 factories around the world that produce sinks, and we
19 are the largest stainless steel sink producer in the
20 world.

21 We have been producing sinks for over 100
22 years, and we've been producing stainless steel sinks
23 in the United States for over 50 years. We currently
24 supply and distribute stainless steel sinks through
25 DIY big box retailers, hardware distributors, plumbing

1 wholesale distributors, manufactured housing
2 producers, building, kitchen and bath showrooms,
3 fabricator suppliers and online resources. In short,
4 Franke serves all markets for stainless steel sinks in
5 the United States. Contrary to what Respondents have
6 argued, Franke aggressively pursues sales to
7 countertop fabricators and online sources.

8 Our factory in Ruston, Louisiana, produces
9 both undermount and top mount drawn sinks. From 2009
10 to 2011, we lost substantial market share to lower
11 priced imports from China. As a result, Franke's
12 production and shipments of drawn stainless sinks
13 decreased significantly, as can be seen in our
14 confidential questionnaire response. The effect of
15 the decrease in sales and production has forced us to
16 reduce employment, wages and benefits.

17 In order to maintain production volume in
18 the U.S., we have undertaken many initiatives,
19 including implementation of lean manufacturing
20 processes we call the Franke Lean Operating Way or
21 FLOW. Moreover, Franke has lowered prices where
22 feasible in order to maintain volume in the U.S.
23 facility, but it's difficult to succeed in lowering
24 prices sufficiently to maintain volume in an
25 environment where the prices quoted on sinks from

1 China are so low.

2 Indeed, sometimes the quoted prices are less
3 than our raw material cost. In 2009, Franke lost a
4 tremendous amount of business to Chinese sinks in a
5 line review with a major home improvement center. The
6 pricing for the Chinese sinks averaged nearly 30
7 percent less than our prices. As these home
8 improvement centers move a substantial volume of
9 product, this was a tremendous blow to Franke.
10 Similarly, in 2010 Franke was supplying a large
11 countertop fabricator and lost their business because
12 of price. The quoted price that took the business
13 from Franke was less than our raw material and
14 production cost.

15 Sink manufacturing is a capital intensive
16 process. We utilize multimillion dollar presses and
17 tools that cost from \$100,000 to \$300,000 per sink
18 model. At the current pricing level from imports,
19 investment in new tools and other production equipment
20 cannot be justified. Currently we have the excess
21 capacity to absorb a significant increase in volume,
22 which we hope will result from an affirmative ruling
23 by the Commission. We can easily and quickly add the
24 employees and material flow to service the U.S.
25 market.

1 In summary, we are proud of our
2 manufacturing capabilities, product offerings and
3 customer service. We ask that the Commission permit
4 Franke to continue its 50-year history of production
5 in the United States by addressing the injurious
6 effects of unfair imports from China. Thank you.

7 MR. JUST: Good morning. My name is Paul
8 Just. I'm the president of Just Manufacturing
9 Company. Our company is located in Franklin Park,
10 Illinois. It's been selling stainless steel sinks for
11 over 80 years. My brother and I are the third
12 generation of Justs to own and operate this business.

13 We have a company where it's quite common for
14 multiple generations of workers to work side-by-side
15 on the plant floor.

16 Just Manufacturing supplies a quality
17 product. We have an excellent reputation in the
18 marketplace for quality, customer service and
19 innovation. Our products are sold through all
20 distribution channels. We produce in a green
21 facility. We recycle and reclaim our steel, water,
22 oil, wood and paper byproducts. We provide a safe,
23 clean work environment and pay a fair middle class
24 wage, as well as health care benefits.

25 Our company produces top mount, undermount

1 and dual mount sinks using the same machinery, tooling
2 and labor force. Whether we produce a top mount or
3 undermount depends entirely on market demand.

4 Customers do not perceive top mount or undermount
5 sinks to be different products, but rather the same
6 products with two different mounting options. From a
7 sales standpoint, whether it be top mount or
8 undermount sink, these products are sold to the same
9 customers and follow the same distribution path.

10 As you can see from our confidential
11 questionnaire response, the imports from China have
12 had a significant negative impact on our business. We
13 had a much higher volume of sales as recently as 2008.

14 By 2009, the Chinese sinks had already penetrated a
15 huge portion of the U.S. market, and they have been
16 increasing in volume and market share since then.

17 The prices of Chinese sinks in our market
18 continued to hit new lows. I have personally seen
19 sinks being quoted that are below our production
20 costs. These low cost Chinese sinks continue to
21 infiltrate markets where they previously had not been,
22 such as health care, academic, hotel, motel and office
23 buildings.

24 The Chinese products being offered have good
25 quality. Not only are the Chinese offering 18-gauge

1 sinks at extremely low prices; sometimes they offer
2 even thicker 16-gauge for the same price. The imports
3 from China are readily available to all purchasers and
4 can be easily purchased over the internet.

5 Just Manufacturing has plenty of unused
6 production capacity and can quickly ramp up production
7 and respond to any increase in customer demand if we
8 can get the sales volume. Since the preliminary
9 duties were announced, we have seen a significant
10 amount of inquiries from customers who had previously
11 purchased Chinese sinks, but my impression is that
12 many purchasers are waiting to see the outcome of this
13 case before committing to purchase from a domestic
14 source.

15 I have a strong commitment to U.S.
16 manufacturing and have every intention of maintaining
17 Just Manufacturing as a U.S. producer. We have done
18 many things to ensure that our company is at the
19 cutting edge. We have invested in new equipment, new
20 processes and new IT to improve our production
21 efficiencies. We have designed both machinery and
22 processes that are unique to Just Manufacturing. Our
23 employees are highly committed and have done their
24 part in making us more efficient and competitive.

25 Unfortunately, the level of unfair imports

1 from China has reached a point where they jeopardize
2 the existence of Just, a highly efficient, innovative
3 producer. Thank you.

4 MR. DORN: Madam Secretary, how much time do
5 we have remaining?

6 MS. BELLAMY: You have 15 minutes remaining.

7 MR. DORN: Thank you. I'd like to highlight
8 a few points that have not been addressed by the
9 industry witnesses.

10 First, I think it's important to note that
11 Kohler, another producer of stainless steel sinks,
12 closed its facility in Arkansas at the end of 2009
13 because that plant was apparently underutilized. And
14 you would have thought that taking that U.S. capacity
15 out of the U.S. market might have provided a bump, a
16 positive benefit to the remaining U.S. producers. But
17 as you'll see in the data in your prehearing report,
18 that did not happen.

19 Second, Mr. Perry asserts the industry's
20 condition is simply a function of the business cycle.

21 That's a point he stressed in his prehearing brief.
22 He mentioned it again in his opening argument. But I
23 would submit that argument makes no sense, given the
24 undisputed facts that demand increased 7.7 percent
25 from 2009 to 2011 and increased another 11.8 percent

1 from interim 2011 to interim 2012.

2 The injury here was caused by the fact that
3 imports from China dramatically increased over the POI
4 from a base volume in 2009 that was already very, very
5 large and already had a large share of the U.S.
6 market. Imports from China jumped 57 percent from
7 2009 to 2011 and increased another 17.2 percent from
8 interim 2011 to interim 2012.

9 Imports from China increased their market
10 share from 40.1 percent in 2009 to 58.4 percent in
11 2011, and they increased market share from 58.5
12 percent in interim 2011 to 61.3 percent in interim
13 2012. That is, China grabbed 18.3 percentage points
14 of market share from 2009 to 2011 and another 2.8
15 percentage points of market share from interim 2011
16 through interim 2012. Mr. Perry's business cycle
17 argument does not square with these data trends.

18 Third, Mr. Perry's Bratsk argument should be
19 rejected. In fact, I have never seen a case that is
20 less worthy of Bratsk-like analysis than this case.
21 It is undisputed that China accounted for 85 percent
22 of total sink imports in 2011 and 87.1 percent of
23 imports from all countries in interim 2012. Mexico
24 was a distant second largest source of imports in 2011
25 when it accounted for only 8.9 percent of total

1 imports.

2 Moreover, the Commission's product specific
3 pricing data showed that imports from Mexico oversold
4 imports from China in all 90 possible comparisons and
5 that imports from Mexico oversold U.S. prices in 75 of
6 90 possible comparisons. In 2011, the average unit
7 value of imports from Mexico was 63 percent higher
8 than the AUV of imports from China, as shown on the
9 hearing slide.

10 Finally, no other country comes anywhere
11 close to China in terms of either production capacity
12 or exports of stainless steel sinks. As shown in the
13 prehearing report at VII-9, Mexico's exports to the
14 world in 2011 were equal to less than 7 percent of
15 China's exports to the world. China's exports to the
16 world in 2011, by the way, far exceeded U.S. sink
17 consumption in 2011. So any way you look at it, it is
18 clear that but for the imports from China, the
19 domestic industry today would have greater capacity,
20 greater market share, greater production, greater
21 employment and greater profits.

22 I would point out that the duties placed on
23 sinks in Canada -- you know, they had an antidumping
24 case that went to final last year and high duties were
25 placed on imports of sinks from China into Canada.

1 That did not result in a rush of other countries going
2 in to supply the Canadian market. And contrary to
3 what Mr. Perry speculates, it's not happening now. In
4 fact, to the contrary.

5 What's happening is that Elkay, Franke and
6 Just are receiving inquiries from customers they had
7 lost to Chinese imports. Those customers are now
8 coming back to them. And so while it's not required
9 that the Commission consider the future effectiveness
10 of an order, as you said in your preliminary
11 determination, I think in this case more than any
12 other it's pretty darn clear that the duties are going
13 to be effective in bringing back jobs and production
14 to U.S. plants.

15 So this is not a Bratsk-like case. I would
16 respectfully submit, Commissioner Pinkert, that it
17 really doesn't apply here because there are no
18 nonsubject imports that are price competitive with the
19 Chinese product. The triggering elements are not
20 there, even under your test. In applying the majority
21 test certainly this is not a candidate for a Bratsk-
22 like analysis, and in applying your normal causation
23 test the imports from China were a material cause of
24 the injury that's been suffered.

25 The last point I would make is just to

1 emphasize again the size of the Chinese industry. We
2 identified 90 Chinese producers in our petition, and
3 we provided information in our prehearing brief
4 regarding the capacity of six of those producers that
5 actually provide information on their websites. Just
6 for those six producers, China has more than
7 sufficient capacity to supply the entirety of the U.S.
8 market several times over.

9 Of course, no Chinese producers are
10 appearing at the hearing today, and the response rate
11 to the foreign producers' questionnaire is pretty
12 poor. Twenty-two Chinese producers hired counsel and
13 participated actively on the Commerce side of the
14 case, but only five of those producers bothered to
15 respond to this Commission's final questionnaire. But
16 there is plenty of public evidence and testimony from
17 these witnesses regarding the enormous size of the
18 Chinese industry and its threat to U.S. production and
19 U.S. jobs.

20 And one final point is the one that Mr.
21 Rogers made. I want to just emphasize this. The
22 tooling is specific to certain sink sizes for certain
23 markets. The tooling is different to serve the
24 Chinese market because they have smaller sized sinks.
25 That would be another reason, Commissioner Pinkert,

1 that this would not be a good candidate for a Bratsk
2 analysis.

3 That ends our affirmative presentation, and
4 we look forward to your questions. Thank you.

5 CHAIRMAN WILLIAMSON: Okay. Thank you. I
6 want to express the Commission's appreciation for all
7 the witnesses who have taken time from their
8 businesses to come today. It's very helpful to have
9 you here. This morning we begin our questioning with
10 Commissioner Pearson.

11 COMMISSIONER PEARSON: Thank you, Mr.
12 Chairman. I also would like to welcome all witnesses.
13 It's good to have you here today.

14 One of the interesting things about doing a
15 case involving a consumer product about which I know
16 something is that as I go through the preparation I
17 realize how little I know, and I will demonstrate that
18 amply here in the minutes to come.

19 First, the important stuff. Mr. Katz,
20 what's the origin of the name Elkay? Does it come
21 from the initials of Leopold Katz perhaps?

22 MR. KATZ: It's a combination of the first
23 and last -- of the names of the founders. There was
24 actually a nonfamily member included in the original
25 partnership when the company started, and he left

1 after a period of two years for personal reasons. He
2 came from a Scandinavian country. I'm not sure just
3 what.

4 His name was Ellef Robarth, and of course my
5 dad's name was Louis Katz and my grandfather was
6 Leopold Katz, so they combined the E-L from Ellef with
7 the K-A-Y being the spelling of the first letter of
8 the last name Katz, and that was the origin of Elkay.

9 COMMISSIONER PEARSON: Okay. Well, thank
10 you. I thought there might be a story in there
11 somewhere.

12 MR. KATZ: Most people would make the
13 assumption of the initials though, just as you did,
14 that it was the L and the K spelled out.

15 COMMISSIONER PEARSON: Okay. Great. Mr.
16 Whittington, you made reference to the two sinks that
17 are in front of us here. Could you clarify? Which is
18 the Elkay sink and which is the Chinese sink? From
19 our vantage point, the one to your right is labeled
20 No. 1, and the one to your left is labeled No. 2.

21 MR. WHITTINGTON: The sink to your right
22 would be an Elkay sink. The sink to your left would
23 be the Chinese sink.

24 COMMISSIONER PEARSON: Okay. And can you
25 clarify? Are these undermount sinks or dual mount

1 sinks, or what kind of sinks are we looking at other
2 than drawn stainless steel?

3 MR. WHITTINGTON: Those are both undermount
4 sinks.

5 COMMISSIONER PEARSON: Okay. How would they
6 look different if they were dual mount sinks? Would
7 the flange around the bowls be wider?

8 MR. WHITTINGTON: The flange may be a little
9 bit wider. You would see a much more rounder edge to
10 it, so the sharpness would be taken off. The rim
11 might be slightly tapered. It could be. That would
12 be the difference.

13 The idea is that the sink has a flat enough
14 rim where it can sit on the countertop or, quite
15 frankly, be mounted from the bottom and glued into the
16 countertop.

17 COMMISSIONER PEARSON: Okay. And if these
18 were top mount sinks the flange would be more
19 pronounced and more --

20 MR. WHITTINGTON: You would see a much more
21 pronounced top. In fact, there would be quite a bit
22 of structure to the rim, and it would be very easy to
23 see.

24 COMMISSIONER PEARSON: Okay. You had
25 mentioned a difference in sales price between these

1 two sinks. Did you let us know what that difference
2 is?

3 MR. WHITTINGTON: I believe it was in the
4 preliminary, was it not, Joe?

5 MR. DORN: I'll have to check on that,
6 Commissioner. I apologize. I don't remember. But I
7 think we'll provide that postconference if we can find
8 it. Posthearing.

9 COMMISSIONER PEARSON: Okay. And then let
10 us know where the pricing is.

11 MR. DORN: Yes.

12 COMMISSIONER PEARSON: Is it the price that
13 you sell to the installer or the purchaser, or is it a
14 consumer price?

15 MR. MCGILL: Commissioner, in our prehearing
16 brief we provided four examples of comparable top
17 mount and undermounts with their prices. We can
18 provide more information if the staff would like, but
19 we provided four examples in the prehearing brief.

20 COMMISSIONER PEARSON: Well, just for the
21 ones that we have here.

22 MR. MCGILL: Oh, just for these? Okay.

23 COMMISSIONER PEARSON: Yes. This is what
24 we're looking at, and this is what I'm trying to
25 understand. So is there a difference in the

1 undercoating between these two sinks, or are they
2 identical?

3 MR. WHITTINGTON: Mr. Rogers maybe will
4 comment better on that as the Operations person from
5 China.

6 MR. ROGERS: The basic difference is the
7 color of the undercoating. The content of the base
8 material is virtually the same.

9 COMMISSIONER PEARSON: Okay. And what is
10 the base material that serves as the undercoat?

11 MR. ROGERS: In some cases it's a
12 fiberglass, sprayed on fiberglass material. It used
13 to be a sprayed on asbestos material back in the old
14 days, which is no longer acceptable, and in many cases
15 it's a rubberized compound to increase sound
16 dampening.

17 COMMISSIONER PEARSON: Okay. But these
18 don't have the rubberized treatment?

19 MR. ROGERS: No. I think that those are
20 more of a standard. Those probably have some type of
21 a fiber base.

22 COMMISSIONER PEARSON: And do some types of
23 undercoating also have an influence on condensation?

24 MR. ROGERS: Well, that's a principal reason
25 for the undercoating to begin with is to prevent --

1 it's twofold. Number one, it prevents condensation.
2 Number two, it has a sound deadening effect because
3 when you drop something in your sink you don't want it
4 to sound like a bell, so it does attenuate sound.

5 COMMISSIONER PEARSON: Okay. And is there
6 any difference in the undercoating that's used in the
7 domestic industry and by the Chinese producers? I
8 mean, are there some undercoatings that some companies
9 use that others don't, for instance?

10 MR. ROGERS: We all probably use a different
11 supplier, but it's the same basic goop, to use the
12 technical term. Sorry. But it's the same basic
13 stuff, and it really doesn't differ substantially
14 globally. Now, there are also some petroleum-based,
15 almost looks like a sprayed on, sticky tar, but those
16 are not very widely accepted.

17 COMMISSIONER PEARSON: Okay. But all of
18 these undercoatings are sprayed on, aren't they?

19 MR. ROGERS: Yes, they are.

20 COMMISSIONER PEARSON: Okay. Shifting gears
21 a bit, Home Depot in its submission to the Commission
22 indicated that the subject imports that they were
23 purchasing included -- I'm advised that I'm getting
24 into confidential material, which I will avoid.

25 Okay. Then let me ask a general question.

1 In order to install a sink, does one need sink clips?

2 Sink install clips?

3 MR. ROGERS: If it's a top mount, yes, you
4 are advised to use sink clamps. Some people don't.
5 It's an installation -- whoever is installing the
6 sink, and this is an issue sometimes, but the
7 preferred method that we recommend is clips. In some
8 cases a countertop fabricator or perhaps the plumber
9 will glue the sink in, which you're not going to get
10 that thing back out again.

11 We also provide clips for our undermounts,
12 whether it's installed in a manmade material or
13 granite, but the majority -- we believe that the
14 majority -- of the industry glues the sink in because
15 it's faster. You have to install clamping blocks in
16 granite, which is time consuming for the installer.
17 Many times they simply glue it in.

18 COMMISSIONER PEARSON: Okay. So the issue
19 of the clips themselves, not a major difference
20 between what could be provided by the domestic
21 industry and what could be provided by Chinese
22 producers?

23 MR. ROGERS: Absolutely not. In fact, our
24 mounting method is widely copied by the Chinese.

25 COMMISSIONER PEARSON: Okay. And are the

1 clips an expensive item, or are they relatively cheap?

2 MR. ROGERS: Cheap. They are cheap.

3 COMMISSIONER PEARSON: It's a metal clip, is
4 it, a carbon steel or something?

5 MR. ROGERS: It's a metal clip and a screw,
6 so there's a screw that goes through the clip and
7 attaches to the sink. You tighten down the screw. It
8 draws the sink. If it's a top mount it draws the sink
9 to the countertop. And the Chinese method is almost
10 interchangeable.

11 COMMISSIONER PEARSON: Okay. Well, thank
12 you for answering my somewhat scattered and
13 miscellaneous questions. Before I can do any further
14 damage, I will pass the microphone on to the next.
15 Thank you, Mr. Chairman.

16 CHAIRMAN WILLIAMSON: Thank you.
17 Commissioner Aranoff?

18 COMMISSIONER ARANOFF: Thank you, Mr.
19 Chairman. I want to welcome all the witnesses here
20 this morning. We appreciate your taking the time away
21 from your business to answer our questions.

22 Can someone on the panel describe the role
23 of private label products in the market? I'm
24 interested in whether all domestic producers offer
25 private label products, who sells those products and

1 how common it is for a domestic producer's branded and
2 private label products to compete side-by-side at the
3 same retailer or distributor.

4 MR. WHITTINGTON: There are quite a few.
5 Mark Whittington. There are quite a few people that
6 have moved to the private label brand. They look at
7 that as an advantage in many of their showroom
8 applications, in their applications if they're going
9 after a large fabricator or, quite frankly, a builder
10 in the area.

11 There was certainly challenges whether a
12 brand and a private label brand could coexist, and in
13 fact we have proven that you can manage your brand and
14 the private label. It has become more and more
15 popular to have a private label sink, quite frankly,
16 and in some cases does not even have a brand to it to
17 compete in the marketplace.

18 MR. DORN: Does Elkay offer private label?

19 MR. WHITTINGTON: We absolutely do offer a
20 private label sink and work specifically with some of
21 our significant customers with that.

22 COMMISSIONER ARANOFF: Okay. Who are the
23 types of distributors or retailers who are selling
24 private label products?

25 MR. WHITTINGTON: For instance, in my

1 channel that I participate in in the traditional
2 channel we do a private label for Ferguson
3 Enterprises. We do a private label for Hajoca. We do
4 a private label for Morrison Supply in Texas and
5 several others.

6 COMMISSIONER ARANOFF: Okay.

7 MR. ROGERS: Commissioner, specifically
8 there are private label offerings in virtually every
9 channel. You'll find private label sinks in Home
10 Depot under their I believe it's Glacier Bay. That's
11 a private label brand. You'll see them in Lowe's.
12 Most channels you will find a private label offering.

13 MR. JUST: Paul Just. I'd just like to
14 state as well that we've been providing private label
15 for many, many years. We sell through other brands,
16 and we also will fabricate sinks without any labeling
17 on them at all, just kind of a generic as well.

18 MR. PARKER: In addition -- Bud Parker here
19 -- we do provide private label products into all the
20 channels of distribution.

21 COMMISSIONER ARANOFF: Okay. Thank you.
22 One of the arguments that the Respondents make -- and
23 I don't want to misstate their argument, but they can
24 correct me this afternoon if I have it wrong -- is
25 that importers from China created additional demand

1 for sinks in the U.S. market that would not have
2 otherwise existed I guess by exploring different
3 channels of distribution.

4 Now, I've obviously heard your testimony
5 that you are in all these channels of distribution and
6 so that's not the question that I wanted to ask you,
7 but I did want to ask is it possible to create new
8 demand for stainless steel sinks by either taking it
9 away from other kind of sinks or by causing consumers
10 to have a sudden desire to go buy new sinks, or are
11 you totally dependent on basically the trends in the
12 housing market?

13 MR. ROGERS: Substitution is feasible, but
14 creating new demand is very difficult with a product
15 like a sink. You've got one in your kitchen, and if
16 there's a hole in it you have to replace it. If you
17 move or you remodel, you're going to replace that
18 sink.

19 The only way to create demand would be if
20 you have a second kitchen or if you decide to put in a
21 bar bowl or you decide to put in some type of
22 hospitality type sink. So the most often is
23 substitution.

24 Stainless steel is a dominant material, has
25 been for years, so the market creation that I believe

1 the Respondents are talking about is simply price
2 substitution, driving our sinks out, putting theirs
3 into existing distribution via the price mechanism.
4 That's what has happened. As far homes containing
5 more sinks, no. We have not seen that. It's a pretty
6 static commodity that sits in a kitchen.

7 COMMISSIONER ARANOFF: The stainless steel
8 sink is basically the standard in a U.S. kitchen. I
9 know that if you are an HGTV addict like I sort of am
10 you see discussions of all kinds of other sorts of
11 sinks, but have you seen a change over the period that
12 we're looking at in terms of the market share of
13 stainless steel sinks versus other materials, sinks
14 made out of other materials in the U.S. market?

15 MR. ROGERS: No, Commissioner, we have not.
16 We see there's a component in the marketplace that is
17 nonstainless steel. In former times that was
18 porcelain enamel. Cast iron is popular. You even see
19 some acrylics at times and for a while granite.
20 Manmade materials have come, but it's largely been at
21 the share of the other alternatives. The stainless
22 share has remained essentially static for a long time.

23 COMMISSIONER ARANOFF: How large a portion
24 of U.S. demand or consumption of stainless steel sinks
25 goes through countertop fabricators approximately?

1 MR. ROGERS: Excuse me, Commissioner. Our
2 best estimate -- this is Steve Rogers again. Our best
3 estimate is well under 25 percent, and again I want to
4 emphasize that's an estimate based upon some pretty
5 unreliable data.

6 COMMISSIONER ARANOFF: Understood.

7 MR. DORN: Commissioner, that was a number
8 that was mentioned by importers at the staff
9 conference. We reviewed it, and we don't really have
10 any better view of it than they do. They suggested 25
11 percent. There's no industry publications, and nobody
12 tracks that that we're aware of.

13 COMMISSIONER ARANOFF: Okay. Do you think
14 that fabricators have had about the same share of the
15 market for an extended period of time? Is this a
16 fairly recent phenomenon? I gather it's related to
17 the popularity of granite countertops.

18 MR. ROGERS: It is related to the rise in
19 the popularity and the reduction in price of granite,
20 which precedes the period of investigation. When
21 granite started to come again from China and other
22 countries such as Brazil, the prices began to drop.

23 The undermount sink market was launched by
24 us in the '90s to meet that demand for the granite
25 market and a corresponding falloff in laminate

1 countertops. So it predates the period of
2 investigation, but it was let's say '90s to early
3 2000s when granite took off.

4 COMMISSIONER ARANOFF: Okay. Can you just
5 walk me through? So I want to make sure that I
6 understand all the possible channels of distribution
7 through which stainless steel sinks can move between
8 when they leave your factory and when they end up in a
9 home or other final site of installation.

10 I'm trying to understand how many levels of
11 distribution they go through and also whether that's
12 different for the domestic versus the imported
13 product.

14 MR. WHITTINGTON: This is Mark Whittington.
15 The distribution channels are this. They leave our
16 warehouse and will go to a large plumbing wholesaler
17 like a Ferguson. They can leave our warehouse and go
18 to a large retailer supplier like a Home Depot,
19 Menards or Lowe's.

20 They can leave our warehouse and end up at
21 an Ace or a True Value. They can leave our warehouse
22 and go to an internet supplier, who in many cases that
23 we've seen are being supplied by wholesalers. They
24 can leave our factory and go directly to a fabricator.

25 Those are the primary channels. If I've

1 missed one please jump in, but those are the primary
2 channels that our sinks will go through, very similar
3 to what we see from the Chinese.

4 COMMISSIONER ARANOFF: But from those places
5 where you would initially -- your initial customer,
6 there could be another layer of distribution between
7 that retailer or distributor and the ultimate
8 consumer?

9 It could be sold from there to a smaller or
10 to a contractor or to somebody else before it gets to
11 the consumer, or is there always only the one step
12 between you and the sink being installed?

13 MR. WHITTINGTON: Absolutely, ma'am. Quite
14 frankly, it could go from a home center right to a
15 consumer. Certainly we've seen small builders and
16 remodelers walk into a home center and buy the sink
17 and do the installation.

18 If it goes to a plumbing wholesaler like a
19 Ferguson it will likely end up on a commercial job or,
20 quite frankly, the plumber will come to them to buy
21 their product and get their product through those, so
22 there's a number of chains of distribution, but that
23 certainly does not get to the final consumer. Those
24 folks are providers to the people that will take it to
25 the final consumption.

1 COMMISSIONER ARANOFF: So the thing that I'm
2 trying to figure out is whether there are any channels
3 in which by purchasing the imported product instead of
4 the domestic product you've cut down on the level of
5 distribution and therefore a level of markup.

6 MR. WHITTINGTON: Again, we play in the
7 channels that have been deemed how we go to market.
8 We certainly work with suppliers to take as much out
9 of the channel as possible to get to the final
10 consumer, and in fact in many cases the plumber is no
11 longer even associated with the sale because it goes
12 right from say a Ferguson showroom to the consumer
13 because the plumber has been taken out of that
14 decision. So the channel has certainly been squeezed
15 down.

16 MR. ROGERS: This is Steve Rogers. Perhaps
17 this will help. Our most efficient channel for
18 distribution with the least hands touching it is the
19 same as what the Respondents are claiming.

20 Instead of the Chinese sending in
21 containers, Elkay sends things to an internet
22 distributor and from there you can click on a shopping
23 cart and you can buy a sink. That is the same. We
24 have the same offering, lean offering, that they do.

25 So we serve all channels plus what they are

1 responding as the leanest channel, which is
2 manufacturer to internet provider, or in their case
3 they call it a countertop fabricator. We have the
4 same offering, the same channel of distribution, and
5 in fact on our Revere site if you register with us, a
6 manufacturer's website, you register with us you can
7 click on a shopping cart and buy a sink, which is even
8 leaner still.

9 So the claim that they're cutting out and
10 making things more efficient, we have the same thing
11 and maybe even one up because as a manufacturer if you
12 sign up with us through our Revere site you get it
13 direct, straight from us.

14 COMMISSIONER ARANOFF: Thank you very much
15 for those answers.

16 MR. DORN: Commissioner, I think this is
17 clear, but just to make certain. I mean, the Chinese
18 are not selling directly. You can't go to a Chinese
19 website and do the shopping cart and buy directly from
20 the Chinese. So they're providing a product to an
21 internet source that you can go in and use the
22 shopping cart to buy from.

23 But the competition is one-to-one, Elkay
24 selling that internet source and the Chinese selling
25 that internet source. I don't understand the argument

1 of where the distribution is being shrunk by their
2 method. It's the same. If you go back to the
3 manufacturers, it's exactly the same.

4 COMMISSIONER ARANOFF: Okay. Thank you very
5 much. Thank you, Mr. Chairman. Sorry for going over
6 my time.

7 COMMISSIONER WILLIAMSON: Commissioner
8 Pinkert?

9 COMMISSIONER PINKERT: Thank you, Mr.
10 Chairman, and I thank all of you for being here today
11 to help us to understand these issues. I do have a
12 couple of questions for Kohler for the posthearing and
13 I'm just going to put them out now in case anybody is
14 listening who might represent Kohler.

15 First of all, might Kohler get back into
16 U.S. production of this merchandise in the near
17 future? Secondly, if Kohler were to get back into
18 U.S. production in the near future, would it be
19 limited to higher end, higher priced products along
20 the lines that Kohler described in its prehearing
21 submission?

22 With that, I will turn to questions for this
23 panel and I want to begin with a question about
24 pricing of top mount and undermount sinks. I take
25 your point that the pricing ranges overlap, but if you

1 take a look at the unit value data, is it reasonable
2 to conclude that undermounts are generally priced
3 higher than the top mounts?

4 MR. ROGERS: Steve Rogers.

5 COMMISSIONER PINKERT: I can't get into the
6 details of that unit value data, but just as a general
7 matter.

8 MR. ROGERS: We are -- I can only speak for
9 Elkay. We offer comparable value at all price points,
10 whether it's undermount or top mount and it's, it can
11 be almost one for one as far as, you know, the range
12 of pricing.

13 So, in our Dayton line we have undermounts,
14 Elkay line we have undermounts. So we offer top and
15 undermount price point at various levels of product.
16 So to say that undermounts are, in general, more
17 expensive to the consumer than top mounts, I don't
18 know that, but, Mark?

19 MR. WHITTINGTON: Mark Whittington. I would
20 believe not. Again, the pricing is very comparative
21 based upon how big the bowls, what the design is, what
22 the application is. Again, the price points cross
23 over the top of each other based upon application.

24 MR. DORN: Commissioner Pinkert, of course,
25 you know, I'm constrained in terms of addressing this

1 question because I think the data you're referring to
2 are all confidential, but our main point from a like
3 product perspective is is there's, you know, you can't
4 use price as a clear dividing line, that there is
5 substantial overlap in the pricing of undermounts and
6 top mounts, and I don't know what you do with dual
7 mounts. I mean if you want to talk about a product
8 continuum, you go from top mount, to dual mount, to
9 bottom mount, and I don't know where, or I haven't
10 heard from Mr. Perry where he would draw the line.

11 Also, I'm not sure that like product's
12 really at issue here. It was, you know, a major point
13 for the Respondents at the staff conference and they
14 persuaded the Commission, over our objection, to
15 collect data separated out for undermount sinks, but
16 yet in their prehearing brief there was not word one
17 about the finding of separate like product, I didn't
18 hear anything from Mr. Perry with respect to like
19 product in his opening statement, so I think maybe
20 they concede now that it's all one like product, but
21 we'll have to hear their presentation later today.

22 COMMISSIONER PINKERT: Thank you. Now,
23 without getting into actual numbers again, I'm curious
24 as to whether the panel would say that it makes sense
25 that the price effects of the subject imports during

1 the period were more muted than the volume effects
2 during the period.

3 Again, we can't talk about specific numbers
4 here, but would it make sense, from a business
5 perspective, that you would have taken more of a hit
6 in terms of volume than you would in terms of pricing
7 from the subject imports during the period?

8 MR. ROGERS: I believe, based upon the way
9 the case has transpired, we would say that the price
10 was the preeminent factor that affected the volume.
11 So, in other words, and we've said this in our
12 submissions, we chased as long and as hard as we could
13 the Chinese downward. We reached a point where that
14 was no longer feasible, and that's why we came to the
15 Commission.

16 So I believe that this was predicated on the
17 base that in some cases, as Mr. Just has testified, we
18 were actually seeing quotations from the Chinese below
19 the cost that we could secure material. So I think
20 that was the, I believe that price was the preeminent
21 factor, but volume followed. It was, they were
22 correlated.

23 MR. DORN: I would add to that that there is
24 good evidence in the confidential record regarding
25 lost revenues and significant admissions with respect

1 to the impact of the imports and the lowering prices
2 received from domestic suppliers. So I think there is
3 both clearly a volume effect and a price effect, but,
4 you know, I'd say that there's a, that the
5 underselling is manifested perhaps more in lost market
6 share than say price depression.

7 COMMISSIONER PINKERT: Well, of course,
8 responding to Mr. Rogers, I would say that you could
9 have a situation where you've got a lot of
10 underselling and the impact on the domestic industry
11 shows up more in terms of market share, lost sales and
12 lost volume than it does in terms of price effect, so
13 you could have a price gap and the price effects might
14 be muted, and the reason why that might be the case,
15 just speaking off the top of my head, would be where
16 the domestic industry decides that it's going to hold
17 the line on pricing and then the impact would show up
18 in a different way.

19 So I'm trying to get an idea, if, in fact,
20 that's what happened, when did that happen? You say
21 that you reached a point where you couldn't continue
22 to chase prices. When did that happen?

23 MR. ROGERS: I would say it's within the
24 2000, it's within the period of investigation when
25 that happened. 2010, '11, into '12 is when that

1 happened.

2 COMMISSIONER PINKERT: Perhaps for the
3 posthearing, Mr. Dorn, if you could take a look at
4 that. I'm just trying to get a sense of what the
5 timing was and whether that helps to explain any
6 difference in the intensity of the impact with respect
7 to price versus with respect to volume.

8 MR. DORN: I understand the question. I'll
9 be glad to do that.

10 COMMISSIONER PINKERT: Thank you. Now,
11 looking at the situation in interim 2012, I believe I
12 can say that there was an improvement in operating
13 income during that period for the domestic industry.
14 Can you tie that to the impact of the preliminary
15 duties or is it tied to other factors in the
16 marketplace?

17 MR. DORN: We talked a little, a good bit
18 about this yesterday and how to respond to this
19 question given the confidential data. Do you want to
20 take just a summary shot at it? But we'll definitely
21 need to address this in the posthearing brief.

22 One other thing I noticed, we made a
23 submission, I can't remember, a couple days ago with
24 the financial data for calendar year or fiscal year
25 2012 for Elkay. Obviously, your POI ends in

1 September. As we explained, that does not capture
2 year end adjustments, so I would not pay as much
3 attention to the interim data for Elkay for 2012 as
4 the full fiscal year data which includes significant
5 year end adjustments. So that might temper your view
6 of this issue.

7 MR. ROGERS: I can't in public answer that
8 any better than that. In postsubmission we will show
9 that full year view is much different than the third
10 quarter view.

11 COMMISSIONER PINKERT: Thank you very much.
12 With that, I turn it over to my next colleague.

13 COMMISSIONER WILLIAMSON: Okay. Thank you.
14 Commissioner Johanson?

15 COMMISSIONER JOHANSON: Thank you, Mr.
16 Chairman. I'd also like to thank all of you for
17 appearing here today. This first question is for Mr.
18 Rogers. First of all, thank you for showing us that
19 film at the beginning of production of Utah plant. I
20 thought it was quite informative, as well as the other
21 production video that you showed.

22 You stated that Elkay was able to retain its
23 employees in Utah due to increased output brought
24 about by mechanization. The plant was built in 2005,
25 is that correct?

1 MR. ROGERS: Yes, Commissioner, it was built
2 in 2005. We commissioned it in February of 2006.

3 COMMISSIONER JOHANSON: Okay. Why did Elkay
4 invest significant resources in a new plant at that
5 time? I realize that housing prices were on the way
6 up probably in 2005 and that housing starts were
7 probably up as well, but from what you recall, with
8 the U.S. capacity utilization rate high at that time,
9 is that one reason you decided to build the plant?

10 MR. ROGERS: Mr. Commissioner, it was higher
11 than it is now or during the period of investigation.

12 Our old Utah plant, which looked, the processes that
13 we used in that plant looked very much like what you
14 saw in the Broadview facility video, so the capacity
15 of the old plant was approximately 400,000 units per
16 year.

17 We were looking for a lower, based upon some
18 of the pressures that we were even at that time
19 beginning to feel from Chinese imports, we felt that
20 we had to reduce our production cost so we built a new
21 facility in Ogden because we wanted to retain our
22 workforce. It's a very senior, very good workforce.
23 We didn't want to leave them. We actually passed up
24 significant financial incentives to keep it in Ogden.

25 Because of the way that facility was laid

1 out with automated presses and two production lines,
2 we had to increase our employment. The first year
3 full volume from that plant was slightly more than the
4 volume from the old facility, and I'm going from
5 memory here, but I believe it was approaching half a
6 million units. We really did hit the peak of that
7 facility in 2007, followed by a dramatic fall off in
8 volume.

9 So the Ogden facility was built to lower our
10 unit costs, and it's clearly stated in our business
11 case for that facility that we wanted to lower our
12 unit costs to be more competitive with Chinese
13 imports. Even back in '05 and '06 we were worried
14 about that.

15 COMMISSIONER JOHANSON: What I'm getting at
16 here is could the opening of that plant help lead to
17 not saturization in the market, but there was more
18 product in the market at that time, correct?

19 MR. ROGERS: Had we utilized its full
20 capacity, and had the projections at that time stayed
21 as we thought they were, yes, it could have, but it
22 was more or less built to meet what we thought at that
23 time was an increase in demand.

24 COMMISSIONER JOHANSON: Okay. So you didn't
25 see a significant up tick in production.

1 MR. ROGERS: We did not.

2 COMMISSIONER JOHANSON: Okay. So I guess
3 the housing crisis, or the market dropped in 2008 and
4 so you had maybe two years of high production.

5 MR. ROGERS: Commissioner, we had one good
6 year on that facility and we've been waiting for it to
7 fully depreciate since.

8 COMMISSIONER JOHANSON: Okay. Thank you for
9 your response. Actually, Mr. Rogers, my next question
10 is for you as well. You stated that you attend
11 kitchen shows annually in China.

12 MR. ROGERS: Yes.

13 COMMISSIONER JOHANSON: Since you've spent
14 speaking with Asian producers, are you familiar with
15 growth demand in Asia since that is one part of the
16 world where there has been, at least in China and some
17 other countries, there has been some fairly healthy
18 economic growth compared to the rest of the world.

19 MR. ROGERS: Yes, Mr. Commissioner, I am
20 very familiar with it. We have a facility in China,
21 as you are well aware from our preliminary submission.
22 Chinese demand has begun to flatten.

23 One of the key drivers are the government's
24 new rules on multiple housing ownership. So the
25 government has, because there is a tremendous housing

1 bubble that is still developing in China, the
2 government instituted rules to limit multiple home
3 ownership, and specifically in the big cities,
4 Beijing, Shanghai, Guangzhou.

5 Now, there are ways around that and we're
6 starting to discover that there is some creep in
7 demand in it, but what we have seen is that Chinese
8 domestic demand did slow, but we anticipate that it
9 will start to increase starting in 2014. That's what
10 our projections show. That's largely because we
11 believe that there is still a lot of speculative
12 housing that's still taking place in China.

13 So we do anticipate that demand will
14 continue to grow this year. We're thinking it's
15 probably in the six to six and a half percent range in
16 China.

17 COMMISSIONER JOHANSON: When you stated a
18 moment ago that the new Chinese laws restrict multiple
19 ownership, do you mean, is that like, for example, one
20 individual owning more than one home? Is that what
21 the law addresses?

22 MR. ROGERS: Yes, Mr. Commissioner. In some
23 cases, Chinese will buy two and three homes.

24 COMMISSIONER JOHANSON: Is that for
25 speculatization?

1 MR. ROGERS: For speculative reasons only.
2 Those home, one of the big issues the Chinese have, of
3 course, is the housing bubble and the fact that they
4 have low occupancy rates, and therefore, they're not
5 getting the revenues. So with the turn down in the
6 global economy, they're having trouble servicing their
7 mortgage debts.

8 COMMISSIONER JOHANSON: Okay. Thank you.
9 This is to anyone on the panel who might have an
10 answer to this question. Petitioners have stated that
11 Chinese product is essentially a knock off, or some
12 Chinese product is essentially a knock off of U.S.
13 product. I believe Elkay made that statement. Could
14 you, one of you describe to me what is the situation
15 with Mexican imports? Is the Mexican product somewhat
16 different from what you produce?

17 MR. ROGERS: The Mexican product that's
18 brought in for the, in the import data is principally
19 Kohler. Kohler's plant, the plant that they shut down
20 was in Searcy, Arkansas, their plant is in Reynosa,
21 Mexico, so a lot of that import data is Kohler's
22 product coming into the U.S. Those are U.S. --

23 COMMISSIONER JOHANSON: Okay. So there's no
24 incentive to make a knock off product.

25 MR. ROGERS: No.

1 COMMISSIONER JOHANSON: Yes. If they were,
2 they'd I guess be in trouble anyway.

3 MR. ROGERS: Yes, sir.

4 COMMISSIONER JOHANSON: Okay. From -- okay.

5 MR. ROGERS: Yes, sir, they would be.

6 COMMISSIONER JOHANSON: Okay. I understand.

7 Well, thank you. That helps out quite a bit.
8 Actually, talking about Mexico for one more minute, I
9 know the Mexican import penetration is fairly low
10 compared to China. Is that driven, in part, by the
11 state of the Mexican economy, which is doing at least
12 better than the U.S. economy?

13 MR. ROGERS: We have not seen, the Mexican
14 economy is, as you have said, Mr. Commissioner, more
15 robust, or has been than the U.S. market. Our Mexican
16 facility in San Luis Potosi produces specifically for
17 the Mexican and the Central American market, and they
18 produce sinks in 22 and 24 gauge, considerably thinner
19 than the sinks in front of you. We do not currently
20 produce 18 gauge, which is the U.S.-accepted product.

21 So I am not aware of any other Mexican
22 producers that are importing 18 gauge product into the
23 U.S. currently.

24 MR. DORN: As I understand it, Kohler is the
25 only, has the only plant in Mexico producing 18 gauge,

1 which would be appropriate for serving the U.S.
2 market.

3 MR. ROGERS: The only one to our knowledge.
4 Perhaps Mr. Parker can comment. He might have some
5 information that says that one of our competitors in
6 Mexico may be gearing up to come into the U.S. We
7 don't know that, but perhaps he does.

8 COMMISSIONER JOHANSON: Okay.

9 MR. PARKER: Bud Parker.

10 COMMISSIONER JOHANSON: Yes, Mr. Parker.

11 MR. PARKER: I would concur with Steve's
12 assessment. We do not see any 18 gauge product
13 currently coming into the U.S. market.

14 COMMISSIONER JOHANSON: Are the different
15 gauges used in the different markets primarily just
16 due to standards in Mexico and Central America? Are
17 they different standards?

18 MR. ROGERS: It's a different sink. First
19 of all, the Mexican market {other than from Kohler}
20 likes drain boards and, on top mount sinks, the sinks
21 are smaller, they are not U.S. sizes. So the Mexican
22 consumer is, to them the U.S. standard sink which you
23 see in front of you here, that's, it's way too big, it
24 takes up too much kitchen space because the kitchens
25 are generally smaller.

1 This would be an ultra luxury product in the
2 Mexican market. This would be for someone who aspires
3 to build a U.S. style kitchen, and they do that. We
4 do ship product from our U.S. factories to Mexico for
5 sale as a luxury product. The Mexican standard is
6 smaller, generally top mount. And they are not U.S.
7 compatible.

8 COMMISSIONER JOHANSON: Okay. And often
9 with drain boards, which are not common in the U.S.

10 MR. ROGERS: That is correct.

11 COMMISSIONER JOHANSON: Okay.

12 MR. ROGERS: You will find drain boards in
13 the U.S., but not very often.

14 COMMISSIONER JOHANSON: Okay. Yes.
15 Actually, come to think of it, I spend a fair amount
16 of time in Mexico and I have noticed drain boards. I
17 kind of like them myself, but I've never them being
18 used in the U.S. They seem to make sense.

19 MR. ROGERS: Mr. Commissioner, we can fix
20 you up.

21 COMMISSIONER JOHANSON: Okay. Well, I'll
22 think about it. Thanks a lot. My time has expired.

23 COMMISSIONER WILLIAMSON: Commissioner
24 Broadbent?

25 COMMISSIONER BROADBENT: Thank you. I want

1 to thank the witnesses for all their testimony. I
2 think this would probably be to Mr. Rogers or Mr.
3 Whittington. Can you give me a little more
4 information on how innovation and technology have
5 changed in this market. Is it a fairly steady market
6 where there hasn't been much innovation over the last
7 50 or 75 years? What are the big changes that you're
8 seeing in how you manufacture? I noticed the robots.
9 They were very impressive.

10 MR. ROGERS: Those robots are producing
11 models that have been in the Elkay catalog for a very,
12 very long time, generally, double bowl, equal double
13 bowl sinks. That has been the standard in the U.S.
14 for a long time.

15 We have innovated over the years,
16 particularly when there was a robust luxury market in
17 the U.S. We came out with a variety of very high end,
18 style-centric sinks, such as our Mystic line. You may
19 be familiar with the river sink that was popular, we
20 still sell a few of them, but very high end and
21 strictly for entertainment purposes only.

22 All of us, all the domestic competitors have
23 engaged in styling changes on sinks. In some cases,
24 Franke has led with accessories, shelving and things
25 that you add on. We have come out with an E-dock

1 version where you can attach accessory holders to the
2 inside of your sink, we can do things with graphics in
3 the sink, we've just launched a product called Perfect
4 Drain which you can't see the collar in the bottom of
5 the sink, and it's also fully compatible with
6 InSinkErator garbage disposers. We developed it in
7 concert with them.

8 All of that said, an Elkay 3322, or the
9 Franke equivalent, or the Just equivalent, that's the
10 standard in the market.

11 COMMISSIONER BROADBENT: Does anybody else
12 want to comment that?

13 (No response.)

14 COMMISSIONER BROADBENT: Ms. Hamilton, now,
15 you, in the business of sort of predicting changes in
16 consumer behavior and so forth, do you see any new
17 trends coming along in terms of demand for sinks?

18 MS. HAMILTON: No. I'm in sales and I
19 service our national account, so I'm not in marketing,
20 but someone else on the panel might be able to answer.

21 MR. HIRD: Hey, this is Mark Hird. I could
22 respond that from a trend, future trend, I don't see
23 -- I'm the senior product manager for stainless steel
24 sinks. I do not see any new trends, changes in sizes,
25 changes in bowls, going down the future.

1 COMMISSIONER BROADBENT: Okay. Thank you
2 very much. Can you give me a sense, and maybe there's
3 someone on the panel that might give me a sense of
4 what raw material prices are doing over the period of
5 investigation and where you're sourcing most of your
6 inputs, and sort of percentage-wise, particularly the
7 stainless steel, how much that makes up of the final
8 sink.

9 MR. ROGERS: Over the period of
10 investigation we saw dramatic increases in steel
11 prices, largely driven by nickel. It is very, very
12 volatile. There is a speculative element that's been
13 introduced into a lot of commodities that is, that
14 makes the prediction of nickel pricing very confusing.
15 You cannot rely on supply and demand any longer
16 because when the equity markets are in the tank, money
17 moves toward commodities. Nickel is one of those.
18 Recently, we saw, last year we saw nickel drop, and
19 now, recently, we have seen it begin to rise again.

20 As far as supply, over the period of
21 investigation there has been some significant
22 consolidation within the stainless steel industry.
23 For example, Outokumpu from Finland and ThyssenKrupp
24 from Germany have consolidated, North American
25 Stainless is dominant domestic producer along with

1 Allegheny Ludlum. In Mexico we secure steel from both
2 ThyssenKrupp and North American Stainless. Perhaps
3 Paul or Bud want to comment also, but I think we all
4 do business with the same people.

5 MR. DORN: I might add, Commissioner, that I
6 think the data will show that from 2009 to 2011, the
7 prices of stainless steel were going up, which is part
8 of the explanation for the, you know, cost price
9 squeeze that was suffered, that we're not able to pass
10 along price increases commensurate with the increases
11 in raw material cost, but the industry experienced a
12 little wind to their back in 2012, in interim 2012, as
13 nickel prices went down and stainless steel prices
14 went down.

15 COMMISSIONER BROADBENT: I'm embarrassed to
16 ask this, but the nickel is in addition to the
17 stainless steel or is that part of the stainless steel
18 process that you use?

19 MR. ROGERS: Steve Rogers. The nickel is
20 the chief alloying element that provides the stainless
21 characteristic to the steel.

22 COMMISSIONER BROADBENT: Okay. Are you all
23 buying stainless steel from any place that has AD
24 orders or CBD orders on it now, say Korea, Japan or
25 Taiwan?

1 MR. ROGERS: I speak for Elkay. The answer
2 is no.

3 MR. JUST: Just Manufacturing does not
4 either.

5 MR. WEAVER: Brian Weaver with Franke, and
6 we do not either.

7 COMMISSIONER BROADBENT: Okay. Can you tell
8 me a bit about sort of what you anticipate in the
9 future on exports, what markets might be growing?
10 Maybe Mr. Whittington?

11 MR. WHITTINGTON: We export very little. I
12 mean we, the market that we export the most into,
13 quite frankly, is into Canada. We have a partnership
14 up there. We certainly have seen a recovery in their
15 housing market, similar to what we've seen in the
16 states, and they certainly didn't go as far into that
17 as we have here, in the United States.

18 We also, as Mr. Rogers indicated, send some
19 product into Mexico, but again, it's considered a
20 luxury product for them so it is relatively small.
21 When it comes to stainless steel sinks, our market is,
22 we are very focused on the domestic market.

23 MR. PARKER: Bud Parker from Franke. We're
24 the same. We export a little bit of product to
25 Mexico, but all of our production is for the U.S.

1 market, or the majority of it, rather.

2 MR. JUST: Paul Just, Just Manufacturing. I
3 would concur. We export very little, as well, and
4 most of our production is for U.S. consumption.

5 COMMISSIONER BROADBENT: How exactly did the
6 Chinese copy the designs for these sinks?

7 MR. ROGERS: They bought them and they
8 copied them. I actually, Mark, Mr. Whittington and I
9 were on a visit in China in 2006, March. We actually
10 visited one of the Respondents' factory and we saw one
11 of our Elkay 3322s in the lab.

12 They were actively measuring it, quite proud
13 of it, and, in fact, told us, you know, we could
14 probably do this a lot less expensive for you if, you
15 know, we'd be more than happy to tool up, which they
16 did anyway. So they actually buy the sinks and they
17 measure them, they copy them, they build the tools to
18 produce them. We have seen it personally and they
19 were actually quite proud of it.

20 MR. DORN: Did you see any other sinks from
21 any other manufacturers?

22 MR. ROGERS: We saw sinks from Kohler,
23 Franke, Blanco. Almost every global producer. In one
24 of the Respondents' factories they were actually
25 displayed on a wall in the engineering lab.

1 COMMISSIONER BROADBENT: If this order goes
2 into place and there's an affirmative determination
3 from the Commission, goes into place more permanently,
4 what do you expect on imports from other countries?
5 Who are the biggest competitors out there that you
6 might see some increase in competition from?

7 MR. ROGERS: Steve Rogers. We would
8 anticipate, we happen to know because we do have
9 global sourcing, so we do, we have an office in China
10 and we send them around the world looking at, you
11 know, who's out there.

12 We know that there's a lot of activity in
13 Turkey, for example, that is aimed here, we know that
14 there has been some movement to Korea, there is
15 investigation in Vietnam but their infrastructure is
16 problematic, we have seen interest in India, but
17 again, infrastructure is an issue. So we do
18 anticipate some movement.

19 COMMISSIONER BROADBENT: Mr. Chairman.

20 COMMISSIONER WILLIAMSON: Thank you.
21 Thinking about production overseas. Now, where do
22 your machinery, where did most of it, does it come
23 from? I'm thinking about particularly the machinery
24 we saw in the Ogden plant.

25 MR. ROGERS: The presses that you saw

1 labeled Dieffenbacher, those are German presses, the
2 robotics were built in the U.S., the lubrication
3 machine that lubricates the blank, that is also from
4 Germany. The robotics were built in Oregon of U.S.
5 materials, the conveyors came from the State of
6 Washington, the polishing units that you saw the
7 workers working with came from Wisconsin.

8 COMMISSIONER WILLIAMSON: Now, where, if
9 you're going to go into a Chinese plant, how different
10 would it be? I mean would you see a lot less
11 robotics? Are they sort of seeing a lot of their
12 basic equipment from the same countries?

13 MR. ROGERS: Mr. Commissioner, you would
14 notice some similarity in press, particularly, and
15 perhaps Mr. Parker can speak to his factory in China,
16 but I believe that they do have European equipment.
17 Increasingly, you see Chinese vendors of big hydraulic
18 presses.

19 It is very rare in a Chinese sink plant that
20 you will see robotics because they simply cannot
21 justify the cost based on their labor costs. It's
22 much cheaper to add people. Robotics and automation
23 of any form, even simple three axis robotics, very,
24 very rare. However, given the fact that labor costs
25 have begun to increase in China somewhat, you will

1 start to see some very simple automation in a Chinese
2 plant. So they are different. They do not have, you
3 will not find an Ogden equivalent in China.

4 COMMISSIONER WILLIAMSON: Okay. Mr. Parker,
5 do you want to add something on this, the nature of
6 the manufacturing there compared to other places in
7 the world?

8 MR. PARKER: Yes. Yes, sir. Bud Parker
9 here. We have a facility in China that utilizes
10 Dieffenbacher presses which are made in Germany. That
11 facility produces product for domestic consumption. I
12 would also agree that it's, they have some similar
13 looks, other Chinese facilities. Nothing like what
14 you would see that was presented in the Ogden video.

15 COMMISSIONER WILLIAMSON: Say for workers in
16 the U.S. plants, can you say something about how long
17 it takes to train them? We've talked about having
18 workers for a long period of time, skilled workers,
19 and I was just wondering.

20 MR. SMITH: It depends on, you know, what
21 level they come in at. Some of our operations may
22 take three to six months in training, some may take
23 considerable less time.

24 COMMISSIONER WILLIAMSON: Okay. No, I was
25 just wondering because it seems like, is it fair to

1 say, so one of the largest impacts for the imports
2 have been on the number of workers in an industry, and
3 I'm just wondering if you want to comment on that.

4 MR. ROGERS: It's been a tremendous impact
5 on employment in our factories. We have laid off I
6 believe close to 150 people in our Lumberton facility
7 over the period of investigation.

8 Mr. Smith is right, the training depends
9 upon the level that you bring them in to perform. We
10 do have very standard orientation processes, so we do
11 have to invest one to two weeks just making sure that
12 they work safely, they know how to operate the
13 equipment. There's a period of probation that we ask
14 them to serve so that we can watch and make sure we do
15 the job safety observations and all the orientation.

16 So it's very painful when we let employees
17 go. Mr. Smith knows personally the agony of having to
18 let someone go who has done, spent a lot of years in
19 the plant, and the impact in the community can be
20 devastating, particularly in Robeson County in North
21 Carolina where the unemployment rate is very high and
22 the prospects of getting another job are very slim.

23 MR. JUST: Paul Just here. I just, I would
24 like to add one other thing. Not only have we laid
25 people off, quite a few people off, but we've also,

1 you know, due to the long training period that it
2 takes to train our people we have also gone to a four
3 day workweek, and we've been on a four day workweek
4 for quite some time. You know, during that we're
5 still paying medical benefits and everything that goes
6 with that.

7 But, you know, we're trying to lessen the
8 blow to our employees and the company, obviously, as
9 well, trying to hold on to these people as long as we
10 can.

11 COMMISSIONER WILLIAMSON: Okay. Thank you
12 for that. Anyone else have any comment on --

13 MR. WEAVER: Brian Weaver with Franke. I'd
14 like to follow that up as well that we've experienced
15 much of the same. We've over the POI released near 70
16 people, including freezing wages. Likewise, we're
17 currently one shift, four days.

18 COMMISSIONER WILLIAMSON: Okay. Thank you.

19 We want have Franke at the microphone. I was just
20 going to, since you are a global manufacturer, are you
21 seeing increase in competition in Europe from Chinese
22 manufacturers since I mean they seem to be exporting
23 as much outside. I mean to places other than the U.S.

24 MR. PARKER: Yes -- Bud Parker -- we are
25 starting to see an influx of Chinese-produced sinks

1 entering the European market.

2 COMMISSIONER WILLIAMSON: Okay. Okay.
3 Thank you. I'd like to turn the question, Ms.
4 Hamilton, you might be able to address this. We've
5 already sort of talked about this, 25 percent of the
6 demand is maybe with the fabricators. Now, are
7 fabricators, by and large, mostly small-sized
8 companies? I imagine there's a full range, but what's
9 the nature?

10 MS. HAMILTON: Full range, but my experience
11 was typically very small. They, you know, oftentimes
12 they wouldn't carry a line of sinks and take that
13 inventory cash out of their pocket and would buy from
14 larger importers.

15 COMMISSIONER WILLIAMSON: Okay. So this is
16 the case where say maybe a kitchen design company, a
17 rebuilder, would redo someone's kitchen and they would
18 go to the fabricator to bring in the countertops with
19 the --

20 MS. HAMILTON: Yes. It's a very localized
21 market, so, you know, anywhere you live there's going
22 to be countertop fabricators, and typically they're
23 very small mom and pop type shops. There are some
24 larger ones, though.

25 COMMISSIONER WILLIAMSON: Okay. Thank you.

1 How big is the sort of do it yourself market in this
2 industry?

3 MR. ROGERS: It's very difficult to know how
4 big that actually is. The principal outlet for do it
5 yourself is, of course, the home center, so, you know,
6 if you stand in line at Home Depot on the weekend,
7 sometimes you'll see somebody with a sink on a cart.
8 It's either a local contractor or it's do it
9 yourselfer. We think that's the primary channel for
10 DIY.

11 MR. WHITTINGTON: Certainly I agree with Mr.
12 Rogers, and the other thing, you would notice it.
13 You'd say, well, geez, go to Home Depot and how many
14 sinks do they sell? It must be all DIY. As I
15 explained earlier, the local plumber may go in there
16 and pick up a sink and actually do the installation.
17 So it's very difficult, and there's no industry
18 information to say how much is DIY, do it yourself,
19 and not.

20 COMMISSIONER WILLIAMSON: Okay. In terms of
21 demand trends, I guess, I think you said that the, you
22 see the recovery being very slow in terms of demand
23 for your product. There are some indications, I
24 guess, that the housing is picking up this year. I
25 was wondering, how would you characterize the prospect

1 for demand in the near term?

2 MR. ROGERS: Steve Rogers. It's interesting
3 that the Respondents talk about the increase in
4 housing. We're coming off of probably the lowest
5 level in decades. The balance is not, 800,000 units
6 is nothing to write home about. That does not
7 constitute healthy demand. 1.2 to 1.5 million
8 constitutes what we would consider to be a normal
9 housing market. So there's no great rush.

10 Also, keep in mind that we are seeing a
11 change in the character of the type of housing that's
12 being built. We're seeing a lot of multifamily.
13 Multifamily lends itself to top mount because when you
14 build an apartment, you're not going to put granite
15 in, you're going to put formica in. That lends itself
16 to a top mount application.

17 So we're not seeing the build up of what I
18 would, what we would previously consider middle class
19 and upper class housing. That's not what
20 characterizes this market. 800,000 starts is not a
21 healthy market. It's bigger. It's not healthy.

22 COMMISSIONER WILLIAMSON: Okay. Yes. My
23 next question was just going to be is there a change
24 in the market, and I think you addressed it so I
25 assume that the multifamily, you're talking about,

1 more about rental properties and things like that.

2 MR. ROGERS: Yes, multifamily. Literally
3 multigenerational in some cases, but also multifamily.
4 Apartments, condominiums, and also, you know, some
5 single family homes. We're trying to get our hands
6 and our heads around how that has changed. So we're
7 not seeing the McMansions build up like we did when we
8 were at two million housing starts, we're seeing much
9 more modest home build now than we did in the -- the
10 market has changed given what we've gone through.

11 COMMISSIONER WILLIAMSON: Okay. Thank you.
12 Commissioner Pearson?

13 COMMISSIONER PEARSON: Thank you, Mr.
14 Chairman. Perhaps you could tell me something about
15 the capital costs for building a sink manufacturing
16 facility. I'm not asking you to go into proprietary
17 information. If you want to provide something more in
18 the posthearing brief, that would be fine, but I'm
19 just curious about, you know, what does it cost to
20 purchase one of the presses that's optimized for
21 sinks, for instance.

22 MR. ROGERS: This is Steve Rogers. The cost
23 of a press is probably public knowledge, you know. It
24 ranges from, I would say, \$1.2 to \$2 million depending
25 upon the hydraulic capacity of that press. The larger

1 the capacity, say a 1,200 ton press, the more it
2 costs.

3 The tooling is something that is the cost of
4 admission to making a stainless steel sink. You have
5 to have a tool set, and as I said in testimony, that
6 can range from \$130,000 to \$200,000 per model. If you
7 launch a family of products where you have unequal
8 bowls, single bowls, double equals, bar bowls, the
9 cost can quickly build for a single launch into let's
10 say \$1 million, just round numbers.

11 Then, of course, you'd have to finish the
12 sinks and you'd have to decide what you're finishing
13 equipment is going to be, whether it's robotic or
14 whether it's manual labor. The big money in a sink
15 operation are the presses, both for forming and for
16 rim forming, and the tooling to do those jobs.

17 COMMISSIONER PEARSON: Okay. The Chinese
18 would be dealing with basically those same costs.

19 MR. ROGERS: Yes, they would.

20 COMMISSIONER PEARSON: The reason for asking
21 is that I'm curious whether it would be difficult for
22 Chinese firms to just pick up and move to some
23 nonsubject country and rebuild the, reassemble the
24 plant and keep making sinks.

25 MR. ROGERS: It's feasible. You really

1 don't want to have to move a hydraulic press. That's
2 not a pleasant task to consider. It's very expensive.

3 What I would anticipate is that should they decide to
4 move their production, if it was us, we'd be looking
5 at new equipment.

6 Now, if it's not fully amortized, they have
7 to do that in China as well, then they might invest
8 the expenditure to move it. Moving a press overseas,
9 you're well over \$1 million to get that moved and
10 installed.

11 COMMISSIONER PEARSON: Okay. So you're in
12 the same ballpark of just purchasing a new one and
13 starting from scratch.

14 MR. ROGERS: That's why I believe, Mr.
15 Commissioner, that they would probably look to
16 purchase new.

17 COMMISSIONER PEARSON: Okay. My last
18 question deals with sales, general, and administrative
19 costs, what we call SG&A costs in our staff report.
20 You deal with sinks and other things relating to
21 kitchens and what not and so you won't have been in
22 front of us for other cases, but the reason for my
23 question is that the SG&A costs in this investigation
24 seem to be somewhat high relative to the total cost
25 structure compared to what we often would see in other

1 cases, and Mr. Dorn will have thoughts on this and he
2 might even provide explanation in posthearing, but,
3 you know, this is a case in which we know that the raw
4 material is expensive because you've discussed that,
5 and yet the SG&A costs are, in essence, in the same
6 ballpark as the raw material costs, so you're talking,
7 really, a fairly healthy SG&A expenditure.

8 Can you say anything on the record about why
9 for this industry the costs of sales, general, and
10 administration would be somewhat high?

11 MR. DORN: Commissioner, I think we'll have
12 to address that on a confidential basis, if that's
13 okay.

14 COMMISSIONER PEARSON: Okay. When you do
15 that, examine the issue of whether the fact that there
16 are multiple channels of distribution, whether that
17 has some effect on SG&A, and whatever else you might
18 tell us, but I mean you understand what I, why I'm
19 asking the question. I'm not questioning the costs or
20 that there's anything inappropriate, I'm just kind of
21 trying to understand why.

22 MR. DORN: Sure. No, we understand the
23 question, and we'll try to address it in our
24 posthearing.

25 COMMISSIONER PEARSON: Okay. Thank you.

1 With that, I believe I have no further questions, and
2 so I would like to thank all of you on the panel very
3 much and will turn the time back to the Chairman.

4 COMMISSIONER WILLIAMSON: Thank you.
5 Commissioner Aranoff?

6 COMMISSIONER ARANOFF: Thank you, Mr.
7 Chairman. So I was asking in my first round of
8 questioning about different channels of distribution
9 in the market and staff has since informed me that we
10 don't actually have a break out of any of your sales
11 by channels of distribution, so I wanted to ask
12 whether for the posthearing each of the domestic
13 producers could provide us with a break out, and it
14 can certainly be estimated, of how much of your sales
15 go in each of the channels of distribution that we
16 discussed earlier, you know, including big boxes,
17 internet retailers, plumbing distributors, the various
18 different categories that you listed.

19 Is that something that you'd be able to
20 supply, at least on an estimated basis?

21 MR. WHITTINGTON: Yes, ma'am, we can get
22 that for you.

23 COMMISSIONER ARANOFF: Thanks. We talked a
24 little bit about this, I did and then some of my
25 colleagues did as well. You were talking about how

1 difficult it is to tell who's actually buying a
2 product at a big box retailer. With respect to
3 internet sales, who buys sinks over the internet?

4 MR. WHITTINGTON: This is Mark Whittington.
5 That ranges tremendously. You could have a wholesaler
6 buying off the internet, you could have a consumer, in
7 some cases, buying off the internet. That, again, is
8 very difficult for us to track. Once it's into that
9 channel, where the final consumption goes, we're not
10 privy to. We just know what goes into that channel
11 and some of the people that we participate with.

12 COMMISSIONER ARANOFF: Are there limits to
13 the role that internet sales can play in the market if
14 you're buying by the truckload or in larger
15 quantities. You wouldn't buy that way, would you?

16 MR. WHITTINGTON: In my personal opinion,
17 and this is my personal opinion, that channel will
18 continue to grow because it is is it allows us, and
19 consumers, and, quite frankly, other folks much more
20 information about what's going on, and I think they
21 certainly could buy across the internet.

22 COMMISSIONER ARANOFF: If you're a consumer
23 are you most likely to go to a showroom somewhere and
24 try and look at sinks before you buy one over the
25 internet?

1 MR. WHITTINGTON: It has been our -- we have
2 seen that happen tremendously, where they will go to a
3 Ferguson showroom or a Home Depot and they want to
4 feel it, touch it, look at it, certainly write down
5 the models, and then go home and shop the internet.

6 COMMISSIONER ARANOFF: So ultimately, if the
7 internet channel grows, what effect do you think
8 that's going to have on the marketplace? Because it
9 seems as though some retailers are not going to want
10 to be in the business of being the showroom that then
11 doesn't get the sale.

12 MR. WHITTINGTON: Certainly that has been
13 something we've been watching over the span of several
14 years, certainly there is some concern in the
15 marketplace of what position the internet will take in
16 the business, but certainly I believe that whether it
17 be home center, or fabricator, or, quite frankly, big
18 wholesalers, it comes down to what's my play in the
19 channel and how do I provide value to the channel if
20 I'm outside that internet, and each of them are
21 working on specific strategic plans to identify that
22 and still remain pertinent to the channels.

23 COMMISSIONER ARANOFF: Okay. One of the
24 questions I had, and it goes to the issue of sales to
25 countertop fabricators, maybe to direct, to internet

1 sales, and maybe even to some other channels. Do some
2 of your customers have a problem when you start
3 selling in some of these different channels of
4 distribution that maybe you didn't sell in as much
5 before? So, you know, would a large, you know, home
6 supply or a large plumbing distributor express concern
7 or dismay to you that you're selling direct to
8 internet or selling to fabricators who might otherwise
9 have had to go, that you're bypassing them somehow?

10 MR. WHITTINGTON: Certainly we get
11 questioned on it, and certainly they look at how their
12 channels are changing, but they, too, are changing
13 their model, and they, too, are changing how they go
14 to market and their business.

15 I think it's a two way discussion. What
16 channels are developing in the marketplace, and how
17 does each of them provide value to the marketplace in
18 that channel, and how they provide product to it. I
19 would not say that, if the question is do we get
20 threatened by it, no. It's more of a joint how do we
21 get to this marketplace?

22 COMMISSIONER ARANOFF: Okay. Now,
23 Commissioner Pinkert had asked some questions earlier
24 about 2012 data, and in particular, financial data,
25 and I know you had a discussion about that that I'm

1 not intending to repeat, but I just want to make sure
2 that I ask the question my way just in case it covers
3 something slightly different.

4 You're reporting basically a lack of
5 significant financial improvement in 2012, if I
6 understand the argument you made in your brief, and
7 then here today. How can you reconcile that with the
8 argument that you're also making that the domestic
9 industry has regained customer accounts, increased
10 production and shipments and added employees since the
11 preliminary remedy went into effect?

12 MR. DORN: I think the answer to that
13 question is mainly timing because the data in your
14 prehearing report of course goes through September,
15 and I think the pick up in orders from customers who
16 were previously buying Chinese product is fairly
17 recent, so that's showing up more in the fourth
18 quarter and first part of this year.

19 MR. ROGERS: Our first indications that
20 there was going to be some movement was after the
21 preliminary tariffs were announced, and after
22 September we did not see any dramatic movements. In
23 fact, there was some tire kicking and some window
24 shopping, but there were no orders to speak of.

25 Even through the end of the year we started

1 to lay in, in anticipation, additional inventories of
2 stainless steel which were still sitting there at the
3 end of the year because there was still a lot of tire
4 kicking and window shopping going on. So we think
5 that that's, it's coming. We anticipate that it will
6 be coming and we're getting ready for it, but from in
7 2012 to the end of the year we did not see substantial
8 order patterns.

9 MR. DORN: I would also add with regard to
10 interim 2012, you know, take a look at the volume
11 impact of the imports, I mean in terms of the imports
12 gaining 2.8 percentage points of market share from
13 interim 2011 to 2012. The impact on the volume
14 indicators for the U.S. industry is confidential, but
15 I think you'll see a correlation there.

16 COMMISSIONER ARANOFF: Okay. Well, I
17 appreciate all those answers and I don't think I have
18 any further questions for this panel. Thank you, Mr.
19 Chairman.

20 COMMISSIONER WILLIAMSON: Commissioner
21 Pinkert?

22 COMMISSIONER PINKERT: Thank you, Mr.
23 Chairman. I just have a few follow-up questions.
24 First of all, as I indicated in one of my posthearing
25 questions, by 2009, Kohler says that it had already

1 been pushed into the higher end of the market by the
2 subject imports. Is our period of investigation
3 relatively late to see all of the impacts that the
4 subject imports have had?

5 MR. DORN: Well, certainly we know that
6 imports from China held 40 percent of the market in
7 2009, so I mean they were obviously having a big
8 volume impact at the beginning of the period of
9 investigation.

10 This is unlike a lot of cases where you
11 have, the imports have a small share of the market at
12 the beginning and they have a large share at the end.
13 Here, they have a large share at the beginning and an
14 even larger share at the end.

15 So could this case have been brought sooner?
16 Yeah, probably, but based upon the trends that you
17 look at during the POI, we have a very strong case in
18 terms of showing the correlation between increasing
19 imports and declining domestic industry performance
20 and it's all due to underselling.

21 COMMISSIONER PINKERT: Does anybody on the
22 panel have an historical perspective about when that
23 China move into the U.S. market really got going?

24 MR. ROGERS: Mr. Commissioner, when I joined
25 Elkay in 2004 we were already talking about China. As

1 I stated earlier, Ogden was built with China in mind.
2 Even at that time we were worried about them. Ms.
3 Hamilton also testified that quite some time ago she
4 was engaged trying to displace the Chinese in the
5 countertop fabricator market, and that also predates
6 the period of investigation.

7 So while I am not a reliable source of when
8 Elkay started worrying about it, it was certainly
9 concerned about it in August of 2004.

10 MR. JUST: Paul Just here. I would concur
11 with that. It's early 2000s is when we really noticed
12 their presence.

13 COMMISSIONER PINKERT: Thank you. Finally,
14 to the extent that there's a move in the U.S. economy
15 towards smaller housing, how does that affect your
16 business prospects?

17 MS. DEIGHAN: This is Kathy Deighan, General
18 Counsel for Elkay. I think, you know, as Steve said,
19 we agree with Mr. Perry that there is more
20 multifamily, but that just means that price is more
21 important in the purchasing decision and that benefits
22 the Chinese more than it benefits us because Chinese
23 imports are playing in all those different channels.

24 COMMISSIONER PINKERT: Thank you. Mr.
25 Rogers?

1 MR. ROGERS: Mr. Commissioner, you know, to
2 broaden the response, we are already starting to look
3 at future design trends, the impact of the available
4 disposable income on a person's remodeling budget, for
5 example, what will they be able to afford, what will
6 they, because there's going to be a desire for luxury
7 at an affordable price. That's something we hear from
8 Gen Y a lot. So we are cognizant that this is a
9 changing market. The ultra luxury market is either no
10 more or very small. So we're anticipating demand
11 changes in what the consumer wants, but we do believe
12 that the consumer has fundamentally changed over this
13 recession period.

14 COMMISSIONER PINKERT: With that, I thank
15 you, and I look forward to the posthearing
16 submissions.

17 COMMISSIONER WILLIAMSON: Commissioner
18 Johanson?

19 COMMISSIONER JOHANSON: Thank you, Mr.
20 Chairman. In the preliminary phase the Commission
21 found significant underselling, but did not find
22 significant price depression or suppression. What is
23 different on the final phase record such that in your
24 view we should make a finding of significant price
25 depression or suppression?

1 MR. DORN: I think the data support a
2 finding of price suppression by looking at the
3 prehearing report on the data that you generally look
4 at to make at that assessment from 2009 to 2011. I
5 think Commissioner Pinkert made that finding in his
6 preliminary, and we think that's appropriate based
7 upon a full record for the final phase.

8 And then there is also -- there is some rich
9 evidence from the purchasers' questions and from
10 responses to the lost revenue allegations, which I
11 would also encourage you to look at because that also
12 shows an individual instances where U.S. producers had
13 to lower their prices to match the lower-priced
14 imports.

15 COMMISSIONER JOHANSON: Okay. Thank you,
16 Mr. Dorn. And as a followup to that question, is this
17 largely a volume case with the import penetration
18 driven by significant underselling?

19 MR. DORN: I think that was the question we
20 discussed earlier. I think that, you know, every case
21 is different. I think here we have both volume and
22 price effects. I think the easiest to show is the
23 volume effects because the correlation is so clear.
24 You have large margins of underselling throughout the
25 period of investigation. You have a sharp increase in

1 imports from China. We know price is a major factor
2 in terms of purchasing decision. So I think just
3 using common sense, it's pretty clear that the
4 underselling has had a huge volume effect on this
5 industry.

6 I think there is also a price effect, but I
7 think you have to work a little bit harder to see it.

8 COMMISSIONER JOHANSON: Okay. Thank you for
9 your response. My next question deals with the order
10 in Canada. I seem to recall from the staff report
11 that most U.S. sales are on the spot market. If that
12 is the case, why haven't U.S. producers seen an uptick
13 in exports to Canada since that order went into place?

14 I think that went into place maybe last spring.

15 I heard one of the witnesses say that there
16 is an inquiry into -- there have been inquiries into
17 purchasing from the United States. But I didn't -- I
18 don't recall hearing that there had been an increase
19 in exports to Canada.

20 MR. WHITTINGTON: We've not seen our
21 business increase in Canada. We have a partnership up
22 there that has remained relatively constant, but they
23 were part of the trade case in Canada with the primary
24 purpose to grow their business back after the injury
25 that they had sustained from the Chinese dumping up

1 there. And again, I'd look for Mr. Parker to comment
2 on that, as they have an operation in Canada also.

3 MR. PARKER: Yes. Bud Parker. Our Canadian
4 facility, we do not export product up there because we
5 have a facility that can service the Canadian market.

6 COMMISSIONER JOHANSON: Okay. That makes
7 sense. I assume they're just trying -- their capacity
8 is likely increasing.

9 MR. PARKER: That's correct.

10 COMMISSIONER JOHANSON: Capacity utilization
11 rather is increasing.

12 MR. PARKER: That is correct.

13 COMMISSIONER JOHANSON: Okay. Thank you for
14 your response. I have just one more question, and
15 that deals with the issue of lead times, and a
16 possible advantage that U.S. producers would have in
17 having -- being able to have shorter lead times. In
18 the staff report, at page 524, one purchaser indicates
19 that his company imported products from Canada, but
20 decided to switch back to purchasing U.S. product due
21 to the longer lead times.

22 I was wondering if you all could comment on
23 that, if U.S. producers do have an advantage in that
24 area.

25 MR. ROGERS: We'd -- I would absolutely say

1 that depending on what the customer orders, we should
2 have an advantage in lead time, unless we are up
3 against a Chinese importer who has substantial
4 inventory on the ground. Then one of our competitive
5 responses has to be to also what we call safety stocks
6 on the ground to meet that competitive threat as well.

7 Now, if it's a catalogue order, or if it's a
8 special order through, say, Home Depot, then our lead
9 time is definitely an advantage.

10 COMMISSIONER JOHANSON: All right. Well,
11 thank you for your responses, and that concludes my
12 questions.

13 CHAIRMAN WILLIAMSON: Thank you.
14 Commissioner Broadbent.

15 COMMISSIONER BROADBENT: Thank you. I have
16 a couple of questions about pricing on the undermount
17 sink. In our staff report, I think we've got
18 statements that in the topmount segment versus the
19 undermount segment a majority of the topmounts are
20 sold at the lower price points, as you all have
21 mentioned.

22 But as I understand it, the topmount sink
23 requires more finishing, such as stamping of a faucet
24 hole or the forming of the outer rim. If the
25 manufacturing process for the topmount sinks is

1 generally more complicated, why is that they're priced
2 lower?

3 MR. ROGERS: Well, you have to do an apples-
4 to-apples comparison. First of all, the real
5 difference -- because an undermount sink when it's
6 trimmed still requires a rim-forming operation or a --
7 you're still going to trim it with what is called a
8 trimming tool instead of a rim-forming tool.

9 Now, if it's a small volume, you're going to
10 do it on a sheer, which involves labor as opposed to a
11 machine. So the real differentiator in undermount and
12 topmount is the punching of a faucet hole. But even
13 un an undermount, you know, that cost simply transfers
14 to whoever is mounting the faucet on the granite
15 itself because you still have to drill the hole. The
16 hole is still there.

17 The cost of punching a faucet hole is very,
18 very insignificant and very small. So that's why you
19 can find similar price points topmount to undermount
20 in the market, depending on the price level that
21 you're shopping at. If you're at Home Depot, you can
22 find -- you'll get both. If you go to a Ferguson
23 destination showroom, you'll find both.

24 COMMISSIONER BROADBENT: I had a question
25 about -- Respondents in their briefs have talked about

1 this being sort of a pull market, where purchasers are
2 searching globally for the lowest-priced imports. Do
3 you sort of buy this as being a pull market, or is it
4 more of a push market, where trade is driven by
5 producers seeking to enter our market?

6 MR. ROGERS: Well, I would take you to the
7 example in testimony of the kitchen and bath show that
8 occurs in the U.S. every year and the growth of the
9 Chinese in what we now call the Chinese pavilion. It
10 used to be the Chinese booth, then it became the
11 Chinese aisle, now it's the Chinese pavilion.

12 There is a definite desire by Chinese
13 producers to push their product out of their domestic
14 market because of the huge over-capacity that they
15 have. The data that we've submitted clearly bears
16 that out, and that's only a fraction of existing
17 Chinese producers.

18 When I go to the China kitchen and bath show
19 last year, I counted 234 stainless steel sink
20 producers, 234. And they were all showing some
21 version of a U.S. product. So there is definitely a
22 push out of China, but there is also a corresponding
23 pull in the U.S. for something that is cheaper than
24 they get domestically.

25 So I think it's both, but I have seen the

1 push, and we can see that every year in the growth in
2 the Chinese presence in the U.S. with U.S. models.

3 MR. DORN: Commissioner, I would just add to
4 that that once the Chinese producer has invested in
5 the presses and the tooling to make products that are
6 appropriate for the U.S. market, and they're not
7 appropriate for the Chinese market, they have an
8 economic motivation to push that product out of China
9 to the United States.

10 COMMISSIONER BROADBENT: Are you having more
11 trouble selling to a Lowe's or a Home Depot? Are
12 there different brands that tend to be demanding the
13 imports more?

14 MR. ROGERS: We see it across channels. We
15 are under attack in virtually every channel we sell.
16 Excuse me, not virtually, all channels.

17 MR. JUST: I'd like to -- this is Paul Just.
18 I'd also like to state that we were in the big box
19 store. We were in Home Depot, and we did lose that
20 account to Chinese.

21 COMMISSIONER BROADBENT: Thank you. And
22 then I wanted to just conclude my comments here by
23 thanking you all for your testimony. I thought I'd
24 get your opinion on something that's going on here at
25 the Commission, which I noticed when I came on as the

1 most recently appointed commissioner. And we're all
2 up on the seventh floor, and we have these little
3 cabinets where we can put our coffeemaker and so
4 forth. And, you know, being the most recently
5 arrived, I got into my office, and I'm getting my
6 staff setting up the coffeemaker, and we find out that
7 we're the only office that fails to have a sink at our
8 cabinet.

9 And I just wondered if you thought that was
10 a fair situation.

11 (Laughter.)

12 MR. ROGERS: We believe that that's grossly
13 unfair. And any one of us would be more than happy to
14 assist you in remedying that absolute calamity.

15 COMMISSIONER BROADBENT: Thank you very
16 much.

17 CHAIRMAN WILLIAMSON: Can we all take a
18 style?

19 MR. ROGERS: Whatever you want.

20 CHAIRMAN WILLIAMSON: Okay. I have no
21 further questions unless any of my commissioners have
22 questions or comments. And if not, we'll ask staff if
23 they have any questions for this panel.

24 MR. TSUJI: Karl Tsuji, the commodity
25 industry analyst. Two requests of the Petitioners for

1 their posthearing brief. First of all, the Petitioner
2 mentions on the top of page 4 a couple of other types
3 of drawn stainless steel sinks, topmount -- excuse me,
4 wallmount and freestanding sinks.

5 So succinctly, please include in your posthearing
6 brief how these wallmount and freestanding sinks fit
7 into the continuum of drawn stainless steel sinks
8 since they were not mentioned specifically in
9 Commerce's scope; a brief description of their
10 physical characteristics and uses -- I have an idea,
11 but would like to be able to cite an informative
12 source; and what portion of all drawn stainless steel
13 sinks in the U.S. market are these wallmount and
14 freestanding models.

15 The second request is you'll notice in the staff
16 report there is table 7-6, which is business
17 proprietary, so I can't reveal the details in public
18 forum. But please provide any updates to the
19 information in that table, which would be appreciated.

20 Thank you very much.

21 CHAIRMAN WILLIAMSON: Does staff have any
22 other questions?

23 MR. DORN: Excuse me. So you're referring
24 to table 7-4 on page 7-6?

25 MR. TSUJI: That would be table 7-6 on page

1 7-10 of the staff report, the prehearing staff report.

2 MR. DORN: Thank you.

3 MS. HAINES: Staff has no further questions.

4 CHAIRMAN WILLIAMSON: Do Respondents have
5 any questions for this panel?

6 MR. PERRY: No.

7 CHAIRMAN WILLIAMSON: Okay. Well, it looks
8 like it's time for us to take a lunch break. So we
9 will reconvene at 1:15. I just want to remind
10 everybody that this room is not secure, so you should
11 take any confidential business information with you.
12 And so we'll see you again at 1:15. Thank you.

13 (Whereupon, at 12:13 p.m., the hearing in
14 the above-entitled matter was recessed, to reconvene
15 at 1:15 p.m. this same day, Thursday, February 21,
16 2013.)

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1 channels at very high prices, and the importers here
2 and the importers who were with me at the preliminary
3 realized there was a problem and moved into sell the
4 void. They moved into the market niche.

5 By the way, they moved into undermounts
6 because they were higher priced, and they knew they
7 could make money there. So what they did then was to
8 look for alternative sources of supply. Some of them
9 -- as Johnny, they started in Europe and migrated to
10 China eventually. But now, if China is blocked,
11 they'll migrate to another country. That's what has
12 happened here.

13 So this is an importer pull, not an exporter
14 push situation. The whole argument of Elkay in the
15 morning, even the questions from the commissioners,
16 were, well, what are the Chinese doing. The Chinese
17 are reacting to the U.S. importers, and that's what is
18 really going on.

19 There was also -- they would up slides and
20 say, wee, there is no meaningful difference between
21 Chinese and U.S. produced sinks. Well, there is one
22 meaningful difference, and it's the distribution
23 channels. And if you have a much layered distribution
24 channel, you have a higher price.

25 It's interesting because Elkay showed a

1 Google slide, and they had an Elkay sink up against a
2 Chinese sink. But some of the people here said, those
3 look like handmade sinks. Handmade sinks are not
4 subject merchandise. Elkay produces handmade sinks in
5 China. Not once did you ask about Elkay's production
6 in China, and it produces in China. And what is
7 interesting is that the handmade sinks that Elkay
8 sells that are made in China as compared to the
9 Chinese sinks sold by the importers are sold at higher
10 prices.

11 What is going on here? So one of the
12 questions I would suggest that should be asked of
13 Elkay and may already be on the record, during the
14 POI, when you look at Elkay sinks that were sold into
15 the U.S., market, what percentage were U.S. made, and
16 what percentage were made in China. I think that's a
17 relevant question that you should be asking. And
18 since Chinese production was never once mentioned by
19 Elkay, it's something you might want to look at.

20 One other point here. Elkay made the point
21 that the fabricators may be waiting for the Chinese to
22 win the case. Not true. What is really going on is
23 the Chinese look upon this as a lost cause. I have
24 through contacts in China have contacted the Fushan
25 Government because the government Fushan, as you know,

1 in China is where many of the Chinese factories are
2 located. His response is, they've given up. They
3 don't think they can win at the ITC, a lost cause. So
4 that's why you don't see people here.

5 So why aren't the importers buying from
6 Elkay? Well, maybe it's because the importers -- I
7 mean, why aren't the fabricators buying from Elkay,
8 and it's because the importers have moved to third
9 countries, and they moved very quickly. And also,
10 it's interesting. Again, they put up the idea of the
11 Dayton line that we basically use the Dayton line to
12 go after the fabricators. We believe that the Dayton
13 line was produced in China by Elkay.

14 So the other point I wanted to make is that
15 Commissioner Aranoff said, well, does cutting
16 distribution channels lead to increased demand. Well,
17 not necessarily increased demand, but it certainly
18 does reduce the price. The demand is determined by
19 how many sinks you need. But when you reduce the
20 price, hey, you get the sale. And one reason for that
21 is who learned that? Walmart and Target.

22 Was that a Chinese phenomenon? No. It was
23 U.S. companies realizing that if they cut the
24 distribution channels, they could sell products at
25 lower prices. Johnny Crain of Chemcore will get into

1 that in detail.

2 One other point. You ask about whether the
3 Commerce Department's preliminary determination could
4 have affected the Commission's 2012 data. Well, think
5 about it for a moment. The end of September 30th,
6 2012, the Commerce Department's preliminary
7 antidumping determination is October 45th. Also, the
8 countervail was in August, but it was relatively low,
9 only 8 percent. The big hit was the dumping, and it
10 didn't happen until after September 2012.

11 So I think that's very important to take
12 into place. Where have the companies moved, the
13 importers? Malaysia has been mentioned, Korea,
14 Turkey, Poland. I have a client that was with me in
15 the preliminary that had shut down its factory in
16 China and has already moved and set up production in
17 Korea. It now has its own factory in Korea. So, yes,
18 factories can set up, be set up pretty quickly, in
19 other countries.

20 I think that the other reason for the higher
21 SG&A costs you may have seen in the domestic industry,
22 which Commissioner Pearson mentioned, was the old way
23 of doing business. And that was part of the reason
24 we're here. These people have figured out a better
25 way to do business and to keep the costs down.

1 Finally, you know, Elkay complains about
2 copying. I thought this was a commodity product. The
3 Petitioners admitted it is a commodity product. All
4 the sinks are basically the same. We agree with that.
5 That's why we believe a but-for test is very
6 important. This is a commodity product. But they
7 keep saying they're copying our sinks. If they're
8 truly copying, if they have intellectual property
9 rights, as the commissioners know, you can go under
10 section 337 and bring a case at the International
11 Trade Commission, and the infringing imports, the
12 copied imports, will be kept out of the border.

13 But if this a commodity product, anybody can
14 copy it as much as they want. I'm sure U.S. companies
15 are copying Chinese products if they're not covered by
16 intellectual property rights. And you know that
17 because you've got 337.

18 At this point, I'd like to ask Russell Levi
19 of Kraus USA to speak.

20 MR. LEVI: Hello. My name is Russell Levi,
21 and I'm president of Kraus USA, a supplier of high-end
22 kitchen sinks and bathroom products, including pressed
23 stainless sinks and kitchen sinks. We are located in
24 Fort Washington, New York, and we currently employ 75
25 associates and operate two distribution centers.

1 The idea behind the birth of Kraus was the
2 recognition that the Internet and global economy was
3 transforming the way business was being conducted
4 worldwide. We recognize the Internet is not the only
5 information tool. It will also be a transformation
6 tool that will change the norms of many traditional
7 industries and practice.

8 In the early 2000s, we saw a fast, emerging
9 business opportunity with e-commerce retailers, local
10 showrooms, and kitchen countertop fabricators that
11 were not being met by the industry, similar to what
12 Michael Dell recognized in the PC industry about 25
13 years ago. As a result, we found Kraus USA in 2004,
14 and we are now under one roof producer, importer,
15 wholesaler, distributor, and a drop shipper, all under
16 one roof.

17 Ninety-five percent of our kitchen sinks are
18 16-gauge, which Elkay does not make or does not sell,
19 as much as I know. Our guiding principle has been
20 growth through innovation, design, quality of
21 materials, and craftsmanship, value deals, and one of
22 the best in class after sale and customer service. We
23 are not or have ever been a company that is going to
24 compete on low prices.

25 During my testimony, I would like to focus

1 the Commission's attention on what we feel really has
2 contributed to Elkay's current situation and what we
3 believe the impact of the decision made during the
4 preliminary hearing in October has made on our company
5 and the industry and consumers in general.

6 In our opinion, any problem that Elkay might
7 have has not much to do with import of stainless steel
8 sinks from China, but rather the direct result of
9 mismanagement and the meltdown of the U.S. housing
10 market as well as the recession of 2008-2009 until
11 just about a year ago.

12 Bad economic conditions have directly
13 impacted the potential housing and renovation markets.

14 Any other contributing factor simply fails by
15 comparison. 2011-2012, however, the housing market
16 has come back, and the U.S. industry and Kraus are
17 doing much better. During the preliminary hearing, we
18 have discussed the difference in strategy and
19 operation between our companies. We have also placed
20 emphasis on Elkay high overhead and high-cost
21 distribution channels leading to the uncompetitive
22 pricing.

23 We therefore strongly believe economic
24 factors and mismanagement have led to any problems
25 Elkay may have, not Chinese imports, Chinese

1 exporters, or the U.S. importers. With respect to the
2 impact of your decision on the industry, we are not
3 experts on this, but we do question whether the
4 imposing sanctions against China will restore the
5 domestic producers in the long run. The simple fact
6 is we all are competing in a global market place which
7 is evolving.

8 In our opinion, all manufacturers need to be
9 open to change and recognize that past performance is
10 no longer an indication of the future results. In the
11 current global market environment, it's not big which
12 eat the small, but the fast which eat the slow. We
13 respectfully submit that Elkay has been slow to
14 recognize the changing market dynamics, where
15 companies such as ours have quickly adapted their
16 business model in order to take advantage of these
17 changes.

18 In response to the Commerce Department
19 determination in October, we find ourselves scaling
20 back our operation for the first time in our history.

21 In order for us to satisfy our customers' needs and
22 protect our business interests, we are actively
23 seeking alternative import sources that are capable of
24 producing products on our specific requirements.

25 As the Commission is aware, there are

1 multitudes of options available for us to select,
2 including manufacturing facilities in Mexico, South
3 Korea, India, and Turkey that offer products and
4 pricing in 10 to 25 percent price range from China,
5 when all things are considered.

6 With regard to pressings, we intend to
7 follow new leads as quickly as possible so we may put
8 these worries behind us.

9 I feel obligated to bring one matter to your
10 attention. That is, you may see fewer was here today
11 than in the last review. The reason is that many
12 importers have either given up, they're closing their
13 operations, are have already found alternative sources
14 manufacturing in other countries, or simply moved on.

15 Finally, we believe that in the meantime it
16 will be American small businesses and ultimately
17 American consumer who will be hurt by this decision.
18 American small businesses and consumers will have less
19 options for what, were, and how they can purchase
20 products.

21 Also, there has been a big shift from
22 pressed sinks to handmade sinks and the granite sinks
23 because before stainless steel sinks were -- pressed
24 sinks were much cheaper. Now the price is almost the
25 same between granite sinks, handmade sinks, and

1 pressed sinks.

2 Let me close my statement by noting that
3 both residential and new construction and renovation
4 markets are showing strong signs of recovery. With
5 this growth, Elkay, along with all others involved
6 might have realized gains in their business. What
7 will not change is the need for all businesses big or
8 small to adapt to their market environment and either
9 be leaders or fast adapters of these changes, rather
10 than wishing for a return to the past.

11 I would like to thank ITC Commission for
12 giving me the opportunity to speak today and hope that
13 you will all carefully consider our position during
14 this matter. Thank you.

15 MR. PERRY: Johnny Crain.

16 MR. CRAIN: Hi. My name is Johnny Crain.
17 I'm president of Chemcore Industries. Chemcore
18 Industries is a company that specializes in
19 wholesaling sinks and faucets. We have three
20 locations throughout the country. Our home office is
21 in Austin, Texas. We have a location in Atlanta,
22 Georgia, and recently opened up a location in the
23 Boston area in New England, and are getting ready to
24 open a fourth location in southern California.

25 Our core customer base is about 90 percent

1 wholesaling direct to countertop fabricators. The
2 majority of these fabricators are small business
3 people doing custom fabrication of granite and other
4 stone products. Chemcore Industries was started in
5 2001 as a wholesale only supplier to the industry. I
6 believe Chemcore Industries was one of the original
7 companies that realized selling sinks and faucets
8 directly to the fabricators was a viable marketing
9 idea.

10 The traditional marketing method, which has
11 been followed by Elkay and Franke and the big sink
12 companies in the past, has been to sell sinks and
13 faucets through plumbing showroom facilities, and they
14 would end up reselling them to builders, and then to
15 consumers.

16 To the best of my knowledge, this has pretty
17 much always been the marketing strategy that these
18 companies have had. For example, Elkay sells to a
19 larger plumbing showroom in which they in turn sell it
20 to a fabricator or a plumbing installer, which then
21 sell it to the homebuilder or then even to the end
22 consumer.

23 Each one of these steps in this distribution
24 channel adds costs through markups and delays in
25 product delivery. Chemcore's entry into the sink

1 market evolved actually from my own experience. In
2 the last 1990s, I had contracted a new granite
3 countertop for my kitchen with a local fabricator, and
4 I was directed to a larger plumbing wholesale supply
5 store, and I was promised that I was being given the
6 wholesale pricing through the countertop fabricator's
7 sources.

8 I purchased this new sink and faucet for my
9 new kitchen, and spent about \$1,400 on those two
10 items. The store did not have the merchandise in
11 stock, and it took about three weeks to receive the
12 products. Meantime, during this time period, I was
13 repeatedly called by the fabricator and told that this
14 delay in obtaining the sink and faucet was causing a
15 holdup in production in his shop, and the countertops
16 for my house in particular, and also delaying him on
17 other jobs that he had to make as well.

18 These were obviously negatively affecting
19 his ability to make money. In 2001, when I entered
20 this business, I remembered this experience and felt
21 there was a real opportunity to offer product directly
22 to the fabricators that would not only delay their
23 production and give them a new profit center, it would
24 also give the consumers more options for products and
25 save them money as well by eliminating these extra

1 steps of marketing.

2 Now because of efficient use of distribution
3 channels, Chemcore is able to produce same-day
4 delivery on comparable quality product to what I had
5 experienced back in the nineties, and we're doing it
6 for about 15 to 20 percent of what I paid back then.
7 Chemcore has helped both fabricators and consumers by
8 offering products immediately available with a huge
9 cost savings because of the reduction in these
10 distribution layers and the associated markups.

11 When Chemcore originated, I didn't have a
12 very good idea about sourcing products, and I made
13 initial inquiries with Elkay and Franke and other --
14 well, those were the primary domestic manufacturers I
15 checked with. But at that time, they didn't have any
16 interest in selling to me since I didn't really fit
17 into their mold as a customer based on their marketing
18 model.

19 Throughout the years, I have tried doing
20 business with these companies from time to time, again
21 without success. When I tried contacting the domestic
22 manufacturers directly, my calls were either
23 unanswered or not returned. Further, when my calls
24 were returned by the manufacturer's rep, he'd tell me
25 that they weren't interested in my type of business.

1 Based on these experiences, Chemcore began
2 importing sinks at that time from Europe. But shortly
3 thereafter, I made contact with Chinese factories and
4 since then have been purchasing a big part of my
5 products from China.

6 Also, many other American sink companies,
7 including Elkay and Franke, have traditionally used
8 Chinese manufactured sinks as a regular supply source
9 for their U.S. distribution. In addition to China,
10 Chemcore now currently purchases things from Germany,
11 Canada, Mexico, and India. Presently, about 45
12 percent of our business are sinks that are involved in
13 this proceeding.

14 In the fall of 2011, prior to this
15 proceeding, Chemcore was interested in having a
16 domestic line of sinks. Chemcore has always wanted to
17 have a U.S.-made product line. And at that time, a
18 lot of publicity was devoted trying to make the public
19 aware of buying U.S.-made products whenever possible.

20 Chemcore contacted both Franke and Elkay
21 again. At the time, only Franke showed interest in
22 possibly selling to Chemcore in the future. Again,
23 remember this is 2011. Now, since the beginning of
24 this proceeding, Franke and Elkay have begun selling
25 these sinks, which I'm glad to have because I want to

1 push U.S.-made products. I'm really trying to develop
2 USA-made products in my product line. And I hope what
3 I'm saying here doesn't hurt my future business
4 relationship with them.

5 One reason for my testimony today is that I
6 have a genuine concern that if the ITC goes
7 affirmative, Elkay and Franke will stop selling sinks
8 to Chemcore.

9 Over the past few months, since the
10 preliminary determinations by the Commerce Department,
11 Chemcore has been approached by numerous factories
12 from South Korea, Malaysia, Turkey, India, and other
13 suppliers from other countries. Many of these
14 companies are established producers of sinks. If the
15 Commission goes affirmative in this case, the sole
16 result will be that importers will move to third-
17 country suppliers, and there will be actually no
18 benefit to Elkay or any of the other domestic
19 producers.

20 Finally, although we are looking at sourcing
21 from other countries, please understand that this
22 proceeding and ITC's determination in this case has a
23 huge impact on Chemcore's business. Chemcore, like
24 most of the importers, has to pay for our product
25 before we actually get it. These recent actions have

1 actually cost me an extra about 60 percent in working
2 capital need to prepay for a lot of more expensive
3 product coming in.

4 These costs have also already caused a
5 number of small import companies to go out of
6 business. They couldn't afford the extra capital
7 needed to continue business. The bottom line seems
8 very obvious to me, and hopefully to you as well. If
9 duties remain similar to the current levels, there
10 will be no real benefit to domestic manufacturers as
11 importers will simply migrate to other countries.

12 How can you not agree Chinese imports on
13 sinks are not affecting anything negatively on U.S.
14 sink manufacturers in the long because if it's not
15 viable to buy from China factories, we'll buy from
16 other countries that offer the same product for close
17 to the same price as the Chinese products were before
18 the duties were added.

19 Please think about this carefully, and
20 hopefully you'll agree with me and not go affirmative.

21 It serves absolutely no long-term purpose at all.

22 MR. PERRY: Bridgett Cruz of AmeriSink.

23 MS. CRUZ: Good afternoon, Commissioners.

24 My name is Bridgett Cruz, and I am the operations
25 manager at AmeriSink. I would like to make a couple

1 of points today.

2 First, Elkay and the U.S. industry must be
3 doing better in 2011 and 2012. The housing market has
4 come back, and we have seen demand increase
5 substantially in the new home construction market. As
6 you may know, interest rates are low, but it is very
7 difficult for consumers to qualify for a loan. As a
8 result, there is substantial increased demand for
9 rentals, which in turn means increased demand for
10 apartment buildings.

11 We know that the new building market is
12 Elkay's niche. For many years, and even now,
13 AmeriSink cannot compete with Elkay in the commercial
14 and multihousing stainless steel sink business. Elkay
15 has lower prices and a larger array of sinks, a larger
16 array of styles than AmeriSink and other U.S.
17 importers in the stainless steel topmount and
18 undermount sink business.

19 AmeriSink has never been in direct
20 competition with Elkay in the past. Almost all of our
21 business came from small to medium granite
22 fabricators. But now for the first time in 2011 and
23 2012, new builders are coming to AmeriSink not for low
24 prices, but because of increased demand. To be clear,
25 95 percent of our business is undermount, and only 5

1 percent of the business is in topmount sinks. We
2 generally cannot compete with Elkay in the builder
3 market because we do not have the ability to meet all
4 the documentary requirements for commercial builders,
5 but there are other builders that are coming to us
6 because they are looking for supply.

7 In 2011 and 2012, AmeriSink's business is
8 better and the U.S. industry as a whole is doing
9 better. Elkay's business, therefore, must be much
10 better because there is a substantial increase in the
11 new multifamily homes, commercial, and apartment
12 business, which is exactly where Elkay has its
13 advantage.

14 Second and final, as many of the importers
15 have already done, we are looking at importing sinks
16 from other countries. AmeriSink has been approached
17 by companies in Mexico, Malaysia, Korea, India, and
18 Turkey. If the ITC reaches an affirmative injury
19 determination, AmeriSink will be sending
20 representatives overseas to check out manufacturing
21 operations in third countries.

22 AmeriSink will continue to operate business
23 by simply switching to third countries. This case
24 will produce no benefit to Elkay. Thank you.

25 MR. PERRY: Thank you very much, and we're

1 ready for your questions.

2 CHAIRMAN WILLIAMSON: Okay. Thank you. We
3 express appreciation for all of our witnesses coming
4 today to present their testimonies. It's important to
5 hear from both sides. This afternoon we'll begin our
6 questioning with Commissioner Aranoff.

7 COMMISSIONER ARANOFF: Thank you, Mr.
8 Chairman, and thank you to all of the witnesses for
9 being with us this afternoon. This morning I asked
10 the panel of witnesses about the role of private label
11 products in the market, and I wanted to make sure that
12 I asked these witnesses the same question. Are any of
13 you providing private label products, and what do you
14 see as the role of private label products in the
15 market?

16 MR. LEVI: We are manufacturing on our own
17 brand, our own brand. So we're not doing any private
18 labeling.

19 COMMISSIONER ARANOFF: And what is your
20 brand?

21 MR. LEVI: Kraus, K-R-A-U-S.

22 COMMISSIONER ARANOFF: Okay.

23 MR. CRAIN: Virtually all my sinks are
24 private branded. Yeah, I have my own brand names for
25 the sinks I bring in, although I also sell Blanco, and

1 I have, like I was saying earlier, I have a new line,
2 a USA-made line, that both Franke and Elkay are
3 supplying me that's called Patriot line of sinks. But
4 I probably have about 17 lines that are private brand
5 lines. And I think most of the product coming from
6 China to people like is private branded with whatever
7 name we come up with.

8 MS. CRUZ: We do not supply any other
9 private label sinks.

10 COMMISSIONER ARANOFF: So yours all go out
11 under AmeriSink?

12 MS. CRUZ: Yes, ma'am.

13 COMMISSIONER ARANOFF: Okay. I also asked
14 this this morning. How large a share of total U.S.
15 demand do you think is accounted for by countertop
16 fabricators? Nobody got a guess? I think 25 percent
17 was the number that was being tossed around this
18 morning.

19 MR. CRAIN: I think it has probably grown
20 quite a bit more than that. You know, I've got a lot
21 of competitors, and we all focus on the fabricators.
22 And, you know, even the builders more and more are
23 having the fabricators spec out sinks from -- whether
24 it be us or other people in our business, and they're
25 having the fabricators obtain the sinks. I would

1 think it's a lot larger number than that.

2 COMMISSIONER ARANOFF: How susceptible do
3 you feel to sort of decorating fashion trends in the
4 market? What happens if granite goes out for kitchen
5 countertops? What happens to your business?

6 MR. CRAIN: We'll move to whatever works for
7 that type of countertop. You know, any type of hard
8 surface is going to probably require some type of
9 undermount, whether it be a copper sink or stainless
10 sink, granite sink, acrylic, or cast-iron. You know,
11 we're there to sell any kind of sink that the market
12 needs.

13 MR. LEVI: I don't think granite countertops
14 will be going anywhere any time soon. It's acrylic
15 counter, granite, or whatever it is, surface, it will
16 stay for a long time.

17 COMMISSIONER ARANOFF: Okay. Mr. Perry, in
18 the preliminary phase of this investigation, you had
19 argued that topmount and undermount sinks should be
20 separate like products. You didn't make that argument
21 in your brief here. Are you no longer making that
22 argument?

23 MR. PERRY: Probably not. In talking to my
24 clients, they didn't see that that would be a winning
25 argument. But I'm kind of interested after some of

1 the questions raised by the commissioners. But right
2 at the moment we're not making that argument. Thank
3 you.

4 COMMISSIONER ARANOFF: Okay. You also
5 argued in the preliminary phase that there was
6 attenuated competition between sinks being imported
7 from China and sinks produced in the United States,
8 and yet this afternoon I understood you to say you're
9 now arguing that this is a commodity product.

10 MR. PERRY: Well, I think we agree with the
11 Petitioner. The Petitioner says it's a commodity
12 product, and we see it that way. And it also has
13 obviously an effect on the Bratsk analysis.

14 COMMISSIONER ARANOFF: Are any of the
15 witnesses here today involved in the direct Internet
16 channel of distribution?

17 MR. LEVI: Yes, 90 percent of our business
18 is Internet right now.

19 COMMISSIONER ARANOFF: So do you -- you have
20 your own site where you receive orders over the
21 Internet?

22 MR. LEVI: Well, through channels like
23 Amazon, Overstock, Faucet Direct, Home Depot, Lowe's,
24 all the big channels. We sell online, and we're
25 trying to get some of them into stores.

1 COMMISSIONER ARANOFF: Now, does that work
2 on the basis of they get an order on their site, they
3 send it to you, and you ship direct to the customer?

4 MR. LEVI: In most cases, yes. In some
5 cases, they're buying stock and they ship themselves.
6 But in many cases we do drop shipping for them. We
7 include their invoice. It doesn't matter where you
8 buy it from. It comes with an invoice and delivered
9 to the customer directly.

10 COMMISSIONER ARANOFF: I asked the panel
11 this morning if they saw limits on the growth of the
12 direct-to-Internet market, for example, because at
13 some point, you know, showrooms can't stick around
14 being in business to show people products that they're
15 then not going to sell. What do you see as the limits
16 on the Internet part of the market?

17 MR. LEVI: There is no limit. It's growing
18 I would say about 15 to 20 percent year or year. And
19 who buys in line in general? In some cases the
20 general contractor, in some cases the installer. But
21 in most cases it's educated consumer who made his
22 research, and he wants the best value for his money.
23 He wants to make a choice himself instead of
24 contractor bring in something else for him.

25 COMMISSIONER ARANOFF: I mean, it's easy to

1 buy clothes and shoe over the Internet because you can
2 look at the picture, and if they don't fit, you can
3 send them back. It's hard to send back a sink if it
4 ends up not looking that pretty in your kitchen.

5 MR. LEVI: But in most cases, it's free
6 shipping back and forth, and you have 30 days to
7 return the product as long as it wasn't installed.

8 COMMISSIONER ARANOFF: So you can just put
9 it back in the box and call UPS to come get it.

10 MR. LEVI: Yes, as long as it wasn't
11 installed.

12 COMMISSIONER ARANOFF: Okay. One of the
13 witnesses mentioned that you sell mostly 16-gauge
14 sinks, and that you don't see those as being available
15 from domestic producers.

16 MR. LEVI: Not as much, yes.

17 COMMISSIONER ARANOFF: Do you have any
18 evidence on the record that would show what kind of
19 prices 16-gauge sinks are selling for? Because you
20 would expect if it's a premium product, it would be
21 selling at a premium price, but our data shows mostly
22 underselling.

23 MR. LEVI: The price point for the pressed
24 sinks between -- right now between 250 and 379 on most
25 of the products for 16-gauge.

1 COMMISSIONER ARANOFF: And why would
2 somebody buy a 16-gauge sink if they could buy an 18-
3 gauge sink for a little less?

4 MR. LEVI: They can -- usually 16-gauge
5 because when we enter the market, we introduced 16-
6 gauge sinks with about the same price or less than
7 Elkay 18-gauge. Plus they have rubber pads from 3 to
8 5 millimeter from each side on the sink. So there is
9 almost no sound effect whatsoever.

10 So we had our sinks were a better value. We
11 also did bundle deals. We provided grids and
12 strainers, including cloth towel, within the package.

13 MR. PERRY: One of the things I didn't,
14 Commissioner Aranoff, I didn't realize was that the
15 thinner gauge sinks means that you can hear the tink
16 from the water or something like that. The heavier
17 gauge means you don't hear anything when you're
18 running the water, et cetera.

19 So if you've been into an apartment building
20 with a thin gauge sink, you can really hear it, and
21 you can't hear it with a 16-gauge.

22 MR. LEVI: A 16-gauge is about 1.5
23 millimeter thickness. An 18-gauge is 1.2, 20-gauge
24 about 1, and as the gauge goes higher, the thickness
25 goes lower.

1 COMMISSIONER ARANOFF: Does the average
2 consumer buying over the Internet know that?

3 MR. LEVI: We're trying to educate them, and
4 so of the consumers online, any site you go right now
5 you can see its explanation of what the gauge means,
6 and the consumer understands the thicker the less the
7 gauge, the better the product, thicker.

8 COMMISSIONER ARANOFF: Okay.

9 MR. LEVI: So if you can buy a 16-gauge sink
10 for the same price as 18 or 20, you will definitely
11 buy 16.

12 MR. PERRY: I might mention at the
13 preliminary several of the importers mentioned a
14 tremendous wave in the United States of the kitchen
15 shows, you know, basically, the food cooking shows and
16 everything like that. As a result, it has become a
17 wave, and people are looking for ways to upgrade their
18 sinks.

19 COMMISSIONER ARANOFF: Okay. Well, thank
20 you very much for all those answers. Thank you, Mr.
21 Chairman.

22 CHAIRMAN WILLIAMSON: Thank you.
23 Commissioner Pinkert.

24 COMMISSIONER PINKERT: Thank you, Mr.
25 Chairman, and I join my colleagues in thanking you for

1 being here today to help us understand these issues.
2 I want to begin, Mr. Crain, with something you
3 testified to earlier, that at one point you were
4 attempting to secure some domestic supply, and you
5 were told that they weren't interested in your kind of
6 business.

7 I'm not talking about the later testimony
8 from 2011. What do you think they meant by we're not
9 interested in your type of business?

10 MR. CRAIN: They didn't mean it personally.
11 They just meant it I wasn't in their profile of
12 customer because at that time they were almost
13 exclusively selling -- to the best of my knowledge
14 were pretty much selling only through the showroom,
15 the plumbing showroom warehouses, and my type of
16 business selling direct to fabricators, you know,
17 didn't fit into their plan for how they wanted their
18 products marketed.

19 MR. PERRY: Commissioner Pinkert, I just
20 might add that from the testimony at the preliminary
21 by a number of the importers who appeared with me
22 then, this was kind of a universal feeling. Many
23 importers were running into the same problem. They
24 tried to buy from Elkay and Franke, and were just
25 told, forget it. And that's when they started looking

1 to China for other products.

2 MR. CRAIN: To give you an example, about
3 five years ago -- you're probably familiar with a
4 company, Blanco. They're one of the major sink
5 companies in the world. And while I was trying to get
6 with Kohler and Franke and Elkay, I also approached
7 Blanco, and had a little more luck. But you would
8 have thought I was a tenth grade dropout trying to get
9 into Harvard to even get them to give me a shot at it.

10 I was explaining to them that I could
11 approach a whole customer base that they really
12 weren't approaching at that time. Finally, after a
13 long time, I got Blanco to give in and give me a try.

14 And within like the first year, I was told I was one
15 of the top three or four customers they had in the
16 western U.S., and now I'm one of the top five
17 customers Blanco has in the country, from what I
18 understand.

19 And, you know, we have the ability to sell a
20 lot of sinks to a market that through the traditional
21 marketing methods that they had always been used to
22 doing, you know, we were giving them a whole new
23 customer base, and it worked out with Blanco, and
24 fortunately Franke and Elkay are kind of moving in the
25 direction to be willing to sell to us now, which I

1 appreciate because again, like I say, I'd love to sell
2 nothing but USA-made products if I could, and I'm
3 proud to be selling what I am now, and hopefully it
4 will keep growing.

5 COMMISSIONER PINKERT: Okay. So then later,
6 I think it was in 2011, you were able to obtain some
7 domestic supply from Franke and another company. What
8 changed for them that they were willing now to give
9 you some supply?

10 MR. CRAIN: I think a little bit of my
11 persistence, and the fact that they were listening to
12 me.

13 MR. PERRY: Correct one point. As Johnny
14 Crain stated, in 2011, he approached Elkay and Franke.
15 Elkay turned him down flat. Franke said maybe,
16 possibly. When he started -- they started making the
17 offers is after the preliminary determinations, and
18 the preliminary ITC investigation. It was just very
19 recently, right?

20 MR. CRAIN: Yeah. Franke back in I think
21 September or October 2011 became interested. I mean,
22 I approached them, and they said maybe so. And over a
23 period of a year, we went back and forth, and finally
24 I actually received my first inventory from Franke's
25 U.S. factory in the fall of 2012. And then shortly

1 after that, I was actually recontacted by the Elkay
2 rep, and talked to them, and they were at that time
3 willing to give me a try, so we've kind of -- we buy
4 about half of our U.S.-made line with Elkay and half
5 with Franke right now.

6 But, you know, I didn't actually start
7 getting inventory until fall of 2012.

8 COMMISSIONER PINKERT: Thank you. Now, are
9 undermount sinks more profitable to produce and sell
10 than topmount sinks?

11 MR. PERRY: Let me -- I'll ask the others to
12 speak. But from what I heard in the preliminary and
13 what I'm hearing now, it wasn't that they were more
14 profitable to produce, but they were certainly more
15 profitable to sell. They were getting a much higher
16 price, and many of the importers really, as AmeriSink
17 said, 95 percent of their business is undermount. And
18 the reason is that's the place that can make some
19 profit.

20 They couldn't compete without Elkay. Many
21 of them could in the topmount sink business. So a lot
22 of them moved into the undermounts.

23 MR. CRAIN: I'm also about 99 percent
24 undermount. And I think one thing that -- and I'm
25 wearing this hearing device because I couldn't hear

1 really what was being said earlier, so I may be saying
2 something wrong here. But I didn't hear anyone, when
3 you all were asking questions about the topmount sinks
4 and why they're priced whatever they are -- you know,
5 the reason most topmount sinks are a lighter gauge of
6 thickness than undermount sinks, first off, so that
7 lighter gauge means that they're cheaper to build
8 because the steel is less, the stainless steel is
9 less.

10 But also, the undermount sinks are only used
11 in hard-surface countertops, meaning granite, solid
12 surface, marble, you know, these type of countertops,
13 which are going into higher priced homes. And so
14 you're not going to spend \$5,000 on a granite
15 countertop and put a drop-in, topmount sink in there.

16 You want to see the thickness of that granite and
17 really, you know, show it off. And the undermount
18 sinks almost all are 18- or 16-gauge, you know, the
19 thicker sinks. And the popularity of these expensive
20 countertops over the last years have really driven I
21 think the undermount sinks to become a dominant thing
22 in the higher end kitchens.

23 You know, you go to an apartment complex
24 that's got Formica-type laminate countertop, you know,
25 you'll see some drop-in sinks, but they're usually 20-

1 or 21- or 22-gauge, light gauge, sinks, so they're
2 cheaper. But the undermounts are the heavier
3 stainless steel. Did I answer your question?

4 COMMISSIONER PINKERT: What I'm trying to
5 understand is why the domestic industry would avoid a
6 segment of the market that you claim is more
7 profitable to sell in, if I'm correctly representing
8 your testimony. Why would they avoid that segment of
9 the market?

10 MR. PERRY: Well, I think that what is going
11 on here was that in -- and I think Johnny put it this
12 way. It was the distribution channels. They had the
13 old way of selling, which is through the plumbing
14 supply houses, through multiple different supply
15 channels, different layers of distribution.

16 By the time it got down to the fabricator,
17 the fabricator would say, okay, you go to this
18 plumbing supply house, you get it. And it would take
19 weeks to get the sink. So the fabricator was backed
20 up on his jobs, and that was one of the biggest
21 problems he had.

22 So what happened was these importers came in
23 and realized all of a sudden -- or really these
24 companies came in and said, look, if we sell to the
25 fabricator directly, the fabricator can move faster.

1 They got into the market before Elkay did. Then when
2 they were there, Elkay tried to come in with a
3 Chinese-made sink, which was Dayton. But by that
4 time, the importers were already there.

5 Now, these importers were importing mostly
6 from China, but they had started imports from other
7 countries. So this was kind of a universal thing.
8 And it was often very close relationships between the
9 importer and the granite fabricators, so they
10 understood what was going on.

11 MR. CRAIN: I don't know if I agree 100
12 percent with that. I mean, they were making
13 undermount sinks probably before anybody. But they
14 just were real high priced and, you know, they were
15 just -- it was a whole different back at that time. I
16 mean, you know, like I say, when I bought my sink and
17 faucet, you know, I thought I was buying wholesale,
18 and I spent \$800 on a sink supposedly wholesale. And,
19 you know, it was just a totally different market.

20 And, of course, back then also I think
21 granite was, you know, averaging probably \$50 to \$100
22 a square foot to have put in, where now you can get
23 granite put in for \$25 or \$30 a square foot. So the
24 whole, you know, kitchen modeling industry or the
25 whole kitchen countertop and sink and faucet business

1 has really become very, very competitive, and prices
2 have come way down on everything.

3 COMMISSIONER PINKERT: Thank you very much.
4 Thank you, Mr. Chairman.

5 CHAIRMAN WILLIAMSON: Commissioner Johanson.

6 COMMISSIONER JOHANSON: Thank you, Mr.
7 Chairman, and I would also like to thank all of you
8 for appearing here today. Mr. Crain, I'm from Austin
9 also, so welcome up here. Mr. Crain, actually this
10 first question is for you. You stated that you
11 formerly imported sinks from Europe. From which
12 countries did you import the sinks?

13 MR. CRAIN: I originally started with a
14 company called Teka, which has moved out of the U.S.,
15 but they were produced in Spain, and I was having
16 actually supply problems, and this was back when we
17 were wholesaling sinks for \$250, \$300, but they
18 couldn't supply me, and so I started looking for other
19 sources and was pleased to find, you know, being able
20 to buy the sinks from China.

21 COMMISSIONER JOHANSON: So you started
22 importing from China. Part of it was because Teka
23 moved out of the U.S.?

24 MR. CRAIN: No. They just were not able to
25 produce or supply me with the quantity I needed, and,

1 you know, like I say back at that time, the market
2 could bear a lot higher prices than it does now, but
3 when I started looking around, I realized that I could
4 buy the sinks from China or other Asian countries and,
5 you know, but not only be supply, but also be at a
6 lower price.

7 COMMISSIONER JOHANSON: And what year did
8 you start importing from China?

9 MR. CRAIN: 2004, I believe.

10 COMMISSIONER JOHANSON: Okay. So well
11 before the POI, Period of Investigation, then?

12 MR. CRAIN: Yes.

13 COMMISSIONER JOHANSON: Okay. And this is a
14 question for any of the witnesses on the panel. What
15 has been the impact of the Canadian order on exports
16 of Chinese stainless steel sinks to Canada? And I
17 guess there's also an order that was imposed by South
18 Africa. Do you all know what impact it's been?

19 MR. LEVI: Our business in Canada decreased
20 by about 30 percent. We used to sell to Canada a lot,
21 but because of the duties, our business went down
22 about 30 percent on the kitchen sinks to Canada for
23 the past eight to nine months, I mean, from October,
24 six months.

25 COMMISSIONER JOHANSON: Okay. And there's

1 also the order on South Africa, which has been in
2 place, I think, since 2009. Do you all know anything
3 about that? There's not a whole lot in the staff
4 report about that.

5 MR. LEVI: No.

6 COMMISSIONER JOHANSON: Okay.

7 MR. CRAIN: But there's such a big range of
8 duties from different suppliers in China, you know,
9 some of the suppliers are really doing good selling to
10 Canada. I'm talking about Chinese factories selling
11 to Canada where others are basically not selling any
12 more at all, I mean, because --

13 COMMISSIONER JOHANSON: Since the order went
14 in place?

15 MR. CRAIN: Yes. I think the range is like
16 six percent to over 100 percent, so, I mean, it killed
17 a lot of people from selling in Canada that were from
18 the factories that got the high rates.

19 COMMISSIONER JOHANSON: So we can
20 conceivably see some of those products come into the
21 U.S., I would think?

22 MR. CRAIN: I think yes. There's a lot of
23 those factories are selling in the U.S. now, but it
24 seems like the factories that are cooperative with
25 government agencies seem to be cooperative here and

1 there, and they tend to get the better rates by being
2 cooperative, and the ones that don't want to fool with
3 it, they end up suffering because they're not one to
4 make the effort to do the work necessary.

5 COMMISSIONER JOHANSON: Okay. Thanks. Do
6 you all know if there are differences in manufacturing
7 cost or manufacturing in general for the three types
8 of sinks at issue, top mount, drop in, under mount and
9 also I guess we have the dual mounts as well?

10 MR. LEVI: Top mount and drop in I think is
11 the same thing. In production, it's about 10 percent
12 difference top mount and about 10 percent cheaper
13 because you're producing the most in 18 gauge. The
14 rest you're doing in 16 gauge, so the production cost,
15 10- to 15-percent difference the most.

16 COMMISSIONER JOHANSON: Okay. And if you
17 all are importers, are you familiar with the product
18 from Mexico?

19 MR. CRAIN: Stainless steel product?

20 COMMISSIONER JOHANSON: The stainless steel
21 sinks?

22 MR. CRAIN: From what I understand at this
23 point, most of the stainless steel sinks that are made
24 in Mexico and imported here are top mounts.

25 COMMISSIONER JOHANSON: Okay. Do you import

1 those? Have you imported those before?

2 MR. CRAIN: No. The company I mentioned
3 earlier, Teka, has a factor there, and they've
4 approached me, but I haven't had any interest in it.

5 COMMISSIONER JOHANSON: Okay. In the view
6 of you all, is price the only distinction
7 characteristic between stainless steel sinks produced
8 in China and those produced in the United States
9 because I'm getting now at the commodity question.
10 Petitioners contend these are commodity products, and,
11 Mr. Perry, you've kind of insinuated that today. I'm
12 not entirely sure. Are there other differences in
13 U.S.-produced sinks and Chinese-produced sinks that
14 might detract from them possibly being commodity
15 product?

16 MR. LEVI: Price and the quality and because
17 we have our own specification how we want to produce,
18 and China suppliers are more flexible on how exactly
19 want to produce products.

20 COMMISSIONER JOHANSON: Okay. Can you give
21 me examples of that by chance? I know this might be
22 proprietary, but --

23 MR. LEVI: 16 gauge, we would like special
24 to make a mold. Mold is much cheaper, so we can
25 create our own designs, much more flexible and I think

1 it costs much cheaper, plus the finishing, rubber pads
2 basic requirement because in order for us to compete,
3 we have to provide better product for the U.S.
4 consumer because we can't compete head to head with
5 Elkay because Elkay's a much better brand, a much
6 known brand and for a much longer time, so you have
7 provide better value for the money. You have to
8 provide better product in order to compete.

9 COMMISSIONER JOHANSON: And you think the
10 Chinese products are largely better quality products?

11 MR. LEVI: For us, it's good because we have
12 our own operation in China and a our own quality
13 control people and the production people to be able to
14 control it.

15 COMMISSIONER JOHANSON: Yes, Mr. Perry?

16 MR. PERRY: Yes. Just the point I was
17 trying to make is the importers will be working with
18 the Chinese factories to get them to produce to
19 whatever their order is, and so it's typical of
20 process, QC people there. A lot of the importers will
21 do the same to make sure their product is produced to
22 their specification.

23 COMMISSIONER JOHANSON: And you don't see
24 that as much with the U.S. producers?

25 MR. PERRY: Well, they're basically doing

1 their own thing. I would suspect with the point
2 you're saying though, Elkay has a factory in China, so
3 they must be doing the same thing, which is QCing
4 their product in China and bringing it back to be
5 competitive.

6 COMMISSIONER JOHANSON: Okay. Mr. Crain?

7 MR. CRAIN: Along those same lines that he
8 was talking about, I can custom make a sink, I can
9 draw on a sheet of paper a sink I'd like to produce,
10 and I can fax or email that drawing over to China, and
11 they'll make the mold for me and send me a sample sink
12 all within about a month and not charge me anything
13 for the mold. I think earlier someone was talking
14 about the different costs, and, you know, the molds
15 are very expensive, but in China, if I tell them I'll
16 order 200 of these sinks, they'll make me a mold and
17 have me a sample sink from that mold in production.

18 I mean, it will air freighted over to me,
19 and I'll have it in four to six weeks. Also, like on
20 my lines, as he indicated he does, I have special
21 things that I can have done. I have a special bracing
22 system that I use on my sinks. I have special
23 requirements with the sound deadening paint. I have
24 special specifications that I want on the rubber
25 deadening pads. I've got finish that I want to use.

1 It's amazing the quantity that they put out,
2 the specialization that you can get, and again, I'm
3 not trying to bad mouth anybody else, but, you know,
4 the American companies they have a catalog with these
5 pictures, and that's what you got to have. You can't
6 say I want the sound deadening paint on this one to be
7 a dark gray, and I want the sound deadening paint on
8 this one to be green or whatever, and with China, you
9 can specify exactly what you want and get it.

10 You can make a cheap sink, or you can make a
11 really high-quality sink, you know, to your specs and
12 have it custom done, you know, the molds and
13 everything for a fast, not too expensive outlay.

14 COMMISSIONER JOHANSON: And when you discuss
15 taking away 30 days or so for them to come back with
16 the proposed modified design, does that in effect mean
17 a shorter lead time for you all?

18 MR. CRAIN: If I'm coming up with new
19 product, yes.

20 COMMISSIONER JOHANSON: For the Chinese to
21 send to the U.S.? Yes? Because I asked the question
22 this morning there's something in the staff report
23 which mentions one importer having frustrations due to
24 the longer lead times with China.

25 MR. CRAIN: I think it just depends on the

1 factory and how large a customer you are, and I guess
2 thy consider the importance of that.

3 COMMISSIONER JOHANSON: And so you find
4 working with the Chinese or I guess you're getting at
5 are more willing to help you come up with the custom-
6 produced sinks?

7 MR. CRAIN: Yes, but I'm not saying all the
8 Chinese factories are wonderful to work with
9 because --

10 COMMISSIONER JOHANSON: The ones you found
11 some help in that area?

12 MR. CRAIN: Yes. I mean, I've worked with
13 some that were a nightmare, misrepresentations and
14 sending me things that I didn't order, but I finally
15 got it down to where I've got a couple of factories
16 that I deal with that are real good.

17 COMMISSIONER JOHANSON: Yes, Mr. Perry?

18 MR. PERRY: The just one point, this is when
19 an importer is working with a Chinese company, it's a
20 process. It's not they just go and buy the sinks.
21 They have to constantly work often with the Chinese
22 Company for years and winnowing out. Certain Chinese
23 companies don't work, some do. That's what happens.

24 MR. LEVI: It's a relationship and
25 partnership.

1 COMMISSIONER JOHANSON: Okay.

2 MR. LEVI: And it takes a long time to build
3 it. They know what you want and what they can
4 produce.

5 CHAIRMAN WILLIAMSON: Okay. And you found
6 more flexibility working with them than with the U.S.
7 producers?

8 MR. LEVI: Because I have a couple of
9 factories I have worked for more than five years.

10 COMMISSIONER JOHANSON: Okay. My time's
11 expired, but thank you for your responses. Mr.
12 Chairman?

13 CHAIRMAN WILLIAMSON: Commissioner Pearson?

14 COMMISSIONER PEARSON: Mr. Chairman, are you
15 yielding your time?

16 CHAIRMAN WILLIAMSON: I'm sorry.

17 COMMISSIONER PEARSON: You may if you wish.
18 That's the Chairman's prerogative.

19 CHAIRMAN WILLIAMSON: I ought to for not
20 paying more attention, but you're right.

21 COMMISSIONER PEARSON: I yield my time back
22 to you, Mr. Chairman.

23 CHAIRMAN WILLIAMSON: Okay. Thank you. Let
24 me put the sheet in front of me. Okay. Thank you.
25 Following up on that line of questioning, and you talk

1 about the amount of time it's taking you to develop
2 the relationships with your Chinese trading partners,
3 and yet you're sort of saying if the duty's going to
4 affect, imports will be coming from a whole bunch of
5 other countries right away. Are you saying then that
6 with other countries, you won't have to go through
7 that same process of qualifying, establishing working
8 relationships? I note also this morning the
9 Petitioners this morning talked about some countries
10 where infrastructure was an issue, but the countries
11 that you all talked about probably weren't in that
12 category. Could you address that?

13 MR. PERRY: Yes. Let me make one point. I
14 mean, I had more than 10 companies in the coalition
15 at the prelim, and at the ITC prelim, they've gone, so
16 they're already working with companies on their words.

17 I literally have one company that had a factory in
18 China, closed it down, went to Korea, set up a new
19 factory, so what's happening is they knew this was
20 coming. They thought it was a lost cause, and so
21 they're basically already moving. These companies
22 have started moving, and so it will obviously take
23 time, but there are companies out there that really
24 want to sell to them.

25 MR. CRAIN: But to answer your question,

1 yes. We're potentially taking a chance if we switch
2 factories, and in my case, I've continued to buy from
3 the factories that I'm used to dealing with in China
4 hoping that our efforts here will turn out to be good.

5 CHAIRMAN WILLIAMSON: And also developing
6 relationships with your suppliers too, I think.

7 MR. CRAIN: Sure.

8 MR. LEVI: We've got initial contact already
9 with India company and a Turkey company, and it's much
10 easier to replicate existing process, I guess, the
11 models, than to develop them from the beginning the
12 way it's happened in China.

13 CHAIRMAN WILLIAMSON: But it is a time
14 process, right?

15 MR. LEVI: It's going to be at least six to
16 12 months' process in order to complete move over.

17 CHAIRMAN WILLIAMSON: Okay. Okay. Thank
18 you. I just wanted to get that clarified. Let's see.
19 The other thing I was wondering about, both, Mr.
20 Perry and Mr. Levi, you really talked about shall we
21 say spotting a niche in the market. Back around 2001,
22 2002 taking advantage of the internet, of cutting out
23 some of the middle men in the process, and I was
24 wondering all of that happened well before the period
25 of investigation, and to what extent is that a

1 phenomenon that's already happened?

2 I guess I'd also invite Petitioners to
3 comment post hearing whether or not they've caught up
4 by the time we get to the period of investigation, and
5 I almost want to say is that something the market has
6 already taken account of? I can see where there was a
7 big change in the distribution patterns, but was that
8 all done by the time we get to this investigation, or
9 largely done?

10 MR. CRAIN: I think so. I mean, I don't
11 have a real knowledge, but I have sales reps all over
12 the country calling on fabricators, and we're running
13 into very few fabricators now that don't sell sinks.
14 Back you say before 2005, 2006?

15 CHAIRMAN WILLIAMSON: Yes.

16 MR. CRAIN: I mean, we were going into
17 fabricators and explaining to them why they should be
18 selling sinks. Not only was it a new profit center
19 for them, but it would cut their production times a
20 lot, and they, you know, would be able to save the
21 consumers money and all that, but we were, back at
22 that time, probably 70 or 80 percent of the
23 fabricators were not selling sinks, but now, for the
24 last two or three years, I mean, you hardly ever see a
25 fabricator that's not selling sinks now.

1 CHAIRMAN WILLIAMSON: Okay.

2 MR. PERRY: I think we have established
3 relationships now between many of the importers and
4 the fabricators, and obviously Elkay will try to come
5 in with its own domestic product, but, you know, the
6 fabricators have established relationships like
7 everything.

8 CHAIRMAN WILLIAMSON: But I guess the
9 question I'm asking is by the time of the period of
10 investigation, have the domestics also established
11 those relationships? I mean, we had testimony from
12 Ms. Hamilton about, this was 2005, 2006 or '07 that
13 she was doing this investigation and spanning
14 relationships with fabricators?

15 MR. PERRY: What may have happened
16 truthfully was after the ITC preliminary conference,
17 so all of a sudden now they're selling to Chemcore
18 where they refused to do it before, and frankly
19 Chemcore didn't speak at the preliminary conference,
20 but a number of companies that were selling to
21 fabricators did speak, and all of a sudden LK started
22 showing up, so I think that just before the ITC's
23 preliminary conference, I don't think they were really
24 there that much, but all of a sudden maybe they
25 learned they were missing something. I mean, you saw

1 a change in the internet in Elkay, right?

2 MR. LEVI: The practice came down a lot, and
3 it became a much more competitive marketplace than it
4 used to be. Before, our price, retail price, used to
5 sell sinks for about \$259 when Elkay sinks were \$400
6 and up. Now, many of the sinks came down to around
7 \$300 range, and they have 40, 50 percent off from the
8 MSRP prices on the internet, but still, if you go
9 online and you type kitchen sink in Google, you will
10 see more Kraus sinks than Elkay sinks, so if a
11 consumer was looking online, they will see Kraus sinks
12 before you'll see Elkay sinks.

13 CHAIRMAN WILLIAMSON: Okay. And you're
14 saying that was true even until just recently?

15 MR. LEVI: This has been happening for the
16 past, you know, six month. They realized the gap,
17 what they're missing online, so they reduced the
18 prices a lot.

19 MR. CRAIN: But I think Elkay was involved
20 in the fabricator business much earlier but in a
21 limited way, with particular their Revere brand, which
22 is a private brand, which was made in China until
23 recently. They were selling that brand through
24 primarily like Home Depot, maybe Lowe's, too.

25 I'm not sure, but anyway, we would call on

1 fabricators, our sales reps would call on fabricators,
2 and they would say no, we're doing Home Depot's
3 countertop fabrication, and we're required to sell
4 Revere sinks with these countertops, so the
5 fabricators obviously had contact with Elkay through
6 their Revere brand. That was back as early as, I
7 think, 2006 or '07, something like that.

8 CHAIRMAN WILLIAMSON: Okay. You see the
9 question I'm posing is what impact of subject imports
10 during the period of investigation as opposed to shall
11 we say the marketing and the innovation that you all
12 brought to the distribution industry and when it
13 occurred and trying to figure out how to take all that
14 into account.

15 MR. PERRY: Well, I think that one way to
16 take it into account is the importers, many of them,
17 were looking for sources of supply. Again, at least
18 from the people I've talked to, and I've now talked to
19 maybe 20 U.S. importers, it was really an importer
20 pool situation. They were looking for sources to fill
21 in the gaps. The Chinese showed up. Now, because of
22 the problem, they're moving to alternative sources of
23 supply, but it was again looking for somebody to fill
24 in the gap.

25 Now, has Elkay caught up? I don't think

1 they had caught up that much until that preliminary
2 conference, and all of a sudden, they're showing up
3 everywhere.

4 CHAIRMAN WILLIAMSON: Can you take a look at
5 the table, I think it's C-3, post hearing and market
6 shares and tell me how that squares with what you've
7 just said?

8 MR. PERRY: Okay. Okay.

9 CHAIRMAN WILLIAMSON: Thank you. Okay.
10 Excuse me a second. Mr. Perry, could you address Mr.
11 Dorn's argument this morning that even we accept your
12 "but for" argument imports would still be found to
13 cause injury?

14 MR. PERRY: Well, my point in the beginning,
15 which is still there, is that the failure of the
16 Commission to conduct a "but for" analysis, frankly
17 many of the Commissioners have taken the position,
18 Commissioner Pinkert is the exception, of refusing to
19 even do that.

20 CHAIRMAN WILLIAMSON: But my point is, he
21 said even if we did what you want us to do, we would
22 still find that the imports are causing injury.

23 MR. PERRY: I don't think so, and I think
24 that if you go back to the statement I read for what
25 is the "but for" test, and I think the Mittal case

1 said it pretty explicitly, and quoting from
2 Pricewaterhouse, let me say it again, "'But for'
3 causation is a hypothetical construct in determining
4 whether a particular factor was a 'but for' cause of a
5 given event. We'd be assuming that factor was present
6 at the time of the event and then ask whether even if
7 that factor had been absent the event nevertheless
8 would have transpired in the same way."

9 In other words, if the Chinese imports were
10 not here, would the U.S. industry be in the same
11 position, and my answer is yes, obviously, because
12 what would happen is the imports are going to come in
13 from a third country because this is an importer pull
14 case. The importers are going to go find other
15 sources of supply, so no, what I believe strongly is
16 that by refusing to use a "but for" methodology, the
17 Commission has watered down the causation standard to
18 be just a temporal relationship.

19 Now, I may be wrong, but I'm in court now in
20 from the court of international trade. In the wood
21 flooring case, I just argued it against the
22 Commission. Judge Muskgrave will make his decision
23 then. The response to these Supreme Court cases from
24 the Commission so far is they're just a bunch of tort
25 cases. We don't have to look at them. That was the

1 statement by the general counsel's representative in
2 oral argument.

3 The only point about that is they're not a
4 bunch of tort cases. The Supreme Court is looking at
5 statutory construction across a number of different
6 statutes. Now, you may be saying well it's the
7 dissent of Justice Kennedy, but the issue in the
8 Pricewaterhouse case was where the burden of proof was
9 in a sexual discrimination case. On the issue of "but
10 for" cause, the Justices were unanimous, so what you
11 have now running across a whole bunch of cases, I
12 didn't believe this, I thought if I looked at, I would
13 eventually find the Commission to be right, but the
14 more I researched, the more I found.

15 CHAIRMAN WILLIAMSON: Okay.

16 MR. PERRY: And so that raises a lot of
17 issues for me.

18 CHAIRMAN WILLIAMSON: Okay. Okay. Well, my
19 time is expired, so I will now yield to Commissioner
20 Pearson.

21 COMMISSIONER PEARSON: Thank you, Mr.
22 Chairman.

23 CHAIRMAN WILLIAMSON: Thank you for that
24 answer.

25 COMMISSIONER PEARSON: Allow me to extend my

1 greetings to all of you. It's good to have you here
2 this afternoon. You've indicated that domestic
3 producers have at times rejected your requests for
4 business. Can you provide documentation of these
5 attempts and rejections, for instance, if there was an
6 email record that would lay this out over time, it
7 would help augment the record that we now have
8 available.

9 MR. CRAIN: Probably not. I could probably
10 contact the people that are with the companies or
11 their representatives, and if they were truthful, they
12 would acknowledge that at that time.

13 COMMISSIONER PEARSON: Well, and Mr. Perry
14 will understand the reason for the request because we
15 do have to make our decisions based on substantial
16 evidence on the record, and I'm not sure that we have
17 that evidence on the record in a substantial way.

18 MR. CRAIN: Well, I mean, the marketing rep
19 for Elkay in Texas is Jim Martin & Associates and Jim
20 Martin.

21 COMMISSIONER PEARSON: Okay.

22 MR. CRAIN: That's who I talked with.

23 COMMISSIONER PEARSON: Okay.

24 MR. CRAIN: But we were talking. I wasn't
25 recording or anything. It wasn't --

1 COMMISSIONER PEARSON: Okay. Well, see what
2 you can do with it, Mr. Perry. You've also indicated
3 that some imports have already shifted to nonsubject
4 sources, some importers have shifted. In your post-
5 hearing brief, could you please provide any
6 information about which firms have shifted, to what
7 sources and in what volume?

8 MR. PERRY: Yes, I'll provide it in
9 confidence. Many of these companies now, of course,
10 are not so interested in the Commission going negative
11 in this case, but I'll provide in confidence who they
12 are.

13 COMMISSIONER PEARSON: Okay. Thank you.
14 Now, for those of you who are in the business, since
15 production, as you've indicated, may well tend to
16 shift out of China and into nonsubject countries in
17 order to have access to the U.S. market, would your
18 firms actually be hurt by the imposition of the order,
19 or would the marketplace fairly quickly adjust such
20 that you would be able to obtain sinks from
21 manufacturers in countries other than China and still
22 be able to serve your customers here in the United
23 States?

24 MS. CRUZ: I think that there would be
25 probably a delay of about six months before we could

1 get that going, but it would just be a delay about
2 that much.

3 COMMISSIONER PEARSON: Okay.

4 MR. CRAIN: I agree that there would be some
5 adjustment time.

6 MR. LEVI: It's about the same, yes.

7 COMMISSIONER PEARSON: Okay.

8 MR. LEVI: But know you are forced to raise
9 prices for about 30 percent when the antidumping case
10 went in October. Our sales went down 30, 40 percent.
11 It wasn't killing for us, but it went down.

12 COMMISSIONER PEARSON: Okay. I would
13 understand correctly that you have the view that the
14 global market for sinks is liquid enough so that
15 things would slosh around a bit, but before very long,
16 there would be a new equilibrium such that the supply
17 and demand for sinks would kind of equilibrate?

18 MS. CRUZ: Yes, sir. Yes, sir.

19 COMMISSIONER PEARSON: Okay. Thank you.
20 Now, there's been some discussion of 16 gauge versus
21 18 gauge. I have the impression that 18 gauge is the
22 most common gauge used for sinks in the U.S. market.
23 What share of the sinks you sell are 18 gauge and what
24 share of 16 gauge, and I understand you may have to
25 answer this in the post hearing to get down in detail,

1 but if you're able to give some idea now, that would
2 be helpful.

3 MR. LEVI: In our case, about 90 percent is
4 16 gauge, and 10 percent is 18 gauge, and until recent
5 years, most of the sinks were 20 gauge and up. It's
6 only the last couple of years things became 18 gauge.
7 It used to be 19, 20 and up.

8 COMMISSIONER PEARSON: Okay. And why has
9 the market moved toward the heavier gauge?

10 MR. LEVI: Because I was offering 16 gauge,
11 and other importers 16 gauge, so everybody else had to
12 lower the gauge in order to compete.

13 MR. PERRY: Commissioner, one thing. Again,
14 come back to what they said. Some of the importers
15 were saying at the prelim the real movement for better
16 sinks was coming out of this whole movement for the
17 Rachel Ray and all these cooking channels. There
18 became a huge thing in the United States about
19 cooking, and people starting looking for better
20 equipment, and that led to better sinks.

21 COMMISSIONER PEARSON: So explain to me the
22 difference in the consumer experience between having a
23 20 gauge sink and a 16 gauge sink, and I have to
24 confess, for about a year and a half, I've had a
25 stainless steel sink, I don't know from which country

1 it came, and I don't know what its gauge is, but I
2 like it okay, but how would a consumer tell the
3 difference between say 20 gauge and 16 gauge.

4 MR. PERRY: One of the things that I was
5 told, and then I'll have these guys speak is literally
6 you can hear it, and I can remember when I used to
7 rent a small apartment, and I had a sink there, and
8 you could literally hear the water as it hit the
9 bottom of the sink, and so it didn't look that
10 substantial enough, so it would make a lot of noise,
11 so the heavier gauges reduce the noise so it
12 disappears, and that's why you have rubber, et cetera,
13 behind this, and it looks more substantial, more like
14 a chef would have as a sink.

15 MR. LEVI: From the visual way, they look
16 the same, but if you put them next to each other and
17 compare by weight, weight can be twice less. Also the
18 sound, when the water's running or something and goes
19 in the sink, there's almost no sound on the 16, 18
20 gauge. On a 20, 21, you'll see like a ding sound.

21 MR. CRAIN: And the fact that if you drop a
22 pan in a 20 gauge sink, it's going to dent more likely
23 than a 16 gauge because it's just heavier steel.

24 COMMISSIONER PEARSON: Okay. And did you
25 indicate earlier that there has been a greater

1 tendency to use 20 gauge with a top mount sink and
2 then the under-mount sinks have been heavier gauge?

3 MR. CRAIN: Right. In fact, if you look
4 through catalogs that show them, a big part of them
5 are 20 gauge, but, I mean, there's even just as much
6 21, 22 gauge there because top mount's perceived to be
7 a lower-end sink, they go with a cheaper, lighter-
8 gauge steel.

9 MR. PERRY: One thing else, Commissioner
10 Pearson, that's where, as we go back to it again,
11 where Elkay had the lock because through all its
12 documents, and I just learned this in their sink, et
13 cetera, Elkay has a huge advantage when dealing with
14 builders because they can do bonds. They can do very
15 complicated paperwork that a lot of these smaller guys
16 can't do, and so it has a tremendous advantage as it
17 moves into the new homes and works with a builder in
18 the construction market.

19 What do they want in apartments? They want
20 cheap sinks, so the cheaper sinks are the top mount,
21 lower gauge steel sinks, and that's exactly where I
22 was told time and again importers can't compete.
23 Elkay's got that market, but that is also where you
24 see the thinner gauge, et cetera, and it's be cause
25 it's apartments, you know, buildings with 20, 30, 40

1 apartments and they'll have 20, 30 to 40 sinks.

2 MR. LEVI: Also, back then, it was not many
3 choices. Elkay had the market. They had kind of
4 monopoly, so whatever they made, that was what's
5 supposed to be selling depending on the gauge,
6 depending on the model, depending on the price. When
7 we came in about five, seven years ago, the game was
8 changed, so Elkay had to improve and make it better in
9 order to compete.

10 COMMISSIONER PEARSON: Well, a question for
11 Mr. Perry. Looking back to the time when we specified
12 the pricing products in this investigation, would we
13 have been well advised to split out 16, 18, 20 gauge
14 and look at them separately? Of course, we went with
15 ranges.

16 MR. PERRY: That might have been better. By
17 the way, I had so much of a problem just pulling
18 together a coalition. That's why I couldn't get my
19 comments in, but no. You have a point.

20 COMMISSIONER PEARSON: Given the pricing
21 products that we have, are you comfortable with the
22 overselling, underselling data? I mean, did we get it
23 right based on the pricing products as specified?

24 MR. PERRY: Let me respond in the post-
25 hearing brief. Let me look at that issue.

1 COMMISSIONER PEARSON: Okay.

2 MR. PERRY: Okay.

3 COMMISSIONER PEARSON: All right. Thank
4 you. Well, I think I have no further questions, so
5 allow me to thank you very much for your testimony,
6 and Mr. Chairman, I'll turn it back to you.

7 CHAIRMAN WILLIAMSON: Thank you.
8 Commissioner Aranoff?

9 COMMISSIONER ARANOFF: Thank you, Mr.
10 Chairman. This panel has talked about Elkay as if it
11 were sort of the only game in town for the domestic
12 industry. Of course, there is another domestic
13 producer that recently exited the market, that was
14 Kohler. Have any of you had experience with them in
15 terms of whether you went to them for supply and had
16 conversations with them for supply? Mr. Crain?

17 MR. CRAIN: About three years ago, I
18 approached Kohler, and their national marketing lady,
19 she was so excited to hear my phone call she said can
20 you fly up to Wisconsin tomorrow? I want to meet with
21 you. I kind of told her about my history with Blanco,
22 and, I mean, I couldn't believe it that Kohler was
23 that hot to trot to want to talk to me, and so I said
24 well, I'll do my best. Well, shortly thereafter she
25 called me back and said hey, I wanted you to meet the

1 President and Vice President, and they're going to be
2 out of town tomorrow. Can we postpone for a couple of
3 weeks, and I said sure.

4 So I contacted her a couple of weeks later,
5 this was like in May, and she said well, I'm not
6 really able to make an appointment right now. Let's
7 shoot for August, and so in August I called and didn't
8 get a call back. September I called, didn't get a
9 call back. October I called, didn't get a call back,
10 so I quit calling, and then a few months later at the
11 national show, the Kitchen and Bath Industry Show, I
12 went to the Kohler booth, and I talked to one of the
13 honchos there, and I said hey, what happened? Does
14 this lady still work for you all?

15 They said yes, and he said why, and I said
16 well, she won't return my calls, and she was trying to
17 get me to fly up there on 24-hour notice because she
18 was so excited to hear that I might want to be
19 interested in handling Kohler, and he said well, I'll
20 get her to get in touch with you. Well, she never got
21 in touch with me, so I tried to get in touch with her
22 again. I didn't have any luck, but I had this other
23 guy's card, and I called him back up, and I said hey,
24 she hadn't got in touch with me, and he said well,
25 I'll get her to get in touch with you.

1 Well, she never got in touch with me, so I
2 repeated that again a year later at the next Kitchen
3 and Bath Industry show, and by this time, they said
4 that we don't think we'd be interested in your type of
5 business or marketing plan or, you know, that I didn't
6 fit into their category of business.

7 COMMISSIONER ARANOFF: Okay. Thank you. I
8 wanted to follow up with a question that Commissioner
9 Pearson was asking. He had asked for documentation to
10 the extent that you could supply it of some of these
11 conversations in which you say that domestic industry
12 showed a lack of interest in supply your businesses,
13 and obviously anything you can provide us to that
14 effect is going to be helpful.

15 In particular, I think we're really trying
16 to understand whether the situations all fall into
17 this category that Mr. Crain is describing where it's
18 sort of at a very initial level, you call and never
19 hear from them again, but whether there are anything
20 that goes past that to the point where people were
21 discussing actual models, actual prices, actual
22 amount. That would be very helpful to know, and
23 obviously, I direct the same questions to the domestic
24 producers to answer post hearing.

25 Okay. Mr. Levi, I just wanted to follow up.

1 One thing you said in your direct testimony first
2 thing this afternoon, you said something about pricing
3 from some of the nonsubject producers, the third
4 country producers that you've been looking at was, I
5 thought you said, within 10 to 25 percent of China.
6 Now, did you mean 10 to 25 percent higher, lower?
7 What did you mean?

8 MR. LEVI: Higher, 10 to 25 percent higher
9 than the China prices.

10 COMMISSIONER ARANOFF: Okay. So everybody
11 that you've looked at so far as an alternate source
12 has had prices 10 to 25 percent higher?

13 MR. LEVI: But also China, it's a biggest
14 volume producer, so if Turkey or India will produce in
15 huge volumes, I'm pretty sure prices also go down, but
16 as of now, quotes we got were 10 to 25 percent higher
17 for the same models as we currently sell.

18 COMMISSIONER ARANOFF: Okay. Thanks, so
19 that leads me to my final question, which is for Mr.
20 Perry, but he's conferring with his client.

21 MR. PERRY: Commissioner Aranoff?

22 COMMISSIONER ARANOFF: Yes.

23 MR. PERRY: I'm going to ask Johnny to
24 respond because some of the quotes he's gotten from
25 third-country suppliers have been much lower.

1 MR. CRAIN: From Malaysia, the price
2 difference between what I was paying before the
3 increase in duties and all, it's about say on a real
4 common equal bowl, 50/50 18 gauge sink is about \$4
5 higher for Malaysia. From South Korea --

6 COMMISSIONER ARANOFF: Four dollars higher
7 than what you were paying for from China prior to the
8 duties?

9 MR. CRAIN: Right. Yes, and from South
10 Korea, my quote is about \$10 higher.

11 COMMISSIONER ARANOFF: Okay. Now, have you
12 actually seen any sinks from these plants or actually
13 seen the plants so you know that they could actually
14 produce the quality and type of product and the
15 quantity you're looking for, or do you just have a
16 quote?

17 MR. CRAIN: Yes. I received a sample of the
18 sink from South Korea, and it's very nice. The
19 Malaysian sink, their factory opens up in March, and I
20 was kind of worried about them doing transshipping. I
21 didn't want to get in trouble on that, so I did save
22 my emails on that, by the way, because each email I
23 sent well, are you sure this is made in Malaysia? I
24 don't want a sink that's made in China and shipped to
25 Malaysia, and they said no, we're opening a factory,

1 and I said so after March I could come to your factory
2 and actually see it in production, and they said yes,
3 so I think it may be real.

4 COMMISSIONER ARANOFF: Okay. Okay. I
5 appreciate those answers, so having asked these
6 factual questions about relative prices of third-
7 country products, Mr. Perry, leads me to my legal
8 question going back to your arguments based on the
9 broad Bratsk and Mittal line of cases, you've argued
10 that non-subject imports could replace subject imports
11 without benefit to the domestic industry, and in your
12 brief at least you argue that on a volume basis. You
13 argue that they could replace the volume.

14 Whether that's a backward-looking or
15 forward-looking inquiry, obviously there may not be
16 agreement there, but just for the sake of argument,
17 the Bratsk and Mittal line of cases don't say that the
18 only benefit to the domestic industry could be via
19 volume. There is also the price factor, and you don't
20 address that in your brief, and your witnesses have
21 just testified that they'd be paying more for non-
22 subject imports. How would you address that in your
23 legal framework?

24 MR. PERRY: Well, again I think the legal
25 framework though, the point is, is this really going

1 to help the U.S. industry, and the real issue is is
2 the order going to help the U.S. industry or not?

3 COMMISSIONER ARANOFF: Well, they told us
4 that they can't spread their fixed costs, but if
5 they're getting more per unit that they sell --

6 MR. PERRY: That's assuming that basically
7 the volume is going to go to Elkay. If the volume is
8 going to other companies from third countries that are
9 coming in that are still much lower than Elkay's
10 prices, then I would think that the volume is going to
11 go there. That's the issue, and remember, I think
12 this whole issue of looking past, looking future, et
13 cetera, that's kind of red herring. This is a
14 counter-factual test just as when you make a threat
15 determination or when you do a 751 changed
16 circumstances review. You're doing a counterfactual
17 analysis, and again, it's a hypothetical construct.

18 COMMISSIONER ARANOFF: Would you concede
19 that hypothetically if the domestic industry sold the
20 exact same number of sinks for higher prices, they'd
21 be better off.

22 MR. PERRY: Yes, sure, you could say that,
23 but the other point is this isn't really going to
24 help. The best argument I ever heard for this was
25 Commissioner Pearson. Wooden bedroom furniture, I

1 used it many times, and it's the sunset review
2 paragraph you put in, "After five years of the wooden
3 bedroom furniture case, this has not helped the U.S.
4 industry at all, but I know I can't look at benefit or
5 how effective the order is, so there's really not much
6 I can do. The only thing it's helped is the lawyer."

7 The point is, that's a very telling point.
8 If in five years from now you say the same thing, my
9 argument is you've watered down the causal link.
10 That's where the real causation standard is. If the
11 industry isn't going to be better off, if it really
12 makes no difference if you eliminate the Chinese, then
13 you have not passed the "but for" test, and that's
14 what Justice Kennedy is saying, so I really think
15 that's really the issue here. It's looking at
16 statutory construction and the "by reason of"
17 language.

18 COMMISSIONER ARANOFF: Okay. Thank you very
19 much for those answers, and thank you to the
20 witnesses. I don't have any further questions, Mr.
21 Chairman.

22 CHAIRMAN WILLIAMSON: Okay. Commissioner
23 Pinkert?

24 COMMISSIONER PINKERT: I have just a couple
25 of followup questions. I know, Mr. Crain, we've asked

1 a lot about those conversations that you had in which
2 you attempted to secure domestic supply, and I know
3 you're looking for documents that might give us more
4 insight into those conversations, but do you recall
5 whether price was ever discussed in those
6 conversations?

7 MR. CRAIN: It depends on which one of the
8 conversations we're talking about. Back earlier, like
9 in say 2006, 2007, if you'll remember I mentioned that
10 Elkay was selling the Revere line through the Home
11 Depot fabricators, and I had heard that they were
12 receiving a really low price, and I thought well, if
13 they're selling for those low prices to them, maybe I
14 can hook up with Elkay and be able to get those kind
15 of prices from them, which were very good prices.

16 Elkay's giving a very good price now
17 compared to what they probably had been doing in the
18 past, but at that time, apparently, like I said, they
19 were not interested in selling to me at that time, but
20 I knew the price that I had heard that they were
21 selling on these sinks that were being fabricated for
22 Home Depot, but I didn't ever get to the point other
23 than that of even getting into price.

24 COMMISSIONER PINKERT: With them. What
25 about some of the other conversations you had in which

1 domestic supply was at issue, and you were unable to
2 get supply domestically? Was price ever discussed in
3 those?

4 MR. CRAIN: We didn't get that far, no. If
5 you want more detail, I mean, I can give you guys'
6 names that I talked to at Franke because I knew a
7 couple of the guys from Franke, so I had kind of a
8 little bit of a personal contact with them so I could
9 call them up and say hey, do you think Franke would be
10 interested in selling to me and me developing an
11 American-made line, and they'd get back with me later
12 and indicate at this time, it probably won't work, but
13 we'll keep it in mind.

14 COMMISSIONER PINKERT: Is it fair to say
15 that you had a particular price point in mind when you
16 were having those conversations with potential
17 domestic suppliers?

18 MR. CRAIN: No. I mean, I wasn't expecting
19 to be Chinese prices. I mean, I sell Blanco, which is
20 one of the highest-price sink lines that you could
21 get. I mean, one thing I kind of use as a selling
22 point is that we have the best selection in the
23 industry, and I sell from the lowest- to the highest-
24 priced products, so I was just wanting to get my foot
25 in the door and see where it went.

1 COMMISSIONER PINKERT: Mr. Perry, do you
2 wish to add anything to that?

3 MR. PERRY: I think Johnny said it the best,
4 and we'll try to see if we can get some more
5 information to you in a post-hearing brief.

6 COMMISSIONER PINKERT: Thank you. Now, does
7 anybody on this panel have a good estimate for the
8 production capacity for stainless steel sinks in
9 China?

10 MR. LEVI: I would say it's unlimited. It
11 all depends on demand.

12 MR. PERRY: There are a lot of companies
13 over in China.

14 MR. LEVI: There is new companies coming up
15 every year. Where there is bigger demand, there's
16 going to be bigger supply.

17 MR. PERRY: I mean, we've tried to contact
18 indirectly, and I will try again, to see if we can get
19 responses to the foreign producer questionnaire
20 responses. That's about the best I can do, but most
21 of the Chinese companies, as I said before, have given
22 up.

23 COMMISSIONER PINKERT: And with that, I have
24 no further questions for this panel. I appreciate the
25 testimony, and I look forward to any additional

1 information that you're able to come up with for the
2 post hearing.

3 CHAIRMAN WILLIAMSON: Thank you.
4 Commissioner, Johanson?

5 COMMISSIONER JOHANSON: Thank you, Mr.
6 Chairman, and I just have one more question. In your
7 prehearing brief, is it fair to state that
8 Petitioners' causation argument rests on the factual
9 premise that the importation of drawn steel sinks has
10 occurred and grown because the domestic industry
11 ignored growing and expanding distribution channels?

12 MR. PERRY: That's one of our arguments,
13 definitely, that basically they have ignored the
14 distribution. They have ignored market opportunities,
15 and this caused, yes, many of the problems that they
16 now face. I think that what happened in the
17 preliminary conference was Elkay started to get aware
18 of what the changes were, and that's why all of a
19 sudden they're approaching. We're talking years after
20 the fact, and this was a problem. I think they were
21 so cause up in their own distribution methods that
22 they weren't willing to look at alternatives for many
23 years.

24 MR. LEVI: I agree. I would say that
25 pricing from the cost of the production to the retail

1 price were like five to 10 times over because of the
2 distribution channels. It's at least three to five
3 hands were changing before it was getting to the
4 consumer when in our case, it's only two or three
5 hands at the most.

6 MS. CRUZ: I'd just like to add that it
7 wasn't always about price. There was also issues with
8 the product being available when customers would go to
9 these facilities to buy, not the factories per se, but
10 the plumbing showrooms and things like that, so that
11 had a lot to do with why customers were seeking other
12 places to purchase.

13 COMMISSIONER JOHANSON: One of the claims
14 that Petitioners made is the use of the internet, that
15 the domestic producers have been slow in contacting
16 potential buyers through the internet, but we saw this
17 morning the Petitioners demonstrated they indeed to
18 have presence on the internet as you would expect, and
19 it's perhaps a bit more robust that you all had
20 stated. Can you maybe comment on that? Mr. Levi, you
21 mentioned you use internet extensively.

22 MR. LEVI: Yes, the internet presence has
23 been there for the past year. Before, it was very
24 minimal. Our internet presence for about five, six
25 years, we are everywhere. Their internet presence for

1 the past six months, it's increased. They're catching
2 up, especially since the duties went up.

3 COMMISSIONER JOHANSON: Mr. Crain?

4 MR. CRAIN: I'm probably not an expert to
5 answer this, but I do know from my history with
6 Blanco, they very aggressively police internet
7 marketing of their products because they don't want
8 their prices being shown up lower than they want to
9 market them for and all, and I think the same thing
10 with the other big companies, you know, Franke or
11 Elkay.

12 They don't want their products sold below a
13 certain market price, so, I think, historically
14 they've probably been pretty conservative on this type
15 of marketing of their products. They were worried
16 that the pricing was just going to be below where they
17 wanted the image of their product to be sold for.

18 MR. PERRY: I think that one of the
19 overarching issues, which is going to causation, is
20 outmoded distribution, and in the preliminary, Counsel
21 Dorn said well, just Google Elkay sinks, and our
22 response was Google sinks, and all of a sudden you'll
23 find Elkay all the way down the list. Now it's
24 changed recently. We agree.

25 MR. LEVI: They're getting better.

1 MR. PERRY: They're getting better,
2 especially after the preliminary when they realized
3 that this was a big issue.

4 COMMISSIONER JOHANSON: All right. Well,
5 thank you for your responses. I appreciate it, and
6 that concludes my questions.

7 CHAIRMAN WILLIAMSON: Okay. Just following
8 up on Commissioner Johanson's point, and I invite
9 Petitioners post hearing and Respondents to submit any
10 documentation you can to sort of show is this the gist
11 of a post-preliminary phenomenon, or has it been going
12 on for a while? I mean, the internet's been around
13 for a while. These marketing tools have been around
14 for a while. In fact, the two of you I guess got into
15 this back in 2001, 2002, and so in evaluating how much
16 weight to give to this distinction, I just want to get
17 a little clearer documentation on the history.

18 MR. PERRY: Right. Just so we can be clear
19 here, we're talking about two different distribution
20 issues.

21 CHAIRMAN WILLIAMSON: Okay.

22 MR. PERRY: One is the 2001, 2002 was when
23 the phenomenon of the fabricators arose.

24 CHAIRMAN WILLIAMSON: Yes.

25 MR. PERRY: And that's what I was hearing

1 from a lot of the importers, I heard from Johnny. The
2 internet was a much more recent phenomenon.

3 MR. LEVI: I would say five, six years,
4 since 2006, 2007 it really picked up and has been
5 almost doubling every year since then, especially in
6 our business.

7 CHAIRMAN WILLIAMSON: So you're saying that
8 the internet phenomenon has been around for five or
9 six years?

10 MR. LEVI: Yes. I would say the internet
11 sales going up since 2005, 2006.

12 CHAIRMAN WILLIAMSON: And the role of the
13 domestic producers in taking advantage of that
14 channel?

15 MR. LEVI: Their pricing, because of the old
16 channels of distribution and the pricing and the
17 showrooms wanting to make double on the cost, like
18 let's say they're buying the sink for \$200, and they
19 want to sell it for \$400, and the internet, when it
20 came out, our prices were much cheaper, so the
21 consumer to buy a \$500 sink 18 gauge or to buy \$300
22 sink, which is 16 gauge, which has drains and grease
23 included, there's no brainer.

24 CHAIRMAN WILLIAMSON: Okay.

25 MR. PERRY: I think I might add to that. I

1 think Commissioner Pearson's point originally to Elkay
2 about the SG&A was very interesting, the increased
3 SG&A, and I think that goes in with the old
4 distribution channel, and if you can go to the
5 internet, you can cut the overhead costs.

6 CHAIRMAN WILLIAMSON: Okay. Well, I'll
7 leave it to Petitioners to respond whether or not they
8 think they're --

9 MR. PERRY: They'll disagree.

10 CHAIRMAN WILLIAMSON: Yes, but thank you for
11 that. Let's go to the question of the 16 gauge and
12 the importance of that. Now, I lived in Harlem, and I
13 know there are a lot of new apartment buildings going
14 up, and if you're going to build a building in New
15 York, you're not going to put a cheap sink in if
16 you're trying to get a premium rent, but I was
17 wondering how large is that phenomenon given the
18 recession, some testimony we heard that what's going
19 to be coming back is probably multi-family.

20 I mean, there's always room in this country
21 for a luxury market, but in terms of the real volume
22 and growth, the real volumes, where is that and what's
23 happening there, and are we seeing the 16 gauge
24 phenomenon there, too?

25 MR. PERRY: I would add something here.

1 It's not so much the 16 gauge. You put your finger on
2 something else, which is as AmeriSink was talking
3 about which is the tremendous increase in apartments,
4 and that is the top mount sink. That is where Elkay
5 is located. That's why I believe that basically 2012
6 is looking better for the domestic industry.
7 AmeriSink is saying builders are coming to us. We
8 never thought this was going to happen saying we're
9 looking for supply. Huh?

10 I think that's what's happening is the
11 housing market is taking off, and especially in the
12 apartment area because more rentals are needed. I own
13 a small apartment complex in Seattle, and we're seeing
14 people coming to us all the time wanting to rent
15 rooms, and it's because it's so hard to get a
16 mortgage, so rentals have gone up, demand for
17 apartments have gone up, demand for top mount sinks
18 have gone up, demand for lower-gauge sinks has gone
19 up, and that's Elkay.

20 That play right into Elkay's hands, and so
21 whereas you're talking about under-mount, more
22 stylish, the thick 16-gauge stuff, that's where a lot
23 of these guys are, and so that's the difference.

24 CHAIRMAN WILLIAMSON: Okay. Excuse me, Ms.
25 Gross. Go ahead.

1 MS. GROSS: We actually don't sell more 16
2 gauge than we do 18. I would say it's the reverse.
3 We sell primarily 18 gauge, and then we do have a few
4 16 gauge as an alternative to maybe someone that has
5 done a little more education and maybe likes what we
6 would call an upgrade, but most of what we sell is 18
7 gauge.

8 CHAIRMAN WILLIAMSON: Where is your market?
9 I mean, are you a certain region? Are you trying to
10 reach a certain --

11 MS. GROSS: I'm on the East Coast. We have
12 three locations, so I handle the operations in
13 Atlanta, Georgia.

14 CHAIRMAN WILLIAMSON: Okay. And can I
15 characterize it as more of a premium or a medium-
16 grade, or does it matter?

17 MS. GROSS: Between the 16 and the 18?

18 CHAIRMAN WILLIAMSON: Partially that and
19 partially the area that you're selling in, your target
20 area.

21 MS. GROSS: I think the 18 is still
22 considered the industry standard, so people are still
23 comfortable with buying 18 gauge.

24 CHAIRMAN WILLIAMSON: Okay. Mr. Crain, what
25 about your market?

1 MR. CRAIN: I'm about 70 percent 18 gauge,
2 30 percent 16 gauge. My cost difference between a 16
3 and 18 gauge is about \$10, and I sell it to my
4 wholesale customers. Maybe I'm being too specific,
5 but I think you want some specifics here, so I
6 wholesale a 16 gauge for between \$10 to \$20 more than
7 an 18 gauge, and what we tell our fabricator customers
8 is, you know, and a lot of these fabricators now it's
9 getting so competitive in their business, they're
10 throwing in a sink free.

11 If they'll do their countertops with them,
12 they'll throw in a sink free, and what we say is hey,
13 instead of losing that money on that sink you bought
14 from me, that 18 gauge, having the 16 gauge sitting
15 right here beside it, let them pick up and feel the
16 difference and charge them \$100 extra for it, and at
17 least you're covering your cost pretty much on that 16
18 gauge sink, and these fabricators that are doing that
19 are finding 95 percent of the customers will actually
20 do that, will go ahead and spend that extra \$100.
21 They're spending \$5,000 or \$8,000 on countertops. To
22 spend an extra \$100 to have that much difference, they
23 like it.

24 CHAIRMAN WILLIAMSON: I'm the kind of person
25 if I dropped a pan, I would, too.

1 MR. CRAIN: Yes, but the 16 gauge, you know,
2 to the person that knows the difference, for the
3 little difference in money, they're going to buy it
4 every time, but still, like I say, about 70 percent of
5 our business is 18 gauge.

6 CHAIRMAN WILLIAMSON: Okay. Mr. Levi?

7 MR. LEVI: In our case, it's 90 percent 16
8 gauge and 10 percent 18 gauge because we position
9 ourselves as a premium brand, so we're trying to
10 provide better value for the money because our price
11 going a little bit higher than average.

12 CHAIRMAN WILLIAMSON: Your marketing area?

13 MR. LEVI: I've been marketing 16 gauge.

14 CHAIRMAN WILLIAMSON: I mean, but --

15 MR. LEVI: East Coast, New York area, all
16 over because I sell through Amazon, Home Depot,
17 Lowe's, Overstock.

18 CHAIRMAN WILLIAMSON: Okay. I got you.
19 Okay.

20 MR. LEVI: I have to buy, so I just sell
21 through all the U.S.

22 CHAIRMAN WILLIAMSON: Okay. But it's
23 primarily the people who know the difference and want
24 that?

25 MR. LEVI: People who understand the

1 difference or they see the value in it.

2 CHAIRMAN WILLIAMSON: Okay. Thank you.

3 Now, it's just helpful to put it in context because I
4 understand the thing about the kitchen --

5 MR. LEVI: You probably should look on the
6 Google and put kitchen sink, and as a consumer, you
7 would see what people would choose based on the
8 selection.

9 CHAIRMAN WILLIAMSON: Okay. Good. Thank
10 you. This helps put the context, so I appreciate
11 those answers. One just last question, you already
12 talked about the flexibility of the Chinese suppliers.

13 I just wanted to check again. Are there any
14 characteristics or features of the Chinese imported
15 drawn sinks that do not exist or are different from
16 the features in the U.S. product? I mean, you talked
17 about, I guess, we'll call it customer service, but
18 other than that?

19 MR. CRAIN: Like I said, I couldn't hear
20 what was being said when the Elkay people spoke this
21 morning, but my understanding, at least my
22 understanding from Elkay, is that all their sinks that
23 are made in the U.S. are 18/10 chrome/nickel content
24 where in China, the sinks are 18/8, meaning they've
25 got eight percent nickel versus 10 percent on U.S.,

1 and if I was told correctly, then that means that the
2 U.S.-made sink stainless steel quality is a little bit
3 higher.

4 CHAIRMAN WILLIAMSON: Okay.

5 MR. CRAIN: Otherwise, I don't know of
6 the --

7 CHAIRMAN WILLIAMSON: Is that enough for our
8 customer to perceive the difference?

9 MR. CRAIN: No, probably not. Most of them
10 wouldn't know any difference, but, I mean, the cost is
11 there. The cost for the stainless steel is obviously
12 a little more if you buy 18/10 than 18/8, but 18/8 is,
13 I think, all that's available in China.

14 CHAIRMAN WILLIAMSON: Okay. Okay. Thank
15 you. Thank you for those answers. Commissioner
16 Pearson?

17 COMMISSIONER PEARSON: No further questions,
18 Mr. Chairman.

19 CHAIRMAN WILLIAMSON: Does any other
20 Commissioner have a question? Okay. Does staff have
21 any questions for this panel?

22 MR. TSUJI: Karl Tsuji, commodity industry
23 analyst. Two, actually one question and a request
24 primarily for Mr. Perry as counsel. First of all, do
25 the Respondents concur, differ or have no opinion

1 about the wall-mounted or the freestanding sinks
2 fitting into the continuum of all stainless sinks?
3 That's on page 4 of the Petitioners' prehearing brief.

4 Second is a request much like to the Petitioners this
5 morning, that is in the Commission's prehearing brief
6 or report, the confidential version, you'll see a
7 table, VII-6, it's on page 7-10, again in the
8 confidential version of the Commission's prehearing
9 report, if you could, we would appreciate if you could
10 provide any updates or additions based upon your
11 client's industry knowledge? Unfortunately, I can't
12 go into further details about what's in that table
13 because it is labeled as business proprietary.

14 MR. PERRY: What's the table number again?

15 MR. TSUJI: I'm sorry. Let me repeat that.
16 Roman number VII.

17 MR. PERRY: Okay.

18 MR. TSUJI: Into Arabic 6.

19 MR. PERRY: Okay.

20 MR. TSUJI: On page 7-10. That's all.

21 MR. FISHBERG: Sorry, Chairman. One
22 question. David Fishberg, the Office of the General
23 Counsel. Again, thank you for your testimony. I was
24 just wondering regarding your testimony and your
25 arguments this afternoon, are they related exclusively

1 to the under-mount segment of the market in terms of
2 when you're talking about going to the fabricator
3 channels and the internet channel? Are you talking
4 about exclusively under-mount sinks, or are you
5 talking more broadly about sinks in general, which
6 would encompass both under-mount and top-mount sinks?

7 MR. LEVI: In our case, it's mostly under
8 mount. We have about 90 percent of the sinks we sell
9 is under mount, and about 10 percent is top mount.

10 MR. CRAIN: We sell 99.9 percent under
11 mounts. If you all want to double or triple or
12 quadruple the duties on the top mounts, that's fine
13 with me.

14 MS. HAMILTON: I believe I stated this
15 earlier. It's about 95 percent under mount, five
16 percent top mount.

17 MR. FISHBERG: Great. Thank you very much.
18 Staff has no further questions.

19 CHAIRMAN WILLIAMSON: Do Petitioners have
20 any questions for this panel?

21 MR. DORN: No, thank you, Mr. Chairman.

22 CHAIRMAN WILLIAMSON: Okay. Thank you.

23 Well, I want to thank this panel for the testimony. I
24 appreciate very much also your coming to give it, and
25 it's now time for closing statements. The Petitioners

1 have seven minutes from direct and five minutes for
2 closing for a total of 12 minutes for closing
3 rebuttal, and the Respondents have 35 minutes direct
4 and five minutes for closing for a total of 40
5 minutes, and we usually combine the direct and the
6 closing statements together.

7 If there's no objection, we'll do that in
8 this case too. So thank you very much, and soon as
9 everybody is settled, we will proceed to closing
10 statements.

11 (Pause.)

12 CHAIRMAN WILLIAMSON: Okay. Mr. Dorn, you
13 can begin when you're ready. Thank you.

14 MR. DORN: Thank you, Mr. Chairman. First,
15 a few rebuttal points. Mr. Rogers, you heard the
16 testimony about distribution channels. Is your method
17 of distribution more cumbersome or have more layers
18 than the Chinese producers or the U.S. importers who
19 testified today?

20 MR. ROGERS: No. What the Chinese producers
21 have simply done is substitute an importer channel for
22 a wholesale channel. They do not sell directly to
23 countertop fabricators. It is not more complex.

24 MR. DORN: Does Elkay make 16-gauge product?

25 MR. ROGERS: We do in fact make 16-gauge

1 product. In fact, if you take another look at the
2 video that we showed of Broadview this morning, you
3 will notice that they are indeed forming 16-gauge
4 product. It's written on the draw ring dye.

5 MR. DORN: Why does 18-gauge predominate?

6 MR. ROGERS: 18-gauge is the material of
7 choice in the industry. In every other channel of
8 distribution that we serve, and we serve them all, the
9 dominate gauge is 18.

10 MR. DORN: Mr. Perry testified twice that
11 you produced a Dayton line in China. Is that true?

12 MR. ROGERS: That is not true. We have
13 never produced Dayton in China.

14 MR. DORN: There was testimony that you only
15 began using Internet sources in the last year or so.
16 How long have you been using Internet sources to move
17 your product?

18 MR. ROGERS: We've been on the Internet in a
19 major way for 6 years. We have been on the Internet
20 with HomeDepot.com for about 6 years.

21 MR. DORN: And as a result of this case,
22 have you been able to do anything with your Chinese
23 plant different than you were doing before?

24 MR. ROGERS: We have shifted almost all of
25 the drawn sinks to our Lumberton and Ogden facilities.

1 We do produce fabricated sinks in our Xuhai facility,
2 largely for domestic use.

3 MR. DORN: Now a few remarks in closing.
4 There is a lot of agreement in this case now, more so
5 than I thought at the time of the staff conference. I
6 don't hear any disagreement with respect to the
7 definition of the domestic like product. In fact, I
8 understood Mr. Perry to say he's not making an
9 attenuated competition argument.

10 He makes the arguments that petitioners
11 often make about the fact that this is really more of
12 a commodity product. And I think he's saying that it
13 sells on the basis of price. But the problem is that
14 the price is too high in the United States, so the
15 importers go someplace else where it is less
16 expensive.

17 The prehearing report indicates that price
18 is certainly an important purchasing factor. That was
19 confirmed by the purchasers' questionnaires. During
20 the staff conference, the witness for Kraus said that
21 its goal was to offer high quality products at low
22 prices, and that the reason that Elkay lacked sales is
23 not because they don't have a great product. It's
24 because their price is, quote, "unaffordable."

25 Today you heard Mr. Levi talk about Elkay's,

1 quote, "uncompetitive prices," end quote. You heard
2 Mr. Crain testify about the high price from Elkay. So
3 when it comes down to it, this case is about extreme
4 margins of underselling, which is the reason that
5 Chinese imports have increased so dramatically during
6 the period of investigation and gained 18 points of
7 market share from 2009 to 2011, and gained about 3
8 points of market share from interim 2011 to 2012.

9 I'd like to say a little bit about the
10 channels of distribution argument that has been made.

11 I think it's very clear that the importers you've
12 heard from are a small subset of a large market. Mr.
13 Perry's witnesses said in the staff conference that
14 the fabricator segment accounts for about 25 percent
15 of the market. Mr. Crain tried to back off of that a
16 little bit.

17 We don't have any better evidence. In our
18 talks yesterday, we were talking 20 to 25 percent,
19 something like that. But keep in mind, you've heard
20 from three importers who are focused on the fabricator
21 channel of distribution. You've heard no evidence to
22 rebut any of our testimony regarding the 75 percent of
23 the remainder of the market. They really have no
24 answer to that. All their focus is on the fabricator
25 channel.

1 As you know, the importer's questionnaire
2 coverage was not great. It was okay. It covered
3 about 30 percent of imports. I would ask you to look
4 at the page of your prehearing report in terms of the
5 shares of that subset of imports for which there are
6 importers' questionnaires that are represented by the
7 three witnesses you had today. And it's not very
8 much.

9 So, you know, you've got to be careful about
10 how much weight you give to them, although their
11 arguments and testimony were largely corroboratory of
12 what we've been saying, that this case is about price.

13 They're not saying that they brought in products
14 because they had better features and so forth.
15 They're saying basically they pulled in the imports
16 from China because they were a lot less expensive than
17 what they were getting from domestic producers.

18 If you look at the statutory factors, I
19 think this is a fairly easy case. I was asked a
20 couple of times whether this was a volume or a price
21 case. It's both. The underselling evidence is very
22 strong. Mr. Pearson, there is a range of gauge. But
23 that understates the magnitude of the underselling
24 because if there is more 16-gauge coming in from
25 China, and that's included in their pricing

1 comparisons, and more of the U.S. product tends to be
2 18-gauge, you're comparing those in the same
3 categories.

4 And so if you'd go on gauge-to-gauge, the
5 degree of underselling would have been even greater.
6 So they certainly have no complaint to make with
7 regard to how the underselling evidence was
8 established. And the impact of the underselling in
9 this case is borne out in a volume way very clearly by
10 the large shift in market share. That's clear from
11 the data. I didn't hear any dispute of the data from
12 the other side. They have nothing to say about it. I
13 mean, clearly the volume shifted away from the U.S.
14 industry and toward the Chinese industry, and it is
15 due to price, and no other reason.

16 There is also a price impact that relates to
17 the lost revenues that are in the record, some of
18 which are confirmed. And it's also apparent from the
19 cost-price squeeze data showing that as a whole the
20 domestic industry cannot keep pace with rising costs
21 from 2009 to 2011. And so there was price suppression
22 within the meaning of the statute.

23 And I think the evidence of impact, adverse
24 impact, is especially strong in this case. Generally
25 you have cases where, you know, one indicator is going

1 one way, and another indicator is going this way.
2 This case is simple. I mean, the correlation analysis
3 is pretty clear. You have imports rapidly increasing.
4 You have them increasing their share of the market.
5 Nonsubject imports are pretty much a nonissue. And in
6 that context, you saw all the indicators for the
7 domestic industry going down in the context of a
8 market that was going up.

9 Admittedly, it's not the strongest market,
10 but it was improving. Demand was increasing from 2009
11 to 2011, and demand was increasing from interim 2011
12 to interim 2012. And the volume indicators are all
13 going in the opposite direction for the domestic
14 industry as the Chinese grab more and more market
15 share.

16 And I thought in terms of Bratsk I was happy
17 with the evidence I heard from the other side. I
18 mean, at the very minimum, if you replace the Chinese
19 imports totally with imports from the other countries,
20 there would be a price benefit to the domestic
21 industry. Now, that's not going to happen. You know,
22 none of these witnesses have an established supply
23 relationship with an alternative country right now.
24 They all admit it's going to take a long time. They
25 talked about the long-term horizon needed to establish

1 good relationships, partnerships to get comfortable
2 with a product.

3 That's not going to happen overnight. And
4 if it does happen to some degree, it's going to be
5 product that's priced higher than product from China.

6 Hopefully it's not subsidized product from China, and
7 hopefully is not dumped product from China. And if
8 that doesn't turn out to be the case, Elkay has
9 learned about Title VII of the Tariff Act of 1930. If
10 there are other unfairly traded imports in the future
11 that come in to replace imports from China, they know
12 what the remedy is today.

13 And the final point I would make is that in
14 the staff conference hearing, Mr. Perry emphasized
15 that this case would not do any good for the U.S.
16 industry. He made that point again today. As you
17 indicated in your preliminary determination, it's not
18 your job to really determine whether the order is
19 going to be effective in the future.

20 But I can tell you, as you see from our
21 prehearing brief, as you heard from the witnesses
22 today, this case is already making a difference. It's
23 already bringing production back from China to the
24 United States for Elkay. It's already resulting in,
25 you heard it, Franke and Elkay selling product to

1 Chemcore. It's not a coincidence in terms of the
2 timing of when Chemcore went to the U.S. industry for
3 product. It's related to the fact that high duty is
4 going to be placed on its sources from China. And we
5 have other evidence regarding the fact that since the
6 duties went in place, wholesalers and others have come
7 back to Elkay and Franke and other U.S. producers who
8 haven't rushed to buy product from Korea or Malaysia
9 and other countries.

10 So while it's not your normal job to assess
11 the future effectiveness in an order, we're very, very
12 confident that this is going to be an extremely
13 effective order and bring jobs back to the United
14 States and allow plants to continue producing
15 stainless steel sinks that otherwise would be in
16 tremendous jeopardy.

17 We appreciate your attention. Thank you
18 very much.

19 CHAIRMAN WILLIAMSON: Okay. Thank you. Mr.
20 Perry, you can begin when you're ready.

21 MR. PERRY: Yes. Counsel Dorn always does a
22 great job in summation. Let's try to respond to some
23 of this. At the beginning, we have this statement.
24 It's very clear again what was said by Elkay's
25 representative here, that the Chinese producers have

1 done this. The Chinese producers have gone in and get
2 this. The Chinese have come in and taken. The
3 Chinese producers have done nothing. It's the
4 importers who have occupied this space because they
5 found the market niche. So that's one thing. If you
6 don't even know who you're competing against, this is
7 one of the problems.

8 Regarding the Dayton and Revere lines, what
9 Johnny Crain was told by an Elkay rep that they were
10 produced in China. So that's where our information
11 came from. When they say, well, the problem was that
12 you just didn't want to sell sinks at an affordable
13 price, the affordable price back in the nineties was
14 \$1,400. It's now 300. That's a huge difference in
15 price.

16 So it's not small stuff. So does that mean
17 that in order for -- we have to shut off everything
18 from imports in the United States, let prices rise
19 through the roof so that Elkay can now make a profit
20 selling a \$1,400 sink? That's one of the problems.

21 We see extreme margins of underselling here
22 by the Chinese, and yet as Johnny Crain said, he can
23 get Korean pricing and the difference is ten bucks.
24 That ain't much of a difference here.

25 So by the way, one other point here is Kraus

1 is not focused on the fabricators. Johnny Crain is.
2 AmeriSink are involved with the fabricators. Kraus is
3 a much bigger deal. They're selling over the Internet
4 to many other big box companies, the Home Depots, the
5 Lowe's of the world. So it's a much -- they're in a
6 much greater view of the marketplace.

7 When they said the problem with the Chemcore
8 is that it was just that Elkay was not pricing low
9 enough, that wasn't the problem. Elkay and Franke
10 didn't want to sell to them. They only began to sell
11 to them in 2012 after the Commission's preliminary
12 conference. Johnny is still afraid that if the ITC
13 goes affirmative, they'll stop selling. That's what
14 they did in the past.

15 Hopefully, maybe Elkay has figured it out,
16 that it missed the boat and it's now going to keep
17 supplying some of these companies it refused to supply
18 before. And again, when we talk about the but-for
19 test, I think this is very important because we can
20 see it even in the closing by Counsel Dorn. We have
21 increased imports. The U.S. industry is injured, and
22 there is underselling. Thank you. Let's go home.
23 We've got injury.

24 I think that's the whole point. The but-for
25 test requires more than that to find that causal link.

1 And I think that's really what the Supreme Court is
2 requiring. For you to impose liability, and you are
3 imposing liability on the U.S. importers, the date of
4 your publication in the *Federal Register* of the ITC
5 final determination is the date retroactive liability
6 begins for U.S. importers. So you are determining
7 liability here. And the Supreme Court has said you've
8 got to have a greater causation standard. And I think
9 that's really the truth. And we'll find out now in
10 some of the court appeals whether the court agrees or
11 not.

12 I don't think the correlation analysis is
13 clear at all. Between the industry trends and the
14 increased imports, all of that is confidential
15 information. It's in my brief. But the correlation
16 is not clear at all.

17 Oh, other final point. They said, well, the
18 importers here don't have established relationships
19 with foreign producers, therefore they can't get into
20 the market soon enough. Those are the guys left over
21 from the coalition I had originally. There are more
22 than ten of them. The reason they didn't show up is
23 they've already established relationships.

24 As I said before, I'll provide you in the
25 posthearing -- one company has closed its factory in

1 China, moved to Korea, and set up a factory. So
2 they're moving in already, and the difference in price
3 is minimal.

4 So thank you very much, and we'll see what
5 happens here. Thank you again.

6 CHAIRMAN WILLIAMSON: Okay. Thank you. I
7 want to thank all the witnesses for their testimony
8 today and closing statement. Posthearing briefs,
9 statements responsive to questions and requests of the
10 Commission, and corrections to the transcript must be
11 filed by February 28, 2013. Closing of the record and
12 final release of data to parties is March 15, 2013.
13 Final comments are due by March 19, 2013.

14 With that, this hearing is adjourned.

15 (Whereupon, at 3:23 p.m., the hearing in the
16 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION**TITLE:** Drawn Stainless Steel Sinks from China**INVESTIGATION NO.:** 701-TA-489, 731-TA-1201**HEARING DATE:** February 21, 2013**LOCATION:** Washington, D.C.**NATURE OF HEARING:**Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: February 21, 2013

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Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

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Signature of Court Reporter