UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**)**	**Investigation Nos.:**
53-FOOT DOMESTIC DRY CONTAINERS	**)**	**731-TA-514 AND**
FROM CHINA	**)**	**731-TA-1250 (FINAL)**

REVISED AND CORRECTED

Pages: 1 - 294
Place: Washington, D.C.
Date: Thursday, April 16, 2015

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THE UNITED STATES

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:	) Investigation Nos.:
53-FOOT DOMESTIC DRY CONTAINERS	) 701-TA-514 AND
FROM CHINA	) 731-TA-1250 (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, April 16, 2015

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

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

Chairman Meredith M. Broadbent (presiding)

Vice Chairman Dean A. Pinkert

Commissioner Irving A. Williamson

Commissioner David S. Johanson

Commissioner Rhonda K. Schmidtlein

Staff:

William R. Bishop, Supervisory Hearings and Information Officer

Sharon D. Bellamy, Program Support Specialist

Carolyn Esko, Investigator

Deborah McNay, International Trade Analyst

Michele Breaux, Economist

David Boyland, Accountant/Auditor

Peter Sultan, Attorney

Douglas Corkran, Supervisory Investigator

Congressional Appearance:

The Honorable Steve Womack, U.S. Representative 3rd District, Arkansas

APPEARANCES (Continued):

Opening Remarks:

Petitioner (Jeffrey S.Levin, Levin Trade Law, P.C.)

Respondents (Douglas J. Heffner, Drinker Biddle & Reath LLP)

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

Levin Trade Law, P.C., Bethesda, MD and Hodes, Keating & Pilon, Chicago, IL on behalf of Stoughton Trailers, LLC:

Robert ("Bob") Wahlin, President, Stoughton Trailers, LLC

Gary L. Fenton, Vice President Engineering, Stoughton Trailers LLC

Richard Raymond, General Counsel and Secretary, STI Holdings, Inc.

James Dougan, Vice President, Economic Consulting Services, LLC

Jeffrey S. Levin and Michael Hodes - Of Counsel

APPEARANCES (Continued):

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

Sandler, Travis & Rosenberg, P.A., Washington, D.C. on behalf of Crowley Maritime Corporation, Crowley Liner Services Inc. and Sea Star Line LLC (collectively "Crowley"):

Wayne Oliver, Director of Maintenance, Crowley

John Azzo, Director of Purchasing, Crowley

Ronald L. Signorino, President, The Blueoceana Company Inc.

Michael Holt, General Counsel, Senior Vice President, Chief Ethics Officer, TOTE, Inc.

Wyle Norman, Equipment Manager, Seastar Line LLC

P.W. (KiKi) Shahani, Independent Counsultant, P.W. Shahani Associates, LLC

Kristen Smith, Mark Ludwikowski and Emily Simon - Of Counsel

Covington & Burling LLP, Washington, D.C. on behalf of Union Pacific Railroad Company ("Union Pacific"):

William J. Schmelder, Director of Strategic Sourcing, Union Pacific

Marcia Tauriella, Senior Manager, Strategic Sourcing, Union Pacific

APPEARANCES (Continued):

Walter D. Watson, General Director, Intermodal Operations, Union Pacific

David R. Grace and James M. Smith - Of Counsel

White & Case LLP, Washington, DC on behalf of China International Marine Containers (Group), Ltd. ("CIMC"):

Daniel Drella, Director of Intermodal Safety and Training, Schneider National, Inc.

Paul Dean, Director Intermodal Equipment/Maintenance, Norfolk Southern Railway Company

Jakub Cerny, Vice President, Fleet Services, Hub Group Inc.

Vernon Prevatt, Director Logistics, Safety & Training, CSX Intermodal Terminals, Inc.

Tony Kotler, Managing Director, Kotler Marketing Group

Jay C. Campbell and Keir A. Whitson - Of Counsel

Drinker Biddle & Reath LLP, Washington, DC on behalf of J. B. Hunt Transport Inc. ("J.B. Hunt"):

Kent Delozier, Director of Maintenance, J.B. Hunt

Greer Woodruff, Senior Vice President, Safety, J.B. Hunt

Jennifer Boattini, Director of Litigation and Contract Management, J.B. Hunt

APPEARANCES (Continued):

Dr. Robert A. Robicheaux, Marshall Scholar and Professor of Marketing, Department of Marketing, Industrial Distribution & Economics, Collat School of Business, University of Alabama at Birmingham

Douglas J. Heffner and Richard P. Ferrin - Of Counsel

Steptoe & Johnson LLP, Washington, DC on behalf of Hui Zhou Pacific Container Co., Ltd; Qingdao Pacific Container Co., Ltd.; Qidong Singamas Energy Equipment Co., Ltd.; Singamas North America Inc. (collectively "Singamas"):

Johnny Yeung, Marketing General Manager, Singamas

Eric C. Emerson - Of Counsel

Steptoe & Johnson LLP, Washington, DC on behalf of FedEx Freight, Inc.:

Michael Hoffman, Managing Director of Facilities and Administration, FedEx Freight, Inc.

Susan G. Esserman - Of Counsel

Rebuttal/Closing Remarks:

Petitioner (Jeffrey S. Levin, Levin Trade Law, P.C.)

Respondents (Jay C. Campbell, White & Case LLP)

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P R O C E E D I N G S

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

VICE CHAIRMAN PINKERT: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation No. 701-TA-514 and 731-TA-1250, involving 53 Foot Domestic Dry Containers From China.

The purpose of these final investigations to determine whether the establishment of an industry in the United States is materially retarded, or whether it is materially injured or threatened with material injury by reason of subsidized and less than fair value imports from China.

Documents concerning this hearing are available at the public distribution table. Please give all prepared testimony to the Secretary, and do not place it on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of time allocations, but if you have any questions about time, please ask the Secretary.

Speakers are reminded not to refer to business proprietary information in their remarks or answers to questions. Please speak clearly into the microphones and

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

Finally, if you will be submitting documents that contain information you wish to classify as Business Confidential, your request should comply with Commission Rule 201.6. Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No, Mr. Chairman.

VICE CHAIRMAN PINKERT: Very well. Will you please announce our first Congressional witness.

MR. BISHOP: The Honorable Steve Womack, United States Representative, 3rd District, Arkansas.

VICE CHAIRMAN PINKERT: Welcome Mr. Womack. You may begin when you're ready.

STATEMENT OF THE HONORABLE STEVE WOMACK

REPRESENTATIVE WOMACK: Vice Chairman Pinkert, members of the Commission, it's an honor to be in front of you today. Today's proceedings are critical to the great state of Arkansas, the U.S. intermodal industry and the overall U.S. economy. In most anti-dumping and countervailing duty cases, you would see Senators and Representatives testify for the domestic industry.

Don't get me wrong. If imports are harming U.S. companies, I'm all in favor of the protections afforded by the U.S. anti-dumping and countervailing duty laws.

However, this is a unique case, and I ask the Commission to analyze carefully whether anti-dumping and countervailing duties should be imposed.

This is a case about a U.S. manufacturing company that was a principal supplier to the U.S. transportation industry, that refuses to change its production methods to keep pace with industry standards and expectations for the manufacture of intermodal containers. This is about a U.S. manufacturing company that exited the U.S. market for intermodal containers, instead of changing its production methods to address their customers' complaints about the product they supplied.

This is about a company that tried to get back into the domestic container business, but failed to meet the needs of the intermodal industry. Make no mistake. I'm a proponent of fair trade. But when U.S. companies fail to listen to their potential customers and fail to provide a product that their customers want, I feel that the customers are free to find a company that will produce the product desired.

J.B. Hunt is a large business in my district. As Mayor of Rogers, I watched them grow. I watched them develop into a major company that gave back to their community. J.B. Hunt tells me that it wanted to purchase domestic containers from the Petitioner, and it actually was

willing to assist the Petitioner retool some of its plant.

However, the Petitioner only wanted to provide a mechanically fashioned product, rather than a fully welded container required by its customers. I am told that the mechanically fashioned product is a previous generation product, with which J.B. Hunt, along with other purchasers, experienced significant water damage to cargo, increased maintenance costs and a shorter useful life.

When a U.S. company refuses to provide a product that the intermodal industry wants, it seems counterintuitive and illogical that anti-dumping and countervailing duties should be imposed against imports from other suppliers, suppliers that are willing and in fact do provide the U.S. customers with the products they want and need to operate their businesses in an efficient and cost-effective manner.

In my opinion, the Commission should pay very careful attention to the fact that the Petitioner itself had the opportunity to create the product the industry needed, but chose as a business decision to continue to create a product that was no longer satisfactory to the industry. From what I understand, almost all of the intermodal customers are unwilling to purchase a previous generation product from the Petitioner.

In this situation, I firmly believe that it

would do more harm than good to impose anti-dumping and countervailing duties against imports of 53 foot containers. Also I am told that if anti-dumping and countervailing duties are imposed, most companies will continue to be unwilling to purchase a domestic container from the Petitioner, unless and until it can prove that its product is as good as the product being supplied by the industry's current source of supply. It's the only way to gain the confidence of the domestic container purchasers.

If anti-dumping and countervailing duties are imposed, U.S. purchasers are likely to reduce their purchases from their current source of supply, rather than switch to an untested product that has not been produced in any form commercially by the Petitioner.

As the economy continues to improve, the intermodal industry must be able to add a significant number of new containers in order to meet increased shipping demands. The fewer containers that are available, the longer the shipping time for customers' goods.

In turn, these freight inefficiencies will have a significant impact on the overall economy and economic productivity. Transportation and manufacturing costs will increase due to shipping delays. Inventory will be stockpiled as deliveries become more unreliable, and additional distribution centers will be required so that

products reach markets on time.

Ultimately, the increase in transport and manufacturing costs will be passed on to consumers, through an increase in the cost of the end products. The U.S. economy, U.S. companies and U.S. consumers will suffer these adverse consequences, without an offsetting benefit to any U.S. manufacturing industry, U.S. companies, consumers or workers.

Finally, if the intermodal industry is unable to buy the containers they need, it cannot simply shift to an alternative transportation method. The only possible alternative would be over the road trucking. Today, however, the industry cannot even fill the driving jobs necessary to meet current demand for over the road trucking.

Thus, it would almost be certainly unable to meet any significant additional demand for drivers caused by container shortages. In addition, any switch to the over the road truck shipments would lead to increased highly congestion, which in turn would lead to infrastructure and safety issues along with increased pollution.

Given the Petitioner's unwillingness to provide a product requested by U.S. purchasers, and given the likely impact that anti-dumping and countervailing duties would have on the overall U.S. economy, as well as one of the largest businesses in my district, I urge the

Commission to carefully consider whether this is a situation in which anti-dumping and countervailing duties should be applied.

Madam Chairwoman and members of the Commission, I thank you for considering my views on this very important matter. Thank you.

CHAIRMAN BROADBENT: Thank you, Mr. Womack. I really appreciate your testimony. Are there any questions for the Member?

(No response.)

CHAIRMAN BROADBENT: Thank you very much. Then we will proceed with opening remarks.

MR. BISHOP: Opening remarks on behalf of Petitioner will be given by Jeffrey S. Levin, Levin Trade Law.

CHAIRMAN BROADBENT: Mr. Levin.

OPENING REMARKS OF JEFFREY S. LEVIN

MR. LEVIN: Good morning Madam Chair, Commissioners. My name is Jeff Levin, and I am with Levin Trade Law. I have the privilege of representing the Petitioner in these investigations, Stoughton Trailers, currently to the best of our knowledge the sole commercial U.S. manufacturer of 53 foot domestic dry containers, which are referred to in the industry and market as simply domestic containers.

Domestic containers perform a great portion of the heavy work of moving products within this country. There are literally thousands of these domestic containers on the roads and railways of America today. In coming years, based on current trends and forecasts, there will be thousands more.

Unfortunately, as of now and with rare exception, they are all manufactured in China, and they are all unfairly traded, with aggregated margins across the board in excess of 100 percent. I am honored to be joined today by Stoughton's president, Mr. Bob Wahlin, and the company's Vice President for Engineering, Gary Fenton.

These gentlemen know, as well as perhaps anyone in this country, the product, the manufacturing process and the market, and they know what has happened to this industry, to the extensive investment of time and manpower resources at the hands of cheaply priced, unfairly traded and directly competitive imports from China.

In 2010, after having been approached by prospective U.S. customers looking for a domestically manufactured product, Stoughton made a considered decision to start manufacturing domestic containers, using the production process which had been introduced by the Chinese and accepted by the market here in the U.S. over the several preceding years.

This was not some multi-million dollar lark by a babe in the woods, but a business decision by a company that has been manufacturing transportation equipment in the nation's heartland for a half century, and which was determined to move forward into this market, based on sound, reasoned, financial and operational projections.

Indeed, Stoughton worked closely with several potential purchasers, some of whom are represented in this case, to design their domestic containers. That design was known and accepted until that design became a convenient basis for opposing this petition.

The tale that's been recited to you in practiced unison is that Stoughton was specifically informed of certain purchasers' design requirements, chose to ignore these directions and proceeded stubbornly to build a product it knew the market did not want. But this tale defines belief.

Let's put aside for the moment the fact that the great majority of the citations for this tale in the prehearing briefs and in the studies commissioned for these investigations, are not to contemporaneous commercial documentation, which would be kept in the normal course of business, but to the Respondent's own testimony at the preliminary conference, and their own questionnaire responses.

Stoughton has been in operation for over 50 years. It is widely recognized around the world as a leader in transportation equipment manufacturing. It has manufactured tens of thousands of containers under the former design standard. It contributed critical input to the AAR specifications that now guide the manufacture and testing of domestic containers.

It worked closely with purchasers to design domestic containers that would meet their stated desire for a U.S. manufacturing source option. It has in fact placed in service containers with no reports of performance issues in the field. It has invested millions of dollars to retrofit and upgrade its manufacturing facility for domestic containers, to the point where it can now manufacture any size domestic container under any specified means of assembly, including what Respondents referred to as quote-unquote "a fully welded container."

But according to the Respondents, 50 years of marketing and sales experience taught Stoughton to ignore customer preferences and requirements. Were that truly so, we would not be here today, but we are here today, because the overarching reason that Stoughton has been unable to make commercial sales of domestic containers of any appreciable volume is that it has been unable to offer its containers at a price that could realistically compete with

maleficent dumped and subsidized prices of subject imports.

On behalf of Stoughton Trailers, we respectfully submit that the evidence of record demonstrates that a domestic industry has been and continues to be materially retarded by reason of the unfairly traded subject imports. Thank you.

MR. BISHOP: Opening remarks on behalf of Respondents will be by Douglas J. Heffner, Drinker Biddle Reath.

CHAIRMAN BROADBENT: Welcome Mr. Heffner.

OPENING REMARKS OF DOUGLAS J. HEFFNER

MR. HEFFNER: Thank you. Good morning. Good morning Chairman Broadbent, Commissioners and staff. I am Doug Heffner of Drinker Biddle and Reath, and I am counsel to J.B. Hunt. I just want to tell you I hate these podiums, because it eats me up. I've been asked to present opening remarks on behalf of parties who oppose the imposition of anti-dumping and countervailing duties.

Today, we are here to speak about what purchasers endearingly refer to as a box. However, don't let that fool you. It certainly is not a commodity. Rather, it is a highly engineered, highly specialized container that is sold to specialized consumers, which each purchaser having individualized requirements.

Today, you will hear from approximately 90

percent of the purchasers of 53 foot containers, which is truly remarkable. Now Stoughton originally was one of the big players in the 53 foot container. Earlier containers were made of aluminum and then Duraplate. Both types, however, had significant problems with water leaking into the containers, because they used a mechanical fastening system.

For the purchasers, this caused a lot of claims for wet damages, and resulted in early degradation of the containers. More important, it upset their customers. In around 2005, the Chinese producers introduced a new type of container, a fully welded container, that solved many of the problems caused by water damage and container degradation.

This made customers much happier, and extended the useful life of the containers. Unfortunately, Stoughton failed to adapt by offering a fully welded container, and it ended up going out of the container business in 2007. When Stoughton sought to re-enter the market in 2011, instead of re-entering the market with a fully welded container, which had become the industry standard, it attempted to re-enter with a mechanically fastened system.

Given the previous problems that purchasers had with containers that were mechanically fastened, the customers were very reluctant to try Stoughton's new design.

Nevertheless, you'll hear today that Norfolk Southern gave Stoughton a shot, because it couldn't procure sufficient containers from China.

However, you will hear that Norfolk Southern -- from Norfolk Southern that it was a total disaster, with Norfolk Southern having to cancel 85 percent of its order because of severe quality issues and delivery problems. Other customers saw the Stoughton containers at trade shows, and had very significant concerns about the quality of those containers and their use of mechanical fasteners.

You will also hear that Stoughton failed to offer many of the largest purchasers a container with an interior width over 100 inches, which was necessary for the full truckload segment of the market, so that their customers could stack more pallets into a container.

You will also hear today that Stoughton absolutely knew about fully welded containers being the industry standard, because one of its management employees came from Schneider, who used those types of fully welded containers. Even if Stoughton did not realize that a fully welded container was an industry standard, Stoughton failed by not engaging in a strategic planning process, so that it could discern precisely what potential customers wanted.

After all, only a handful of customers, you see them here today, account for the vast majority of the

purchasers, and it was incumbent upon Stoughton to provide hard evidence through extensive testing, to prove that its containers were just as good as fully welded containers. Customers simply did not want to be the guinea pigs for Stoughton's containers.

What you will hear today is that containers must last 15 years or more. Because of this, the total life cycle cost of ownership is more important than the price. In fact, you will hear today that if design specifications are not met, purchasers never purchase the lowest-priced container.

In conclusion, the record is clear that given all of the quality and design issues, Stoughton has been unable to produce a marketable product that is acceptable to purchasers. Under these circumstances, Stoughton's performance was no worse than could be expected.

The material retardation provision of the statute was not meant to give relief for the wounds that Stoughton inflicted upon itself. As such, the Commission should determine that, although the domestic industry is not yet established, its establishment was not materially retarded by Chinese imports.

Finally, you will hear today that many of the purchasers truly want a U.S. supplier of containers. Some of the purchasers are now working with American Intermodal

Container Manufacturing. You will hear today that contrary to the approach taken by Stoughton, AICM apparently has worked extensively with its potential customers, to learn what is important to them.

Contrary to Stoughton's actions, AICM appears to believe in the old adage that the customer is always correct. Thank you.

CHAIRMAN BROADBENT: Thank you.

MR. BISHOP: Would the first panel, those in support of the imposition of anti-dumping and countervailing duty orders, please come forward and be seated. Madam Chairman, all witnesses on this panel have been sworn in.

(Pause.)

CHAIRMAN BROADBENT: I want to welcome the Panel to the ITC. You may begin when you're ready.

MR. LEVIN: Thank you Madam Chair. Good morning again, good morning Commissioners. Our first witness this morning will be Mr. Bob Wahlin. Bob is the president of Stoughton Trailers. Bob?

STATEMENT OF ROBERT WAHLIN

MR. WAHLIN: Good morning. My name is Bob Wahlin, and I am the president of Stoughton Trailers, the Petitioner in this investigation. Stoughton Trailers, headquartered in Stoughton, Wisconsin, is to our knowledge currently the only commercial producer in the United States

of domestic containers that are the subject of these investigations.

My company has been in operation for over half a century since 1961. It was founded by my father and remains family-owned. The business started with very humble beginnings, but grew over the next several decades. We are now a leading global manufacturer of transportation-related equipment, including over the road semi-trailer vans, grain trailers, converter dollys, domestic dry containers and chassis.

Although I am part of the family that owns Stoughton, I had to work my way up the ladder, first as department manager, then as a plant manager. I helped develop, teach and implement the company's lean manufacturing programs before I was promoted to Vice President of Manufacturing in 2007, and then became president in 2011. There is virtually nothing which happens in the company with which I have not been personally involved or personally aware.

I would like to take a minute to describe our product, 53 foot domestic dry containers, which we refer to in shorthand as domestic containers. As a stand-in for the real thing, I brought a few HOAL scale models with me as the next best thing.

MR. LEVIN: And with leave of the Chair, we

would like to introduce the models into evidence.

MR. WAHLIN: Domestic containers are shipping containers specifically designed and used throughout North America in connection with long distance, intermodal movement of freight. Intermodal refers to the movement of freight using multiple modes of transportation, most commonly on a container chassis for highway use, and on a rail car for rail transport.

At one time, various sizes of domestic containers were manufactured and/or imported, and some are still currently in service in North America. Because 53-foot domestic dry containers are used exclusively in the North American intermodal freight industry, there is no substantially equivalent foreign product in use outside of North America.

The domestic containers we manufacture are virtually identical to the domestic containers imported from China. Both are designed and constructed to be placed on a container chassis for movement to the place of intermodal transfer, typically a rail yard, where they are top-lifted off the chassis and place in a rail well care. Domestic containers are specifically designed to double-stacked in a rail well car.

At the railroad destination point, each containers is unloaded from the train car and placed on

another container chassis, and moved to its final or interim destination, where the freight contents are unloaded. Domestic containers are widely used in intermodal transportation, because for shipment over longer distances, it is much less costly to complete most of the transfer by rail than entirely by surface over-the-road transportation.

In addition, the 53 foot length of the container allows for more freight to be shipped by means of the more economical intermodal method, two containers transported on a single railroad well car, as opposed to one 53 foot trailer on a corresponding railroad car called a spine car.

Our manufacturing site for domestic containers, Plant 7 in Evansville, Wisconsin, was added in 1993. When Plant 7 was initially opened, it was a 240,000 square foot production facility, which was expanded to 300,000 square feet in 1998. At that time, Stoughton produced 53 foot containers utilizing a mechanical assembly process. By the early 2000's, China had introduced a steel-welder construction process for the 53 foot domestic containers.

It took several years and several generations for the Chinese container to gain widespread acceptance in the U.S. market. Of course, at the extremely low prices that China was able to sell, Stoughton found that it could

no longer remain competitively viable, and production of the 53 foot domestic containers at the Evansville facility was idled in 2006.

The other U.S. manufacturers at the time also left the market because of the Chinese competition. So even before our Evansville facility was redesigned, imports from China had already destroyed domestic container manufacturing in the U.S. In 2009, Stoughton began to receive inquiries from U.S. rail and truck carriers and lessees, that were interested in securing a source of U.S. manufactured domestic containers.

The Evansville facility was reopened in 2011, on the basis of business plans that projected a steady increase in production capacity to commercially competitive levels over the course of the next several years.

Unfortunately, the production orders which we were able to receive fell way below what we reasonably and indeed conservatively projected. This was a direct result of consistent and unyielding price-cutting by Chinese producers. As a result, Stoughton's production of domestic containers rose to no more than a negligible level over the years to follow.

Our production in 2013 amounted to the functional equivalent of a rounding error compared to the volume imported from China, and our production in 2014

amounted to no more than a handful of prototypes.

We have not been able to produce a single domestic container for commercial sale since the first of 2013 and, at present, the portion of our Evansville production facility dedicated to the manufacture of domestic containers, which constituted a substantial investment of finances and resources, sits all but idle.

Why is that? Because domestic containers made in China are sold in the U.S. market at prices that are significantly below what were able to charge. Even as we continue to improve production efficiencies, streamline the number of labor hours necessary to manufacture a single container and implement practical cost-cutting measures, so long as they do not compromise the quality or engineering integrity of the container.

Not only is the playing field not level and the recently-announced final determinations by the Commerce Department confirm that the Chinese price is made possible through the provision of subsidies and dumping on a substantial scale, but the goal posts on the field keep moving. Over the course of a relatively short period of time, we were able to lower our quoted prices as our experience and production efficiencies grew.

Yet almost every time we submitted a bid at a lower price, our competition, the Chinese manufacturer,

lowered theirs by an equal or greater amount, making it nearly impossible to close that pricing gap. Even when selling a prices which would not return a profit, but which would at least establish our presence in the market, we continued to lose sales and market opportunities.

In our petition and during the preliminary and current phases of these investigations, we provided strategic planning documents that detailed our expectations and projections upon entering into the market, and attempting to establish this domestic industry.

These included start-up costs and the reasonable expenditure of time and resources necessary to institute production on a realistic, commercial scale. We incorporated available expertise from consulting companies, market intelligence, market trends, projected freight load volumes, projected fleet replacement rates and a range of other factors.

We knew that we would likely incur losses initially, but we also had a very well-founded basis to project that over a relatively short period, we could reduce production costs and compete at or near the price level which we were at that time seeing from our Chinese competitors. It was the ensuing drop in the Chinese price, in reaction to our entry into the market, that makes our strategic planning goal increasingly difficult to achieve.

If anti-dumping or countervailing duty orders are issued as a result of this investigation, and we are happy -- and we have an opportunity to compete on a fair basis against Chinese suppliers, we are well-positioned to ramp up our production capacity to more than twice its current level within a short period.

We project that the resulting orders will directly lead to the creation of more than 400 new jobs in our company. We understand the concerns expressed in the market about a potential shortfall, if purchasers are no longer willing to source domestic containers from China, if those containers must be priced at a fair -- purchased at a fair price.

But that concern should be viewed in the context of our definitive plans to ramp up our production capacity, and add new jobs, as well as the possibility of new market entrants based on the United States, and the jobs created by them. We hope additional U.S. companies enter the market. We welcome increased competition.

It means more manufacturing in the United States, more jobs in the United States, and an increased tax base in the United States. Increased competition creates opportunities for enhanced production efficiencies and greater ability to serve the market. Some of the witnesses you will hear from this afternoon may offer the idea that

our design and manufacture of what they refer to as quote-unquote "fully welded container" only after the preliminary phase of this investigation demonstrates how misguided Stoughton's business plan was from the beginning.

But that idea is groundless. Yes, our decision to make the investments necessary to begin production of a quote-unquote "fully welded container" stemmed in large from what we had heard during the preliminary phase. But that is only because they did not communicate to us until that hearing that the limited number of fasteners in Stoughton's design was unacceptable.

And so we concluded that if want to sell containers moving forward, we had to make additional investments, and we did. To the extent that parties oppose our petition because there is no U.S. manufacturer of these quote-unquote "fully welded containers," that basis is no longer relevant.

Moreover, the parties opposing our petition have portrayed Stoughton trailers as a company that got involved with the welded intermodal container design without any development input from our customers. They have even portrayed us as unwilling or unable to produce what they want. With all due respect, this is simply not true.

From the beginning, Stoughton has worked with our customer base to provide a competitively-priced

alternative to containers supplied by producers in China. Toward this goal, we offered a product that included a small amount of fasteners to reduce cost and improve product repairability.

It was clear to us that our customers wanted a product that was fully interchangeable with the Chinese-produced products, and once that was achieved, it came down to one thing and one thing only: price. Initially, our potential customers fully embraced our welded container design that included a small amount of fasteners. They even helped us develop our manufacturing facility in Evansville, Wisconsin to produce this product.

Some of the facts that you have not heard from the parties opposing our petition include J.B. Hunt's Executive Vice President of Maintenance, Properties and Equipment, Gary Anderson, met with Stoughton executives several times to develop our container. We even worked with and traveled with Gary in the middle of 2011, for the sole purpose of visiting potential manufacturing sites in Alabama, where Stoughton could produce our intermodal container design for J.B. Hunt.

J.B. Hunt wanted us to build an additional manufacturing plant to build our container, the very design that included a small amount of fasteners. J.B. Hunt not only approved our design; we reached an agreement to build a

prototype for them, which did indeed include the 100 and 3/8ths inch interior width.

The total cost to us to build the prototype would have been $157,000, but we had agreed to build one for J.B. Hunt for $20,000, so they could test it in their fleet. This was the exact same design that included some additional fasteners. The prototype was to be completed in 2011. The production of the prototype fell during the time period when Stoughton was modifying its design from Generation 1 to Generation 2.

So Stoughton approached J.B. Hunt and recommended that the prototype production be delayed until the Generation 2 design was complete. J.B. Hunt agreed, but the project was never completed after that, due to the realization that Stoughton would not be able to match the price charged by its Chinese competitors.

Norfolk Southern or NS worked with Stoughton in partnership to develop and begin production of the welded container with some fasteners. Due in large part to this partnership, and its subsequent order for 1,525 domestic containers, Stoughton invested millions of dollars to set up and start up its Evansville plant, making it capable of producing thousands of containers a year. Universal Truckload or Universal placed an order for our welded container with some fasteners.

Stoughton presented its welded container with some fasteners at the Intermodal Association of North America or IANA shows held in 2011, 2012 and 2013. After all this, nearly the entire industry and just about everyone here in attendance today has worked with us to provide quotes and delivery schedules for our welded container design that contained some fasteners.

During this process, the questions we received primarily were what does it cost and when can we get it. During the quote and delivery evaluation process, there was never any refusal or rejection of our design because it contained a small amount of fasteners.

These customers made their decision not to buy our product due to price, not because the product contained a small amount of fasteners. The previously mentioned actions are not that of an industry refusing the design. The reality is that this industry not only supported our welded container design with some fasteners, but key leaders in this industry helped us develop and take it to market.

We had the ability to provide the welded container without additional fasteners from Day 1. We chose the alternative design with some fasteners as a result of customer involvement and strong pressure to be competitively priced with our Chinese competitors. Simply put, there was never a refusal of the design of our welded container that

included some fasteners until the preliminary hearing held last May.

As a result, Stoughton took the information learned at that hearing and invested in modifications to our plant, to the tune of approximately $4 million, to enable us to provide a welded container design without additional fasteners.

This product was built and displayed at the 2014 IANA show, has been AAR-tested and certified, was viewed during the Commission's recent visit to our Evansville facility in Wisconsin, and we are currently in the production of this product at low levels.

I believe most of the companies here today understand we are past our startup issues that impacted the original Norfolk Southern order, and have confidence in our ability to supply the products they want and need. The fact that they have asked us to provide quote and delivery information on our revised product, the fully welded container without additional fasteners, is evidence of this.

The response to this product offering from our customer base has been the same as our original design. What does it cost and when can we get it. We have not been successful in selling this product to date, due to the dumped and subsidized prices of our Chinese competitors' products.

Last month, we had the privilege of hosting members of the Commission and the investigation staff. You had the opportunity to see our capabilities and capital advancements at the Evansville plant. Stoughton has the capability to produce containers with an interior width of up to 100 and 3/8ths inches, and containers that incorporate what some persons in opposition to this petition now refer to as fully welded containers.

In fact, the container has been subjected to the test regimen defined with the AAR specifications, and has proven to be compliant. We have the production capacity, engineering skills, design ingenuity and service base to remain extremely competitive with any producer in the world.

We are proud of the fact that over 130 members of the Stoughton family that previously called the Evansville facility home, have joined in a letter to the Commission, noting the importance of our company to the employment base in south central Wisconsin.

Our employees have requested that the irregularity of having a market completely dominated by unfairly-traded imports be remedied, so that our manufacturing base here in the United States can have a fair opportunity to compete. We are asking only for parity, for a level playing field, and for trade on fair conditions.

On behalf of Stoughton trailers, and all of our dedicated employees, I appreciate the opportunity to present this testimony, and I look forward to any questions you might have. Thank you.

MR. LEVIN: Thank you, Bob. Our next witness will be Mr. Gary Fenton. Gary is the Vice President of Engineering for Stoughton Trailers. Gary.

STATEMENT OF GARY L. FENTON

MR. FENTON: Good morning. My name is Gary Fenton, and I am Vice President of Engineering for Stoughton Trailers, LLC. I've been employed with Stoughton in various engineering capacities since 1988, and have been in my current position since 2011. Prior to joining Stoughton, I was employed by two companies in various engineering capacities. I hold a number of patents relating to containers and trailers.

My principle responsibility at Stoughton is to supervise the Engineering Department, and to oversee the design of all of Stoughton's products, including 53 foot domestic dry containers, container chassis products, converter dollys, grain trailers and dry vans. I am well-versed in the design and construction of the products which Stoughton manufactures.

I am also very familiar with the design and construction of domestic containers by manufacturers in

China, and the need and requirements of purchasers here in the United States. In fact, the current industry-wide standard for domestic containers by the American Association of Railroads or AAR, Specification M-930 incorporates several performance standards which I developed, and which are detailed in our prehearing brief.

This occurred when I was invited to participate on a technical advisory group during an update to the specification performed by the AAR subcommittee. Stoughton last produced domestic containers by means of the mechanical assembly process, prior to idling the Evansville plant in June of 2006.

Stoughton began considering production of the steel-welded design in late 2009, after being contacted by a previous customer with a request for a quote on a steel-welded domestic container. A survey of the potential customers, including many of those present here today, was conducted prior to product launch, to understand the potential market size and acceptance of Stoughton as a domestic source.

Upon receiving a substantial order for domestic containers, Stoughton began transforming the container facility in Evansville from a mechanically assembled production line into a production facility tailored to the production of the new steel-welded product.

The production line was disassembled and rebuilt from start to finish. This required a substantial capital investment, backed by management's resolute commitment to add the welded domestic container to Stoughton's product line. When Stoughton began work on the design of its 53 foot welded steel container in 2009, it applied its accumulated knowledge of container fasteners issues to the design.

This design removed 97 percent of the mechanical fasteners used in 53 foot aluminum containers, including removing fasteners from every location where Stoughton's knowledge and experience suggested that a welded connection would be favored in comparison to a mechanical means of attachment.

When Stoughton introduced its Generation 1 design in 2011, nearly all of our potential purchasers informed us that our quoted price of the container was competitive with the Chinese price. Stoughton based the Gen 1 design both on its reception that the design would be acceptable to those purchasers who favored a welded construction, based upon the design of Chinese containers, and the fact that it could minimize cost related to tooling and labor content by continuing to use some mechanical fasteners in non-critical areas.

MR. FENTON: Prior to filing this trade petition,

the vast majority of reservations voiced by our customers were that our prices simply were not competitive. In fact, the first response we received from most potential customers was that our price was competitive with the Chinese price. A short time after, in response to a second inquiry, we were informed that our price was way off the mark. Obviously, something had happened between the first and second inquiries.

Had it been specified in the 2010 period by our potential purchasers that a fully welded container with no mechanical fasteners was required we were positioned at that time to make the necessary capital expenditures in order to meet these requirements. That would have required an investment of over $4 million to install the necessary tooling and equipment. Of course, that would have only widened the price differential between the Chinese product and what we could reasonably charge.

At the time, the issue with our customers concerned mostly price, not design. In light of what we heard at the preliminary hearing last May, we have since made that $4 million investment so that we are now equipped to manufacture on a commercial scale a fully welded container that does not have the mechanical fasteners at issue, but we still can't compete against dumped and subsidized prices.

Back in 2010, Stoughton had good reason to believe that its initial design for a fully welded domestic container, which retained a minimal number of mechanical fasteners in non-critical areas of the box, would be well received by the market. The design was not formed in a vacuum. In fact, as Bob previously stated, Stoughton worked extensively with J.B. Hunt to evaluate a facility to manufacture our Generation 1 or 2 containers.

J.B. Hunt was very interested in Stoughton trailers building its Gen 1 and 2 containers for J.B. Hunt, the very design that contained some mechanical fasteners. The agreement to build a prototype of the container with an interior width of 103 eights inches was discontinued when it became apparent that Stoughton would never be able to match the very low price offered by its Chinese competitors.

To the extent that J.B. Hunt claims we could not build the type of product they wanted, this is just wrong. On the contrary, J.B. Hunt was working with Stoughton to build exactly the product that some now say was an unacceptable product. The arrangement broke down over price, not quality nor design. J.B. Hunts claims that it discontinued discussion because of quality issues related to some Stoughton chasses is also false. They stopped buying our chassis because we wouldn't match the Chinese price.

In an email from Mr. Delozier to Bill Walhin,

dated September 9, 2011 -- and we will provide this as an attachment to our post-hearing brief -- Mr. Delozier says Hello Bill, I'm looking again at the 2012 chassis order. The Stoughton Company is still priced higher than my current CIMC providers, so I cannot sign up for the 1500 to 2,000 offer even if the price was the same as what was submitted in late June. He then offers to buy a smaller amount, but we were unwilling to meet the Chinese price.

Despite what you have heard from certain purchasers since the filing of this petition, not before you, mind you -- not before, mind you. Stoughton did not rebuff or ignore customer requirements. It is our policy to provide our customers with solutions to their concerns. We serve the specialty markets as a common practice. In fact, as we detailed in our pre-hearing brief, there were few, if any, specific instances where the customers specified in its own RFQs or its own specification that a fully welded container was necessary.

While I do not have access to the confidential record, I understand from counsel that Respondents have yet to produce much in the way of documentary evidence that these requirements for a fully welded container were communicated to Stoughton prior to filing this case.

This doesn't surprise me because I don't recall those communications either. In nearly all of the few

instances where those requirements were communicated, Stoughton pointed out the differences in our design, i.e., the use of a certain amount of fasteners. And these potential purchasers continued to request quotes from us with full knowledge of Stoughtons manufacturing process, and in some cases proceeded with the purchase regardless, this documented in our pre-hearing brief.

To date, Stoughton has sold a few hundred of its Generation 1 and 2 welded containers. There have been no reported instances of structural failure or water leakage in the area where mechanical fasteners exists in the design. Any purchasers with concern about Stoughtons welded design, employing relatively few mechanical fasteners, are basing their concerns entirely upon their collective, obsolete experience with mechanical fastened aluminum domestic containers because they have neither used nor purchased the design offered by Stoughton.

Historically, the fasteners in question with regard to leaking or coming loose were found in two specific areas, top rail extrusion connection to the 40-foot casting locations and the vertical row of fasteners on either side of the stacking posts. Stoughton has not employed fasteners in either of these locations on its steel welded container.

Indeed, aside from an initial design issue with

its Generation 1 welded containers, which was completely unrelated to the means of assembly, that is, mechanical fasteners versus welding, there have been no performance or quality issues communicated to Stoughton regarding the few hundred domestic containers that were manufactured by Stoughton since 2011 and have been placed in service.

But since the Norfolk Southern experience has apparently become an excuse by some opponents to this petition to reject our product, let me touch upon that for a moment. The issue with the domestic container first delivered to Norfolk Southern, our Generation 1 design, centered around the stability of the top rail and the material used to stamp the wall. Generation 1 employed an overlap connection to the open faced profile of the top rail which required a flattened of the corrugated wall at the connection point. This design aspect lead to the issue experienced by Norfolk Southern.

In Generation 2, Stoughton modified the design of the connection by employing a two top rail and fully extending the side walls at the top and bottom to form a butted connection. The comparison of the design features for Generation 1 and 2 are depicted in an attachment to my affidavit in the pre-hearing brief.

For those whom we had the privilege of hosting on the Commissions March 5 plant tour, we explained in detail

the nature of the issue and the corrections made. The design changes in Generation 2 did not result in any substantial changes to the weight, material grade, material cost, or labor involved in production. And as stated, there have been no performance or quality issues communicated to Stoughton regarding these Generation 2 containers.

My takeaway is this; Stoughton launched the top and bottom plant redesign with the required capital expenses in response to an approach by certain U.S. producers that wanted a U.S.-based supplier of domestic containers. Stoughton was afforded an opportunity to design and manufacture these containers on a commercial scale by a single industry-leading company.

Stoughton launched into the market with a disappointing first outing; however, the allowance to rework the initial 199 units has shown to be a positive learning experience since the units have now been in service approximately for over four years with no repeat issues. It took us two design iterations, but we absolutely got it right. Unfortunately, there has been no follow-up opportunity to place a significant number of containers in the field.

For all intents and purposes, since we could not here enter the market with a Generation 10 container at a price competitive with the unfairly traded imports that

opportunity was effectively revoked. As justification, opponents to our petition claim that we manufacture our containers with some mechanical assembly despite the fact that the specification in many of the RFQs did not require fully welded containers and despite the fact that we are now, in any case, equipped to manufacture a fully welded container.

Respondents assert that they heard this or that about a Stoughton container, or saw a prototype at a trade show and did not like the looks of it. That, despite the fact that for a few hundred of our domestic containers that have been put in service, there have been no reported performance problems or issues. These parties claim that we experienced certain design issues with our initial production run despite the fact that those issues were immediately rectified in cooperation with the customer had nothing to do with the means of assembly. And after all, commonplace in the life of a manufactured, engineered product.

But these justifications are exactly that, justifications that are undermined by the fact that we have been told on several occasions that our price was too high or was way out of line with those of our competitors in China. We urge the Commission to scrutinize the evidence, not the inferences or the unsupported assertions in this

investigation.

I appreciate the opportunity to present this testimony and I look forward to any questions you might have. Thank you.

MR. LEVIN: Thank you, Gary. Our next witness will be my co-counsel, Mr. Mike Hodes. Mike.

STATEMENT OF MICHAEL HODES

MR. HODES: Good morning. My name is Michael Hodes, and I am counsel to Stoughton Trailer.

Stoughtons first insight into the apparent requirement by some purchasers for a fully welded steel domestic container came not in any commercial context, but at the pre-hearing conference in May of 2014. Certain witnesses stated that they would not purchase Stoughton Containers which employed a small number of mechanical fasteners.

When Stoughton reopened its facility in Evansville and introduced its design for a steel welded domestic container in 2011, it did so with a design intended to appeal to a broad base of potential purchasers. Based on its market intelligence regarding what customers required at the time, Stoughton designed its Generation 1 container as a steel welded container with an interior width of 99-inches, employing only a limited number of mechanical fasteners.

Lets be very clear about terminology in this

proceeding. A mechanically fastened domestic container refers to the aluminum sheet and post container that Stoughton and other producers stopped producing in 2007. Fully welded container of the type produced by CIMC and Singamas still employ some fasteners. Stoughton has introduced a welded container which employs a limited number of mechanical fasteners.

In fact, as Gary just stated, Stoughtons Generation 1 design employed 97 percent fewer fasteners than aluminum containers, reducing the number of fasteners used for many thousands to a few hundred. That approaches a near de minimus level in my view.

Stoughtons Generation 2 container, which also was based on a welded container box, changed other design features, but not the number of fasteners used in the construction of the container. These containers continue to use fasteners only in non-critical locations. It is important that Stoughton was aware of customer concerns regarding water leakage in aluminum containers. It took its considerable knowledge and experience with aluminum containers and applied it to address those concerns with its Generation 1 and Generation 2 steel welded design.

Moreover, this limited use of fasteners was intended to help Stoughton keep its cost of production low since it was aware that it would be competing with Chinese

containers being imported at low prices.

The pre-hearing staff report characterizes the degree of substitutability between domestically-produced domestic containers and subject imports as no more than moderate. Stoughton respectfully disagrees. And as detailed in our pre-hearing brief, the questionnaire responses on which this finding relies are highly subjective if not outright misleading.

Indeed, U.S. purchasers of domestic containers have communicated inconsistent, ambiguous, and contradictory messages to Stoughton regarding their purchasing requirements. In fact, several Respondents now, for purposes of this investigation, claim that welded containers using a limited number of mechanical fasteners are never interchangeable with fully welded containers.

However, as discussed in our pre-hearing brief, when initially discussing specification requirements with Stoughton that is prior to the filing of this petition some of these same customers either did not mention fully welded as a requirement or were aware of the fasteners used in Stoughton's design and preceded with the negotiation and/or purchase regardless. To now claim that Stoughton did not provide the product customers wanted when Stoughton was prudently looking for ways to overcome the Chinese price advantage is simply disingenuous.

By creating a design incorporating a small number of rivets in place of welds in lower stress areas only, Stoughton avoided a huge capital expense cost that would need to be recouped from customers ins the form of even higher prices.

We urge the Commission to carefully review Petitioner's discussion of customers stated specifications at pages 16 through 19 of our pre-hearing brief. In light of these facts, the Commission should place little weight on Respondents claims as to the lack of interchangeability between U.S.-produced and imported domestic containers.

This is especially true because Stoughton has now built prototypes of a fully welded domestic dry container with an interior width up to 103 eighths inches and a fully welded trimodal container; thus, the domestic industry is fully capable of manufacturing containers that meet all customer specifications.

For these reasons, and is more fully detailed in our brief, Petitioners respectfully submits that there is a high degree of substitutability between domestically-produced containers and subject imports.

Lastly, I would like to briefly touch upon the issue of domestic-like product. The only party to raise a like-product issue is Crowley Maritime, which asserts that its trimodal containers should be viewed as a separate

like-product from other 53-foot domestic dry containers. We will address this argument in our post-hearing brief; however, we disagree with that conclusion.

Crowleys trimodal containers, which Stoughton can now manufacture itself has been included in the Commerce Departments scope of investigations. The Commerce Department notes that Crowleys products possess the same dimensional characteristics as the subject domestic dry containers and have the stacking frames and fittings as detailed in the scope language; therefore, an analysis of Crowley Maritime Corporation's 53-foot marine ISO containers indicates that its products meet the plain language of the scope of this investigation.

Although trimodal containers have a maritime application, this does not in any way diminish their application in intermodal highway and rail transportation; likewise, and as we will detail in our post-hearing brief, a review of the Commissions six-factor like-product analysis will demonstrate there are no clear dividing lines between trimodal containers and other domestic dry containers.

Thank you for your time, and I look forward to any questions you might have.

MR. LEVIN: Thank you, Mike. Our next witness will be Jim Dougan. Jim is Vice President with Economic Consulting Services. Jim.

STATEMENT OF JAMES DOUGAN

MR. DOUGAN: Good morning. I'm Jim Dougan from Economic Consulting Services appearing on behalf of the Petitioners.

As the Commission is well aware, this is an unusual case because Petitioners have argued that the domestic industry has not yet been established and Respondents, based on their pre-hearing briefs, seem to agree. It is the material retardation standard that applies here.

Given this context, the Commission must approach the analysis of the data and the conditions of competition differently than it might in an investigation where the usual material injury standard applies. For example, because the domestic industry has not yet been established, subject import volume dominates the U.S. market. Effectively, during the POI and up through the present day, subject imports are the U.S. market for domestic dry containers.

This is important not only for the Commissions consideration of volume significance, a standard which is clearly met, but because when subject imports are the U.S. market the subject import price is the prevailing price in the U.S. market. However, the Commission should keep in mind that subject import prices, which sets the prevailing

U.S. market level, is a dumped and subsidized price.

The Department of Commerce has made its final determination and this is not a matter of dispute. Moreover, the AD and CVD margins are significant; in excess of 100 percent AD margins for each named Respondent and double-digit CVD margins as well.

The question before the Commission is has this tremendous volume of imports sold at dumped and subsidized prices caused the material retardation of the domestic industry in any but a tangential or ancillary way? We submit that it has and that the record evidence is clear.

Respondents have presented their case; essentially, that Stoughton has not made and cannot make a domestic dry container acceptable to the marketplace and that it has emphatically ignored direct and unambiguous feedback from the entire customer base. But much of the record evidence contradicts or does not comport with Respondents story.

For one, as discussed at Section 3(B) to Petitioners pre-hearing brief, and as you've heard from Stoughtons company representatives today, the fully welded connections that Respondents are an absolute requirement for participation in the marketplace were either (A) not important enough to be included in design specifications that several major customers provided to Stoughton, or (B)

were not important enough to impede the progress of the negotiation and/or purchase of containers from Stoughton when the use of mechanical fasteners in Stoughtons design was disclosed.

Second, while J.B. Hunt claims that its discontinued negotiations with Stoughton developing a prototype container because it discovered quality issues with Stoughton chassis it failed to mention, as Mr. Fenton testified, that it had been pressuring Stoughton to charge lower prices for its chassis due directly to competition from Chinese producers; thus, its issues with Stoughtons chassis had more to do with their price than with their quality. It is not difficult to conclude that their issues with Stoughtons containers were the same.

And speaking of J.B. Hunts issues with Stoughtons containers, there's an email that Stoughton provided to us from Mr. Kent Delozier of J.B. Hunt, which says -- its a September 7, 2011. It says Bill, okay, we are ready to move ahead with the prototype at the $20,000 level. I want to remind everyone here one more time before you even start that wrinkled panels, wrinkled corrugations, bad welds, and weld splatter will not be acceptable.

This shows that J.B. Hunt and its representatives were familiar with the design issues that occurred in the Generation 1 containers that had been delivered to Norfolk

Southern. And this is precisely why, as Mr. Wahlin testified, that they recommended to J.B. Hunt to postpone the deliver of the prototype to J.B. Hunt until those issues had been resolved in the Generation 2 container.

But this email is also notable for what it does not say. They're familiar with the Norfolk Southern container. They're familiar with the Generation 1 container. And they say we don't want those issues. What it doesn't say is, by the way, the Norfolk Southern container that contains those fasteners make sure are prototype doesn't have those fasteners. This doesn't say that.

Finally, the one customer that has purchased Stoughtons Generation 2 container has had over 100 containers in service for two years now and has reported no issues whatsoever with those containers; yet, Respondents, in support of their argument that Stoughton cannot bring acceptable products to market return again to the quality issues from Stoughtons Generation 1 containers, issues that date back to 2011, and that were resolved in 2012, and lead to the design improvements in Stoughtons Generation 2 containers that have been in service and available for purchase by other customers since.

In light of all the record evidence, the Commission must ask is it clear that the weight of the

evidence shows that Stoughton failed to gain a toehold in the U.S. market for the reason that Respondents claim. For these claims to be true, customers repeatedly, universally, and in specific detail told Stoughton precisely what they wanted and Stoughton just as repeatedly and universally ignored them for years. Threw up its hands and in 2014 filed a trade case.

In large part, as Mr. Levin pointed out, the evidence on which Respondents rely is their own testimony. Petitioners have already pointed out today and in their pre-hearing brief how much of Respondents testimony does not withstand scrutiny when paired with other evidence on the record, including information provided in their own questionnaires.

Petitioners submit that the explanation is much simpler. That Stoughton could not and cannot participate in the market at significant commercial volumes given the prevailing price, that is, the dumped and subsidized price. Section 4(D)(2) of Petitioners pre-hearing brief provides overwhelming evidence. First, that container prices have declined substantially over the POI, viewed from any angle, whether it be price versus purchase cost, laden versus un-laden, so on. It also shows that customers are price sensitive, awarding the vast majority of the business to the lowest bid prices on offer.

The Commission should ask in this context, with customers willing to leverage CIMC and Singamas off of one another to lower their prices by a few hundred dollars per container or for a few hundred dollars more in freight credit, would Stoughton be able to make any sales at any sustainable commercial volume? The answer is no.

Stoughton entered the market with reasonable expectations based on its market intelligence at the time of entry. And as documents provided in the pos-hearing brief will show, they did do their homework with customers. Contrary to some claims made by Respondents, Stoughton did not project that it would break even in two or three years. It expected to lose money for at least three years as it started up its operations and re-enter the market, but neither did it expect to suffer sustained, double-digit operating losses and have to idle its container production.

As shown at Section 4(E)(5) to Petitioners pre-hearing brief, even if Stoughton had it hit what Respondents characterize as unreasonably optimistic projections, its cost of production would still today be several thousand dollars per container above what is now, after significant declines, the prevailing import price.

Slide 4 shows a graphic illustration without revealing any confidential information of that analysis. The blue line shows that Stoughtons unit production costs

was projected to decline as the company's production experience grew. As a cumulative number of containers produced increased, the labor input per unit was projected also to decrease. At the outset, Stoughtons unit production costs would be close to or slightly exceed the selling price that it believed it needed to charge to participate in the market. That is indicated by the green line.

Early on, Stoughton would lose money even at the gross profit level and certainly at the operating income level once SG&A expenses were considered. Over time, however, as its production experience grew, Stoughtons unit production cost would decrease allowing it to eventually after several years and several thousand units produced break even or earn a small profit on its container sales.

The problem for Stoughton was that subject import prices declined so precipitously over the POI, as illustrated by the red line on Slide 5; therefore, even with its most aggressive, optimistic forecast as to the production levels it would be able to achieve Stoughtons production costs could not decrease by enough to allow it to compete with unfairly traded subject imports.

The orange, dotted line represents Stoughtons projection of its unit raw material costs, which turned out to be almost exactly right as shown in the pre-hearing report, Table 6-1. As you can see, the red line indicating

import prices declined so drastically that it approached Stoughtons unit raw material costs over the POI.

I note also that the red line -- partially, to avoid disclosure of confidential information -- is a blended, weighted average import price across all products, one and two, price and purchase cost, laden and un-laden, and so on. Thus, what that means is by the end of the POI the lowest price imports included in this average were very close to and even in some cases below the raw material costs threshold for Stoughton. This is illustrated at Table 4-7, page 63 to Petitioners pre-hearing brief.

MR. DOUGAN: So no matter how many economies of scale Stoughton attains, no matter how efficient it becomes, it cannot sell containers at or below its raw material costs. In this way the dumped and subsidized import prices obviously have had a materially retarding impact on the establishment of a domestic industry and that effect is clearly more than ancillary or tangential.

I'd like to take my remaining time to address some of the specific arguments made in respondent's prehearing briefs. First, while we're on the topic of projections and raw material costs, Signamis argues that Stoughton's raw material costs are quote/unquote "overinflated."

For one, it's projected raw material costs, as I

mentioned previously is almost precisely what it's actual average unit raw material costs was over the POI. And the benchmark that Singamis uses to characterize Stoughton's costs as overinflated is, without getting into confidential information, based on a planning document and not actual real-world production experience. Singamis is characterizing an actual number as unrealistic when compared to a hypothetical number. The Commission should give this argument a little weight.

Second, Dr. Robicheaux's analysis of why certain quote/unquote failed rests on a few key premises. Number one, that Stoughton either did not solicit or heard and ignored customer feedback about container requirements. The other witnesses have already addressed this point.

Number two Stoughton's business plan was inadequate and that its marketing strategy was inadequate and flawed.

With regard to its business plan Stoughton is a small, privately-held company that has been in business for over 50 years. Their decision to develop a new product and enter a new market is not done on the fly as respondents seem to suggest, but neither does it require the same level of documentary support that it might if the company were either much larger and more bureaucratic with multiple levels of management review or an entirely new venture such

as AICM which has no track record in the market at all, and is demonstrating to outside investors that it's done the appropriate due diligence that would warrant their support.

Just because a business plan is presented more formally doesn't mean that the thinking behind it is necessarily more sound or rigorous. Just how likely is it that Stoughton has been a leader in the transportation equipment industry for over 50 years by making hasty, ill-considered, strategic decisions that are unresponsive to customers' needs? We submit that the answer is not very likely at all.

With regard to its marketing strategy respondents have argued that Stoughton's outreach to customers both when considering its -- I'm sorry -- market entry and after it had a product to sell were inadequate if not non-existent.

You've heard testimony contradicting that from the Stoughton witnesses today and the post-hearing brief will contain contemporaneous documentary evidence supporting that testimony.

Dr. Robicheaux also argues that Stoughton strategy was fundamentally flawed because it attempted to compete with Chinese imports on the basis of price rather than offering a superior product for which it could charge a higher price. In a hypothetical academic sense it is true that one strategic avenue available to a new market entrant

is to offer a differentiated premium product for which it can command a premium price.

But in the context of this market, when the market is not only dominated, but composed entirely of imports sold at a dumped or subsidized price, that is not a realistic strategic avenue. And we remind the Commission that when Chinese imports first entered the U.S. market in the late '90s they did not introduce their new steel welded design at a premium price to reflect its superior performance characteristics. They introduced it at a price several thousand dollars per container cheaper than the existing sheet and post containers.

That these same companies are now arguing that Stoughton should have adopted the opposite strategy is ironic, to say the least. But in one sense Dr. Robicheaux is right, attempting to compete with Chinese imports on the basis of price is a fundamentally flawed strategy so long as the Chinese imports are unfairly traded.

Dr. Robicheaux and others also mention Stoughton's geographic disadvantage from its location in Wisconsin for customer's apparent delivery on the west coast. First, AICM's location in Alabama apparently has not reduced its attractiveness to potential customers.

Second, several respondents have made the argument that container purchasers have low price

sensitivity because containers with a useful life of approximately 15 years are capital investments, long-term asset buys, where the cost of the lifecycle are more important than the initial purchase price. For a customer base that is purportedly not price sensitive, it seems that the prospect of a few hundred dollars in repositioning costs for a new container should not be a significant barrier to Stoughton's entry. Likewise, it would seem that out of a lifetime of hundreds, if not thousands of trips, having the new container's first trip be empty of cargo would not be a significant disadvantage.

The truth is, in the real world, all of these costs and expenses matter to a purchaser. That's just true. But if these amounts matter, having an import available at a price several thousand dollars per container lower than a domestic alternative, that has to matter too.

With regard to the report prepared by the Kotler Marketing Group, it's conclusions are summarized at page 37 in which it provides a table summarizing the quantification of nonprice advantages to purchasing containers from Singamis versus Stoughton.

The first category is nonprice acquisition costs which includes ocean freight, repositioning within the U.S. and the useful life of the container. The sum total of the estimated difference in these costs between Stoughton and

Singamis is $37; $37. So basically a wash. And even that estimate is likely overstated by Mr. Kotler's assumption that the Stoughton container has a shorter useful life than it's imported counterparts. The only evidence presented for this assumption is quote, "estimates by current users of those containers" end quote. Except that Mr. Kotler's survey did not actually include interviews with the users of the vast majority of Stoughton's generation containers.

In any event, these estimates are unreliable because, as Mr. Kotler acknowledges, neither the Chinese nor the Stoughton containers have been in service long enough to have any data about their actual useful lives. So, at best, for respondent's case acquisition costs are a wash. If their unfounded assumption about the difference in a useful life is incorrect, then the acquisition cost calculation actually favors the Stoughton containers.

The second category is operational costs which while proprietary accounts for substantially all of the calculated difference between Stoughton and the imported containers. This is composed of maintenance and repair and damage claims due to leaks. If these calculations rely on comparisons not with Stoughton's current generation of containers, but with the aluminum plate, mechanically fastened, sheet and post containers Stoughton sold more than a decade ago. This is a completely different product of a

completely different construction and featuring literally thousands of more fasteners than the current containers. This difference is especially important when estimating maintenance and repair and damages from wet leaks because, as you heard from Mr. Fenton, Stoughton's current design has eliminated all fasteners from locations in which the industry has experienced leakage and damage with the sheet and post containers. Thus, these calculations are not based on reliable evidence and should be given no weight by the Commission.

At the end of the day the Kotler analysis amounts to showing that there is no quantifiable advantage to Chinese containers that can be based on legitimate reliable evidence as opposed to supposition.

Thank you.

MR. LEVIN: Thank you, Jim. May I ask the Secretary for our time?

MS. BELLAMY: You have four minutes remaining.

MR. LEVIN: Thank you. I think we'll conclude our witness panel at this point and if we may respectfully reserve the remainder of our time for rebuttal and our closing statement.

CHAIRMAN BROADBENT: Okay. Thank you.

We appreciate your testimony and taking time out of your busy schedules to be with us today. Commissioner

Williamson and I and the staff had a great tour of your facility in March and we appreciate you hosting us there. We learned an awful lot. And it was great to see the letter from the employees that you all submitted. That must have taken a lot of work to organize and we appreciate it.

Mr. Wahlin, this is hard to piece together for me just in terms of how those relationships have gone so badly. I mean, your purchasers are just saying very strong things about the product and their willingness to do business with you. Is there anything else that you can tell us about sort of -- I know you were assuming a leadership position in the company. I guess you got the vice president job in 2007 and then took over as president four or five years later, looking back, would you have organized anything differently than how it turned out?

MR. WAHLIN: You know, I don't think I would. And the reason for that is, we did reach out to customers. We did that in several means. We reached out by phone call, by visits, by touring other facilities with them, by sitting down and going through all their wants, all their needs, and developing orders for them. I don't know what else we could have done differently because our only other choice, if we didn't include the small amount of fasteners that we had in that design, it would have increased the cost of our product and that was the clear message that we were getting from our

customers that the priority was we had to be competitively priced. If we were competitively priced, that would take us out of the game. So from the information we had, our chance to get in was with the product that we designed and put forth.

CHAIRMAN BROADBENT: Okay. Do you -- either purchasers out there -- I mean, how many sort of major purchasers would you see would be potential customers for your product, the fully welded?

MR. WAHLIN: The fully welded?

CHAIRMAN BROADBENT: Yeah.

MR. WAHLIN: Well, today we're working with three different major purchasers of containers. And I think they're all potential customers of our product. You know, we want to work with them to get developmental quantities. I think it will help once we get past what's going on today. I think that will help, you know, rebuild any relationships. But some of those purchasers are already working with us today and we're confident that we can provide product from them after they have the rest of the story and find out what the decision is after the proceedings today.

CHAIRMAN BROADBENT: Because you really need to get some of these things in service and get a track record on them; right?

MR. WAHLIN: Yes, that would definitely help.

Now, we do have a -- we do have a track record with the universal order as well as the modifications and repairs we did to the NS units. So it's not as though we don't have anything. But to get more out, yeah, more is better.

CHAIRMAN BROADBENT: Okay. And then I guess it was always interesting to me that you were arguing on the fastener issue that it was just as good as a fully welded and so forth. And that seemed unusual because if somebody's got their property in a container and they need an airtight situation, why you spent so long on that argument with them.

MR. WAHLIN: I don't feel it was an argument with the. It didn't become an issue until the preliminary hearing. And once we heard that message we changed. And we didn't do it before that because we did not receive that message. So I don't feel as though we spent time on that argument.

CHAIRMAN BROADBENT: So you think that they were sort of hiding the ball from you and disingenuous about how that specification came to the fore?

MR. WAHLIN: I don't think they were hiding the ball from us. I think it was an acceptable alternative to the Chinese product. Why it came out in the hearing the way it did, I don't know if that was strategy or something else. But that's when we heard it and that's when we reacted.

When we worked with our customers on this, sure they had questions about the mechanical fasteners. It was different. But when we explained what we were doing, Gary and other explained the engineering behind it and explained the purpose for it primarily to keep costs down. The message that we received was that that's acceptable. And we received that message by verbal communication, by placing orders, by continuing to work with us to get quote information and delivery schedules and everything else.

MR. LEVIN: If I may add, Madam Chair, this is really not a situation where Stoughton was telling its customers, look, we know what's best for you. You want this, but we'll give you this and it's just as good. It may be just as good from an engineering perspective, but the root issue here was what the customers were saying they wanted, and what we were trying to detail both this morning and in our prehearing brief. And as Mr. Hodes alluded to in his testimony look at the specifications that are included in the prehearing brief. What they're saying now they wanted then was not what they were saying then that they wanted.

CHAIRMAN BROADBENT: So are you still -- are you producing the fastener -- I guess you are producing the fastener containers as well as the fully-welded at this point?

MR. WAHLIN: We could produce them but we're not producing them anymore.

CHAIRMAN BROADBENT: Okay.

MR. WAHLIN: We are right now on small levels we're producing what's been called the "fully-welded" container.

CHAIRMAN BROADBENT: Got it. And then how much investment have you had to do to get up to speed on the fully-welded process?

MR. WAHLIN: From where we were, after the investments we made to produce the generation one and two containers, we invested an additional $4 million to do the fully-welded configuration.

CHAIRMAN BROADBENT: Okay. And then the major raw material cost in that is what kind of steel for the fully-welded steel container?

MR. WAHLIN: Maybe I should defer to Gary on that.

MR. FENTON: The fully-welded steel container has a few different types of steel in it. But the one that is focus is a high-strength formable steel that allows for the corrugation and the stamping both to take place. So this steel is a very high strength. It's a 70,000 yield steel in the side walls and the roof construction, the balance of the steels that are used in other of the structural areas are

based upon the needs of that area.

CHAIRMAN BROADBENT: Okay. So just basically is it cold rolled, hot rolled?

MR. FENTON: It can be either or, but the level of strength is really what is the focus.

CHAIRMAN BROADBENT: Okay. Mr. Wahlin, can you comment on sort of your plant design and the layout and how you've been changing that and what some of the plusses and minuses are to how you've organized the production process?

MR. WAHLIN: Sure, the changes to accommodate the steel welded?

CHAIRMAN BROADBENT: Yes.

MR. WAHLIN: Sure. The main issue with accommodating the steel welded container lies within our paint system. So what we previously had before is you can imagine the unit going through our paint system with just the sidewalls and the roof connected. And there was nothing on the ends. All right. So when that moved through the paint system it was like an upside down U. Okay. Without the mechanically fastened design allowed us to have that upside down U where we had nothing on the floor and we had nothing on the ends. That was key in our paint system because we could access the inside of the trailer. We could have sufficient airflow for the paint booths which is absolutely needed and a requirement. Now when we shifted to

the fully-welded container, now we have a welded base floor of cross members on the bottom. We can't get that -- we don't have the clearance to get the equipment up for air flow and accessibility in the middle of the container and now you've got at least the frontend covered with the front wall of the container. So you have more of an enclosed box where you don't have the air flow necessary. We didn't have the equipment to have the air flow necessary to paint that container sufficiently and in a safe manner. So, a lot of that investment we had to start over with the booths on your visit.

CHAIRMAN BROADBENT: Uh-huh.

MR. WAHLIN: When you saw the paint system they were brand-new. And we had to change those booths, and when we did that we also extended the booths a little bit so we could get the entire product in place, close them off, et cetera.

We also added modifications to the -- what we call the power and free system, that was the configure system up from above that that U shape is hung from as it transfers and moves through the paint system. We had to, because of the additional weight, we also made improvements to that system to accommodate the additional weight the excess steel provided at that point.

CHAIRMAN BROADBENT: Got it.

Thank you very much.

Vice Chairman Pinkert?

VICE CHAIRMAN PINKERT: Thank you, Madam Chairman. And I join the Chairman in welcoming you and thanking you for being here today to help us understand these issues.

I want to begin with you, Mr. Wahlin. I understand your testimony that the goal with the generations one and two products and having the mechanical fasteners in there was to keep the costs down. And I'm trying to understand how much cost were you hoping to save per unit by the use of the mechanical fasteners?

MR. WAHLIN: Yeah, we were hoping to save that $4 million investment with the mechanical fasteners up front that we would eventually have to incorporated into our price. Also by doing the mechanical fasteners rather than welding, we were able to also save several hours per unit with that type of assembly.

MR. LEVIN: Commissioner Pinkert, if I recall correctly, there is an attachment or exhibit in our post-conference brief that delineates the cost differential between fully-welded containers using some mechanical assemblies and quote/unquote "fully-welded containers".

Which, by the way, still contain mechanical fasteners for both what Stoughton is doing presently and for

the Chinese suppliers. But we'd be happy to go through that again and reintroduce that exhibit.

VICE CHAIRMAN PINKERT: Thank you for that. But let me see if I understand exactly what we're talking about here. I would assume that you would have to make a projection based on what you would anticipate to be the production run in order to determine how much of a cost difference would be involved in having the mechanical fasteners in their to the degree that they're in there in the generation one and two product. So can you articulate what the assumptions are behind the analysis that you're likely to provide to us on that issue?

MR. WAHLIN: Sure, I'll try. With the -- if we were to provide a fully-welded container prior to the installation of the improvements of our paint system, what we would have is that U section without the rear of the unit on it and without the front wall of the unit on it. And that sidewall and wall U would be all put together, all painted, ready to go. In order to weld that instead of mechanically fasten it, we would have to surface prep and remove the paint around the areas that the rear of the trailer would now be welded to and the front of the trailer would now be welded to. So you have paint removal, you have prep work for that, you have the weld attachment to that and now you have to paint it. Our paint booth, we would have to

put in an additional paint booth to be able to touch up the areas that we would have otherwise welded and all of that extra labor, the removal of the paint, the welding of the perimeter, the repainting process which includes a zinc-rich primer and then a top coat and then there's a curing time between the primer and the top coat. All of that constituted the additional labor for us at that time to produce a fully-welded container versus a mechanically fastened.

VICE CHAIRMAN PINKERT: Mr. Fenton, any assumptions about a production run or the degree -- the amount of a production run built into that analysis of difference in cost?

MR. FENTON: If you're talking about what quantity and volume we may be able to produce in a comparative run between one design and another, basically what it means is that we have to put some additional tooling in place which is some of those costs. We have to have a little bit of additional labor as far as staffing is concerned. But our production level would have been assumed and directed to be the same. You know, our goals are exactly the same as far as end result as far as quantity that could be produced.

One other thing, if I might, as far as the fasteners that are -- that were in place, those fasteners

served as a dual purpose. One of them was to allow us to do the assembly process which has just been described to you. There is a side benefit to those fasteners as well and that is the potential of repair into the future of the unit as far as ease of replacement of components. If damage had occurred in the field, the level of expertise in order to replace those components which now have fasteners instead of weld is much less. The potential of reintroducing the damaged unit into service would have been much higher as far as bringing it back to its original condition with a much lower level of expertise as far as the work which would be done. And that was conveyed to the potential purchasers as well.

VICE CHAIRMAN PINKERT: Thank you. For purposes of the post-hearing, Mr. Levin, what I'm interested in is a full analysis of the projected difference in unit cost, including the amount of the production runs anticipated and what impact all of that would have on the unit cost.

MR. LEVIN: Understood Commissioner, and absolutely we'll provide that information, which of course would be BPI.

VICE CHAIRMAN PINKERT: Thank you very much. Now turning to the issue of AICM, does -- in the view of this panel, does AICM need trade remedies to be imposed in

this case, in order to get established as a domestic industry?

MR. LEVIN: If I may respectfully date, Commissioner, I think that's a question for AICM, and not for us.

VICE CHAIRMAN PINKERT: I have yours so --

MR. LEVIN: Let me say this much. I'm sure it wouldn't hurt their efforts, if trade remedies are imposed.

VICE CHAIRMAN PINKERT: Okay. Then a question for Mr. Fenton. Does AICM have any technical advantage over the product that is currently produced by Stoughton, or produced in the past by Stoughton? Do they enjoy any technical advantage?

MR. FENTON: I'm unaware of the design team that might exist with AICM. I do not know who they are and what their expertise level is far as history is concerned. I have seen just a photograph of a prototype unit which was supposedly built by them, but have not been able to review it. So I'm afraid I can't answer the question in a reasonable fashion that has been posed. Sorry.

VICE CHAIRMAN PINKERT: Mr. Levin, do we know anything about what they -- what they're offering or what they are considering offering to the customer, that might be different from what Stoughton's able to offer?

MR. LEVIN: We are not aware of any of that

information. There may be people on the witness panel for this afternoon that may have a little better insight to that. But no, Stoughton has not been in conversation with AICM. We know of the company's existence. We are generally aware of where they may be, in terms of trying to get production off the ground.

Of course Mr. Hodes and Jim and myself under the APO know what's been put on the record for AICM. But I don't believe that Stoughton Trailers has any further insight.

VICE CHAIRMAN PINKERT: Okay. Then in the post-hearing, if you can address the question, perhaps in a business proprietary manner, and simply based on what you have available to you Mr. Levin, does it appear that there is any technical difference between the product that may potentially be offered by AICM and the product that is currently or in the past offered by Stoughton.

MR. LEVIN: We will do the best that we can with the information that is available to us, yes.

VICE CHAIRMAN PINKERT: Thank you. My last question, and I think we can only touch on it at this point, but you've spent a lot of time talking about whether or not the customers made Stoughton aware of the problems or the perceived problems with the product, particularly with the mechanical fastener element of the product. Does it matter

whether they made Stoughton aware of their concerns, if in fact their concerns explained what's happening in the marketplace?

MR. LEVIN: I believe it would, especially in the context of a material retardation case. In this particular instance, we have a company, Stoughton, that made plans to get into this marketplace. They did so based on the information that they were getting from their potential purchasers. Their potential purchasers then come out later on, three years later, four years later at the time of the preliminary hearing, and say "No, that's not what we wanted. We wanted something else."

So to the extent that it was not communicated to Stoughton and Stoughton was to the contrary given the strong indication that the prototypes, the Gen 1 and Gen 2, was what the market was requesting, then yes, it becomes relevant to determine whether or not it was an issue as Respondents would phrase it, an inability to bring a marketable product, an acceptable product to market, or was it because we got the Chinese containers out there. They're cheaper, and that's the head wind that Stoughton was confronting.

VICE CHAIRMAN PINKERT: Thank you. Thank you Madam Chairman.

CHAIRMAN BROADBENT: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you Madam Chairman, and I do want to express the appreciation to the witnesses for coming today, and also appreciation to Stoughton for the tour that we took. Very useful.

I was wondering if you could -- of course in your post-hearing, provide some documentation, any documentation that would -- on the negotiations with J.B. Hunt, that establishes that they were fully aware of mechanical fasteners, and that that was all acceptable.

MR. LEVIN: Some of that is in our prehearing brief.

COMMISSIONER WILLIAMSON: Okay.

MR. LEVIN: Some of that is in the other side's prehearing brief.

COMMISSIONER WILLIAMSON: Okay. Well just --

MR. LEVIN: The bottom line is that -- let me be very careful here. The documents don't give an indication of the assertion that what J.B. Hunt was looking for or expecting was any different than the path that Stoughton was going down, and I'd better stop there.

COMMISSIONER WILLIAMSON: Okay, fine. If you want to say more post-hearing, you can.

MR. LEVIN: Thank you, we will.

COMMISSIONER WILLIAMSON: Okay. Mr. Fenton, you talked about the fasteners still being in non-critical

areas, and I was wondering just briefly, what is a non-critical versus critical area?

MR. FENTON: Commissioner, if you'll recall, while you were on your visit, you were able to stand between two containers.

COMMISSIONER WILLIAMSON: Yeah.

MR. FENTON: And standing between the two containers, you were able to look at the placement of fasteners on one container and the absence of those fasteners on another. The areas that historically have been issues of concern have been around a stacking frame, the 40 foot frames that 6-1/2 feet from each end. As you'll note, there was no fasteners there on either case.

So basically when I say a non-critical area, I say that the areas that are known to have been the largest offense of loosening and/or leaking, were not there. And unfortunately, many of the companies in which track the issue of concern with regard to a product, may list that issue as a leaker, without any definition as to where the leaking occurred.

So what we're saying at this stage is we knew of leaking that existed in areas that were well-published, and that were shared throughout our industry, not just by ourselves, but all of the producers had the same basic areas. We were fortunate in our design being a little

different in our aluminum construction, that we didn't experience as much leaking as our competitors.

But we were aware of those areas, and those areas are not areas in which fasteners existed. At least half of the fasteners, or about half of the fasteners that we do employ or did employ with the mechanical, were not in areas that could even enter the cargo. If you'll recall, the fasteners that run along the bottom side of the unit connected cross-members and things of that nature, and there was no potential for water to enter through there because it wasn't even into the cargo space.

So what we're talking about is fastener locations that could, you know. If a fastener was missing that caused a leak, it was in the very four corners, vertical row of fasteners front and rear.

COMMISSIONER WILLIAMSON: Okay. Now do the Chinese use any fasteners in theirs? I mean I know everybody, I guess, fastens the floors to the unit. But are there other areas where they would be using fasteners too?

MR. FENTON: The only other area is through door attachment. So the rear doors to have fasteners attaching in both our product and the Chinese product.

COMMISSIONER WILLIAMSON: Okay, and people aren't complaining about that?

MR. FENTON: I'm sorry?

COMMISSIONER WILLIAMSON: People are not complaining about that?

MR. FENTON: No.

COMMISSIONER WILLIAMSON: Okay, umm -- okay. When you still talk about that, I guess, getting rid of 97 percent, so the number of fasteners that they have, are there fewer than the ones that you have in the unit that's not all welded?

MR. FENTON: The fasteners of question that would be in the area that goes from outside to inside of the cargo space, we've got around approximately 200 fasteners that they do not have in their construction.

COMMISSIONER WILLIAMSON: Okay. I just wanted to get that.

MR. FENTON: Correct.

COMMISSIONER WILLIAMSON: Okay, thank you. Mr. Heffner, there's one question I had about what -- and this is before the Period of Investigation, why did the U.S. companies exit? Mr. Heffner implied that it was because of this -- the all-welded construction, and I know a number of U.S. companies exited the market in that 2005-2007 period, and I think some of the things I've seen indicate that they were complaining about something else.

So I wanted to find out was it the all-welded construction plus price, or was it price? How would you

allocate that? I know it's before the Period of Investigation, but just I don't understand it.

MR. WAHLIN: I would say it was more price, but yeah, mostly price, part construction and durability of the steel box. To give you an example on price, it is our experience that at the time frame when the North American industry was being removed, you could get three of their containers for the price of two of the North American containers.

So I mean just to give you an idea of the price differential. So yeah, it was significantly different, and the Chinese box was unproven. It had -- it had some areas that I think the customer base would have preferred to have been different, the corrugations in the wall, things like that, and the smooth side on the inside of the container. But it's the fact that the price was too good to refuse.

COMMISSIONER WILLIAMSON: Okay.

MR. DOUGAN: Commissioner Williamson, if I can add, I think you know over time, as the welded steel box became more accepted in the marketplace, I mean I think there were benefits to it that the customers understood.

But I -- and others can comment on this, but the interesting thing is it wasn't, again, introduced in such a way as we have this premium product that is superior

in its performance characteristics and you should be willing to pay us more for it. It is we have a steel box that's cheaper, try it out and see how you like it.

COMMISSIONER WILLIAMSON: Okay, thank you. So when did these -- let's talk about, I guess, the steel box. All welded is the industry standard. Do you want to comment? When did that -- if that's the case now, when did that happen and --

MR. FENTON: If I might Commissioner, the steel box was introduced in 1996.

COMMISSIONER WILLIAMSON: Okay.

MR. FENTON: And it was brought in -- the first steel box was 48 feet long, not 53, and then things change, and as 53's became more prevalent and some of the customers within the U.S. borders embraced the steel box, they were purchased and put into a couple of lines. Those steel boxes were heavy. They were -- they had the issues of, you know, the industry had not experienced a corrugated interior.

One of the concerns they had was if I have a corrugated interior, I'm going to beat it up. You're going to ask me a question.

COMMISSIONER WILLIAMSON: Okay. I'm running out of time now. So I think maybe it's more the question of the all-welded part, that happened later and as the --

MR. FENTON: Basically what happened with the boxes that came from overseas, what they did was they took a 40 foot box which they had been producing for 40 years, with a technology that they've used for 40 years, and said let's build on that's 53 feet long. We'll use the same method that we use today. We'll just add, add some 6-1/2 extensions on each end, and we'll have a 53 foot box.

So they just used the technology and the method that they've been using for X number of years, and said this is how we'll build a 53 foot box.

COMMISSIONER WILLIAMSON: Was the box welded?

MR. FENTON: And they were fully welded, what we term "fully welded," and terming fully welded to our industry wasn't necessarily the same thing as what was coming from the provider of this box. The fully welded meant I want steel panels that are connected by weld, not rivets, and that I want those to connected to frames, and those connections were done by weld at the stacking frames.

After that, you know, we did not understand full welded to be absolutely no fasteners, because we looked at the fact that there's fasteners in the floor, there's fasteners in the doors, you know. So those things didn't necessarily define for us that absolutely no fasteners could be used. It was how the construction of the wall was created.

COMMISSIONER WILLIAMSON: Okay. I'm asking these questions, because I'm trying to at the point, doesn't that establish us behind the curve in terms of what the technology and stuff like that are? Is it that customers' perceptions of what they wanted evolved?

MR. FENTON: Well, I wouldn't say that we were behind the curve. We were able to do it if it is what the customer mandated, as far as the ultimate and absolute requirement.

COMMISSIONER WILLIAMSON: Okay, thank you. My time has expired.

CHAIRMAN BROADBENT: Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you Chairman Broadbent. I would like to thank all the witnesses for appearing here today, and this comment goes not only to the Petitioners, but also to the Respondents, that you produce a very important product, or you are hoping to produce a very important product as far as the Petitioners go.

I assume everything in this room, all the audience in this room were probably at one point carried in a container. So what you all produce or hope to produce is integral to the U.S. economy. I did not realize that until working on this investigation, so thanks for bringing that to my attention.

J.B. Hunt states at page nine of its

prehearing brief, that was submitted during the staff conference, that J.B. Hunt testified that it worked, that it "tried working with Stoughton to get a prototype container that would meet our needs, and was prepared to contribute significant investment to the project, but shelved that project because of concerns about quality problems with other Stoughton products."

Do you all agree with this characterization, that J.B. Hunt attempted to work with you all initially?

MR. WAHLIN: Yeah, J.B. Hunt worked with us very much initially, and as far as, you know, from everything from giving us information on the container we wanted to go to market with, to looking at other production facilities in the U.S. that might meet the needs of their distribution system, to you name it. And you know, we had an agreement with them to produce a prototype container with the 100 and 3/8ths interior width dimension, and during that time period the total cost for us to produce that product were approximately $157,000.

We reached agreement with J.B. Hunt to produce them a container to put into their fleet for $20,000. At the time, we would typically sell a container for, you know, the 13 to 15 thousand dollar range. So that gives you an idea of the contribution level that they had towards that project, which we appreciate very much.

The reason that prototype went south is this was during the time period when we had -- we had information on the issues with our Gen 1 container and the NS issues, and during that time period, we reached out to J.B. Hunt proactively, and let them know what was going on, gave them full communication, and we suggested that we hold off on further development of that prototype until we get information put together and have a plan to remedy the issues that came up on NS.

After that, things went a little silent. We would reach out to J.B. Hunt, but they were no longer interested, I believe due to the fact that the price difference between our product and the Chinese product was becoming more and more of a factor. This was also the time period when the Chinese price, from what we could see, was coming down pretty fast, and I feel in order to try to choke us out and to provide disincentive for people to work with us.

COMMISSIONER JOHANSON: Commissioner, in Mr. Fenton's testimony, he read an email from Mr. Delozier of J.B. Hunt to Mr. Bill Wahlin, dated September 9, 2011, regarding the chassis order. And that email makes clear that "The chassis order was not taken by J.B. Hunt, wasn't sourced from Stoughton, because the Stoughton company is still priced higher than my current CIMC provider. So I

cannot sign up for 1,500 to 2,500 offer, even if the price was the same as what was submitted in late June."

And it seemed to me that it was probably a pretty rare occurrence, to have a potential purchaser to contact you ahead of time, to ask if you can make a product. Also I would think that J.B. Hunt, and I realize that they will be speaking later today, but I would think that they would take price in mind before contacting you, as to what they assume the price would be.

So I would think that they would have a knowledge of what they were getting into when they contacted you.

MR. WAHLIN: I believe they had -- yeah, they did have knowledge what they were getting into, but I don't think they had knowledge yet as far as what the -- how the Chinese were going to react, in lowering their price.

MR. FENTON: If I might sir, the relationship that Stoughton Trailers had with J.B. Hunt extends all the way back to the early 90's. When they wanted to change their business plan from over the road usage to container usage, they came to Stoughton Trailers and asked us to provide for them the first containers that they introduced into the market.

Those containers were innovative at that stage. they had the 100 and 3/8ths inside width. They had

all of these things, and they wanted some very specific ideas. We provided those ideas, we provided those designs, we provided the first 15,000 units that they put into service in those designs.

We were even asked by them to provide to other U.S. manufacturers the information and the direction as to how to build that product, because we were not able to provide the overall volume that they had appetite for. So we indeed provided the design, established it, worked with them, and then taught other sources as to how to build that product.

So they had a good history of knowing that we would work with them and for them to further their business.

COMMISSIONER JOHANSON: Have you worked with -- and I assume this is in the record. I apologize. I don't remember everything I read. But have you worked extensively with Union Pacific prior to the Period of Investigation?

MR. FENTON: Yes, we did. We were also one of their top suppliers early in the mid- and later 90's, of an aluminum product.

COMMISSIONER JOHANSON: The reason I'm asking this is because Union Pacific states at page 21 of its prehearing brief that Stoughton can deliver containers only to Chicago and not to Los Angeles, and that taking delivery

in Chicago would force Union Pacific to reposition empty containers across its entire network, as well as additional operational costs.

So it would seem to me that if Union Pacific had worked with you all in the past, I was wondering if this had not been a problem for them in the past, and this is perhaps better addressed by them later this afternoon. But do you all have a comment on this?

MR. FENTON: I would make the comment that says yes, we were indeed delivering to them in the Chicago area during the several thousands units that we provided to them. But during that time frame, the products which were being provided were being provided by most manufacturers in the Midwest, and most of the units which were coming into service were being delivered into the Chicago area.

Since the 2005-06 time frame and the shift of provision of the containers, going from the west coast now from the Asian supply, they were likely had to do some restructuring of on-boarding their equipment, to accommodate for the fact that right now, they indeed put all of their equipment in on the west coast.

In the mid-90's, they were putting most of their equipment in in the Midwest. So there has been a shift, yes. Could it revert back? I couldn't speak to that. They would have to.

COMMISSIONER JOHANSON: All right, thank you for your response. Yes, Mr. Dougan.

MR. DOUGAN: Commissioner Johanson, if I can add something. In the Cowler study, which is attached to, I don't know, multiple if not all of the Respondent's briefs, and I discuss this in my testimony, they quantify non-price acquisition costs, one of which includes repositoining within the U.S. But on balance, including ocean freight and repositioning within the U.S., and the estimated lifetime cost over the use of the container, the non-priced acquisition costs are essentially a wash between Stoughton and the imports.

COMMISSIONER JOHANSON: I guess it would make sense for them to plant initially, position their containers on the west coast, just given what's happened with China and other countries in Asia over the past 20 or so years. So I assume that's what happened -- you say at one point, they had positioned, and Union Pacific as well as other carriers have positioned from the middle West, from Chicago?

MR. FENTON: That is correct.

COMMISSIONER JOHANSON: Okay. I only have about 45 seconds left. I'll go and ask this one question, and hopefully it won't drag on too long. But can you all speculate as to why AICM is not here, as was stated by question of Mr. Pinkert, they do have -- they would

potentially benefit from this, would they not?

MR. LEVIN: They certainly would potentially benefit from this. As to why they are not appearing in this investigation, don't know.

COMMISSIONER JOHANSON: Okay, because during my readings of this, I kept seeing AICM all over the place, and so I assume they'd be here today, and then I realized they would not be here. So I was a little confused.

MR. LEVIN: I could not explain AICM's decision.

COMMISSIONER JOHANSON: I understand.

MR. LEVIN: Yeah.

COMMISSIONER JOHANSON: Okay. My time has expired. I appreciate your responses.

CHAIRMAN BROADBENT: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: All right, thank you. Good morning. I'd also like to thank the witnesses for being here, and I regret that I was not able to travel to Wisconsin back in February, although I do recall the weather around that time, so both here and there. So fortunately we are done with that, at least here.

CHAIRMAN BROADBENT: Our travel staff got us back. We were very, very fortunate.

MR. LEVIN: I think everybody is back by now.

COMMISSIONER SCHMIDTLEIN: Right. So I wondered if -- I'll start with a question for Mr. Wahlin. Can you

describe to me how sales are typically made, sort of following up on something Commissioner Johanson just said, about is it unusual that purchasers come to you and ask you to develop a prototype, or is that typical in this industry, that that's how the sales get made? Or do you pursue the purchasers and offer to do that in response?

MR. WAHLIN: We pursue the purchasers. I mean with J.B. Hunt, I wouldn't say they came to us. I mean we had been working together. We had talked about expanding on our partnership. We talked about our desire to get back into the intermodal container business, and the natural step would be to do a prototype. We have reached out to several potential customers with the idea of doing a prototype, doing test development runs.

We have reached out to them through meetings at the IANA conference. We've done plant visits. We've even taken product to their facilities. So I would say it's more common that the supplier is reaching out to them, and that's what we have been doing.

COMMISSIONER SCHMIDTLEIN: And so is that then, in terms of getting approved, in going through a supplier approval process, or is it in anticipation of whenever they do issue a request for quotes, or what point in the process does --

MR. WAHLIN: Yeah. It could be different by

supplier. A lot of times they will have a certain amount of containers that they'll take in and put into their system, as part of their approval process for larger orders. Some look for a hundred or more containers; some look for a prototype. It varies by supplier.

COMMISSIONER SCHMIDTLEIN: So how long does it take for you to produce a container, once an order has been placed or once you -- you've been able to confirm a sale?

MR. WAHLIN: Sure. A good example is right now, we are working with somebody on potentially doing a trial run of 100 containers, and we are looking for that confirmation from that customer by May 1st, and we will have product for them in June.

COMMISSIONER SCHMIDTLEIN: So in just a month or four to eight weeks?

MR. WAHLIN: Yeah, in this situation. Now hopefully when business gets better, our backlog is going to build and it'll, you know, likely be longer than that. But right now, we could turn that around in a very short time period.

COMMISSIONER SCHMIDTLEIN: And when was it, can you remind me, and this may have been in the papers as well. As David said, it's hard to remember everything you've read. But you know, your assertion that learned at the staff conference was the first time that customers wanted the

fully welded container of this certain width.

So you've made an investment to redo the plant, so that that can be possible. When did it become possible for you to start producing these containers at a commercial level?

MR. WAHLIN: Well, we could have produced them from the beginning, since we got back into this process. But once we -- once we had the message coming out of the earlier hearing, we started redesigning our plant. We started putting plans in place, working with our paint equipment suppliers on designing the booths.

It was a somewhat unique configuration, to try to get that air flow properly into that box, into the booth. So that was not an easy engineering challenge, and we had -- and Gary might be able to remember this as well, but we had a container built in time for the IANA show, and do you remember the exact date on that?

MR. FENTON: Yeah. We left here of course in May, and we built the unit for the IANA show, which was fully welded, not through the system that we had to put in place, but otherwise in development of a prototype, we had it built in August. So you go from five to eight inches, less than three months that we had it taken care of.

COMMISSIONER SCHMIDTLEIN: And so -- and at what point were you able to, would you say that you were able to

produce the commercial quality of it? In other words, when did you get the plant --

MR. WAHLIN: We finished the modifications and were ready to move forward just recently.

COMMISSIONER SCHMIDTLEIN: Just recently?

MR. WAHLIN: Yes.

COMMISSIONER SCHMIDTLEIN: Okay. I think Commissioner Johanson also referenced this, but Union Pacific states in its brief that it's currently engaged with you all in developing, I guess, a prototype. Can you talk about where you are in that process, how it's going? Have you settled on a price with them? Not that I'm asking you to disclose that, but just how close are you to actually securing an order with them?

MR. WAHLIN: We provided the information, and we're working with them on a response by May 1st, and --

COMMISSIONER SCHMIDTLEIN: So that's the --

MR. WAHLIN: Yes.

COMMISSIONER SCHMIDTLEIN: Okay, and I think you mentioned, in response to Chairman Broadbent's questions, that you're actually working with three customers today, currently I guess we should say. Can you talk about where you are in that process, in the sense of have you agreed on, again not any details, but just have you agreed on a price with those customers as well, on the other two?

MR. LEVIN: If I may Commissioner, can we reserve --

COMMISSIONER SCHMIDTLEIN: Would you like to respond in the post-hearing?

MR. LEVIN: In the post-hearing brief.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. LEVIN: Because we're getting into sales negotiations.

COMMISSIONER SCHMIDTLEIN: Yeah, yeah, that's fine. Of course I understand.

MR. LEVIN: And we'd be happy to.

COMMISSIONER SCHMIDTLEIN: With this line of questioning, what I'm, you know, eventually I wanted to ask is, you know, we see that despite the fact that duties have gone, right, after the prelim, that importers are still arranging for containers from China. So either Mr. Wahlin or Mr. Levin, I guess, you might be the appropriate person, but what should we make of that, in terms of what does that tell us about why there are not -- those decisions are being made based on price.

MR. WAHLIN: Sure.

COMMISSIONER SCHMIDTLEIN: And go ahead --

MR. WAHLIN: Right now we are in the beginning stages of -- we've just recently completed the project, to be able to offer that fully welded container configuration,

and AICM, to my knowledge, I don't know much about them. But to my knowledge, they're in the beginning stages as well. So the industry in the U.S. hasn't had a chance to build up yet.

So if they're looking at very large quantities of containers immediately, in order for us to provide that, we're looking to receive the orders and start to build our workforce, build our plant and build up to those production levels. The industry is not at that point right now, in my opinion because of the dumped and subsidized product from China.

COMMISSIONER SCHMIDTLEIN: Right, okay. Go ahead, Mr. Levin.

MR. LEVIN: I wanted to have Mr. Fenton comment on something, but on the orders that have been placed post-prelim, we're in a little bit in the dark because we don't know if the potential purchasers have any sort of out in the contract, because of the imposition of the cash deposit requirements.

COMMISSIONER SCHMIDTLEIN: Uh-huh.

MR. FENTON: It's not an uncommon business case to see an order placed, in order to reserve some production quantities or anything else, and those quantities may be changed as the time goes on. They may be reduced. They may be eliminated. But right now, you know, all we could say is

what we see is they need equipment, so they've made an order for that equipment.

The potential of saying well, you know, if we get this resolved and we can work with a U.S. supplier, then we'll cancel the order, and that can occur, and it is not unprecedented for it to occur. As a matter of fact, it's pretty common.

COMMISSIONER SCHMIDTLEIN: And did you see a difference after the duties went on, in terms of your discussions or relationships --

MR. WAHLIN: As we got closer to this trial, more and more of our customers were available to talk with us and work with us, and develop a plan.

COMMISSIONER SCHMIDTLEIN: Okay. I'm just about out of time, so I'll reserve my remaining questions for the next round. Thank you.

CHAIRMAN BROADBENT: That's me next, huh? Is it you? No, it's me. Okay. Just checking, all right. I had a question about the marine versus the bimodal containers. Do you all produce the marine containers?

MR. FENTON: We have produced a marine container, and we did show you the componentry of it while you were there at the visit in March.

CHAIRMAN BROADBENT: Right. So how many of those have you produced?

MR. FENTON: That was our prototype unit.

CHAIRMAN BROADBENT: Okay.

MR. FENTON: The difference between the two is a presence of castings at the extreme corners for the marine units, those castings being those shoe-boxed sized steel boxes that are the interface to connect to one another. Basically that is the general differences that, along with some performance criteria, is a part of strength.

CHAIRMAN BROADBENT: Okay, and then is -- where is the business going on the marine modal? Is that a big area of demand?

MR. FENTON: We do have -- we have worked with some of the marine options in the past. There's about four different customers that look at the marine, and basically they are tied to the U.S., where they do barging and/or shortline shipping to the surrounding -- probably mostly to the surrounding islands.

CHAIRMAN BROADBENT: So the Caribbean. How about Alaska or something?

MR. FENTON: And yes, on the west side they do run from the ^^^^ from all the way on the west coast up to the Alaskan areas.

CHAIRMAN BROADBENT: Okay. But you don't envision them ever being used to ship to Europe or somewhere else farther away?

MR. FENTON: No, no. They're just a reach out from the continent, yes.

CHAIRMAN BROADBENT: Okay, all right. Where do you all see the Chinese, in terms of on a learning curve of producing what the market is demanding here?

MR. LEVIN: I would say way above where we are, and that's because they've had the opportunity to go through several design iterations, in order to make continuous improvements to the product, based upon the feedback that they are getting from their customers in the field.

I could not express it any better than the testimony of a witness for Schneider National in the preliminary conference, and I think Jim may be digging furiously to try to find that. I know that we had quoted it in the prehearing brief.

But the allusion was made to CIMC being up to Generation 10. He may have been -- the witness may have been just saying 10 as an advance number, not specifically 10. But the point is is that CIMC had a learning curve, just like Stoughton is having a learning curve. But they've been allowed to go through that learning curve because the prices are just so darn attractive.

CHAIRMAN BROADBENT: Can you --

MR. LEVIN: And if I may, it's on page 28 of our prehearing brief. It's the testimony of the Director of

Intermodal Maintenance, Mr. Drella, for Schneider National. It's a two paragraph direct quote from the preliminary conference. It just explains it really, really well.

CHAIRMAN BROADBENT: Okay. Now these Chinese containers, how do they arrive in the U.S.? Are they leftovers from goods that were shipped here and then are just kind of looking to go home when they're in the U.S. market? What is the contribution of the past history of the Chinese product to the pricing picture, if that makes sense?

MR. DOUGAN: So you're asking about the 53 foot domestic container?

CHAIRMAN BROADBENT: Yeah, right.

MR. DOUGAN: Because I would -- these gentlemen can perhaps answer it better than I, but they are apart from the arrangements made with purchasers here, to laden them with freight as a means of an offset or a discount to their purchase price.

These aren't usually used primarily for ocean freight. That would be the 20 and 40 ISOs, and they are primarily purchased here for use on domestic continental intermodal transport.

So they are purchased and ordered for that use, as opposed to things that are leftover. I know there are stories of containers in California and Texas and places like that that are just kind of -- there's no freight to go

back, so they sort of sit on the docks. But those are the 20s and the 40s, as I understand it, not the 53 foot domestic containers.

CHAIRMAN BROADBENT: But you say the 53 foot are manufactured in China and come over here empty?

MR. FENTON: Not always the case, Madam Chairman. But they're manufactured over in China. They then have to find a place on deck of the ship, because they cannot be placed in the hold of the ship. So they reserve those key locations on the deck, because they cannot drop down. So they can't be stacked as high. They're not intended to be.

So there is some restrictions as to how many can come over on a ship, due to the locations in which they can actually, you know, occupy on that ship. Now when they do come over here, many times they do come over ladened. So they're carrying a product.

Sometimes they're carrying their own product. When I say that, they're carrying other components that they bring to the United States shore. The chassis for carrying containers are inside of the containers, which then come out of the container, are assembled and become the transportation means for the container.

So you know, it offsets some cost in that fashion. It shares some cost in that fashion. On occasion,

they will come over empty, and they're headed here for their life's usage in the United States.

CHAIRMAN BROADBENT: Uh-huh, okay. Why can't they be put down inside of the hold of the ship?

MR. FENTON: The hold of the ship only allows for a 96 inch wide container, and a 40 foot long container. There's basically a chute. It's a guided chute, and that's the size of that chute. So when you now have a unit which is too wide to go down to the chute and too long to go down the chute, it has to be placed in an area that is not requiring that guidance or that chute, as I've termed. So it sits on top of the deck, and then they stack it on top of one another. But they cannot go down in the hold.

CHAIRMAN BROADBENT: Well just rough estimate, I mean how many, as a percentage of all the containers or the boxes that are in a typical container ship, how many would be on the deck there that would be competing with your product?

MR. FENTON: I mean there's various different sized ships. If I might, can I provide that to you certainly in the post-hearing please?

CHAIRMAN BROADBENT: Right, yeah. But you're implying it's a very limited number that can sit on the top --

MR. FENTON: As far as percentage of the overall

capacity of the ship, that is correct.

CHAIRMAN BROADBENT: Right, okay, and then to the extent that they are laden, what are they usually laden with?

MR. FENTON: Any goods that might be coming from, you know, across the ocean.

CHAIRMAN BROADBENT: Uh-huh, okay. Commissioner Williamson, are you ready? I may yield to you.

COMMISSIONER WILLIAMSON: Thank you. Mr. Dougan, in your chart about consumption, you show dramatic changes in U.S. consumption, and I was wondering if you might explain why do we have that pattern?

MR. DOUGAN: Sure. I think as a general matter, the purchase of these containers is known to be lumpy, which is not an economic term, but --

COMMISSIONER WILLIAMSON: I think I already know. The 2011, that was considered catch up from the recession; is that correct?

MR. DOUGAN: Precisely, precisely. So that's catch up from the recession. 2014 may be in response to general demand characteristics. It may have been a response to a perceived unavailability of containers should an order go into place. So that explains the sort of pillars at the ends.

I don't know that the year to year changes

between the volume of containers sold in the U.S. would vary by quite as much as we've seen in these four years, on a sort of average four years. Umm --

COMMISSIONER WILLIAMSON: Any idea whether the 2014 -- how much of the 2014 increase is that in fear, anticipation of possible orders, as opposed to a recovering economy?

MR. DOUGAN: I would have to look at the volumes reported in the pricing data, to try to get a sense of trends about what the timing was. I can answer that in the post-hearing.

COMMISSIONER WILLIAMSON: Okay. That's fine. Then you also talked about the -- your later chart on the pricing of containers in the U.S., and you -- this is your last one, and that general decline that you show. I know there's been a decline in raw material prices. How would you allocate that causes of that decline? I mean to what would you attribute it, and how much weight would you give to the factors?

MR. DOUGAN: Sure. It can be attributed to a number of things. Certainly, steel prices have declined since 2011. Now, the prices that appear in the pre-hearing staff report are, of course, steel prices for the Midwest and the Chinese producers aren't buying their steel there.

And also, I want to point out that first of all

the Chinese have access to subsidized steel, which helps explain part of the margins that they have been assessed. And the other is that I think that the trend in container prices might broadly track raw materials prices, but this is not as, for example, in a recent conference that we had on pet resin where raw materials account for 75 to 80 percent of the production costs and very, very limited number of raw materials account for 75 to 80 percent of the production cost of the end product.

In that market, the actual selling price of the pet resin is tied in a formulaic way to index as the reported raw materials. This isn't that. I mean when steel prices go down are container prices likely to go down by some amount? That's probably true. Are they going to go down to this degree? I would argue not.

The other part of that is that steel -- while raw material costs as a total percentage of cost and production are not as high as in, say, pet resin, also steel is not the only raw material used in the production of containers. And I think the data in the staff report are BPI, so I'm not going to get into it here. But steel does not account for a majority of the cost of production of containers, so it wouldn't explain this entire price decline. I think there's a number of things going on. I think one of them certainly is, as you've heard from the Stoughton witnesses, aggressive

pricing on behalf of Chinese producers to help prevent entry of a domestic competitor.

It's not just about Stoughton. It's about knowing that if the door opens to Stoughton the door opens to other domestic container producers as well. There are other companies, not just AICM, but others -- and that's also in the staff report -- that are posed to enter this market should a level playing field be established. The Chinese producers do not want that. That's number one.

Number two, there is the basic competition --

COMMISSIONER WLLIIAMSON: And what can you offer at the post-hearing maybe to document. How much is this aggressive behavior and all contributed to this decline and what proof do you have on that?

MR. DOUGAN: It's harder to quantify, but there is a section of our pre-hearing brief where we discuss -- there's documentation among the responses to bid prices to some of the purchasers where they're repeatedly from year to year saying too high, too high, too high, too high, prices that do not vary very much from the previous year or aren't very different between two competing producers.

So, you may have the Chinese producers who are trying to prevent entry. It's also driven by purchasers who are playing CIMC and Singamas off one another for lower prices, so they want the lower prices too. All of those

things contribute to this price decline, and because the Chinese producers are basically selling at unfairly traded prices they can go down by more than they might otherwise.

COMMISSIONER WILLIAMSON: Thank you. Mr. Levin?

MR. LEVIN: Yes, Jim's last point was exactly where I was going. Maybe at the beginning of 2011 the dumping margins were not as high.

COMMISSIONER WILLIAMSON: Okay. Thank you. If the Commission were to determine -- you know this is a material retardation case, but what if the Commission were to determine that you know the industry exists. I mean there are arguments that if one takes not just the period of investigation, but the full history that there some continuation there is argument that could there. What if the Commission were to say that the industry exist what point would you make regarding injury in that case and what points might you make regarding threat of injury?

MR. LEVIN: If I may, Commissioner?

COMMISSIONER WILLIAMSON: And I know you address some of this in your brief.

MR. LEVIN: Right. And that's where I just refer back to. Based on what the Commission has done in, for example, laminated woven sacks. I keep on calling it socks -- laminated woven sacks.

COMMISSIONER WILLIAMSON: Yes, I remember the

case.

MR. LEVIN: If the Commission were to find that material retardation is not the applicable standard here, it would move on to a material injury and a threat of material injury analysis as we had alleged in the petition. I mean the petition is brought primarily on the basis of material retardation because we do believe that this is a quintessential example of the material retardation of the establishment of the industry.

The Respondents seems to be in agreement that this should be fought on material retardation grounds, and I think they have some tactical reasons for just conceding that basis. But were the Commission -- it's not our decision. It's not their decision. It's your decision.

Were the Commission to move onto a material injury determination, we would think that the same facts and same factors that are applied in a review of a material retardation case, what has been the effect on domestic production and shipments and capacity and selling prices, et cetera, et cetera would be the same.

If there is no current material injury -- and quite honestly, I think what we're looking at is material retardation or threat. If there's no material retardation, no material injury, then the analysis would move onto threat, and that has a somewhat different analytical

framework, as you know. And that's why we spent a major portion of the last second of our brief going through the several threat factors.

COMMISSIONER WILLIAMSON: Okay. Thank you. In your pre-hearing brief, you also argue that the domestic industry should be defined to include only your firm because it's the only producer that has engaged in commercial production. And as we've already heard many times, there are other U.S. companies who are thinking about getting into this business. Why the material retardation case should the domestic industry be limited only to firms engaged in commercial production?

MR. LEVIN: I think the point more with the term "commercial production" is who was in the market at the time of the period of investigation. And to the best of our knowledge, Stoughton was the only player in the market during the period of investigation.

As I said in response to Commissioner Johanson's question earlier on, we really don't know what AICM's position is. We assume that they would probably garner a benefit should orders go into place, but that's for them to state or take a position or remain silent as they choose. But for our purposes, right now we are looking at a period of investigation that runs through 2014. Stoughton was the only producer to the best of our knowledge commercial or

otherwise through that period of time.

To the extent that there may be other pending manufacturers, (A) they have taken no position and (B) they don't really -- again, let me be careful. They haven't produced data that would normally be recorded in an ITC staff report.

COMMISSIONER WILLIAMSON: If one were to look at material injury, and particularly, the question of threat of material injury, the existence of those firms or potential existence would that be of relevance?

MR. LEVIN: In terms of the general analytical framework, no, I don't believe that it would be. I think the analysis and the framework would be the same with or without other participants and whether or not you're talking material retardation or material injury or threat.

That being said, to the degree that the Commission determines that the establishment of a domestic industry is materially retarded, presumably, that would materially retard the possibility of other market entrants, the same thing with threat. If the Chinese are threatening material injury to Stoughton, then I would presume that it would pose the same threat to other American companies that would like to enter into this market.

COMMISSIONER WILLIAMSON: So, other folks would be left at the alter.

MR. LEVIN: Yes. Or there's a risk that other folks would be left at the alter.

COMMISSIONER WILLIAMSON: My time has run out. Thank you.

CHAIRMAN BROADBENT: Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Chairman Broadbent.

You all state in your pre-hearing brief at page 59 that you're including a series of projections and business plans in Exhibit 18 of the brief. Can you clarify whether Stoughton has other projections and business plans in connection with the planned production of certain domestic containers?

MR. LEVIN: For point of clarification, moving forward from this point or back at the inception in the 2009/2010 period?

COMMISSIONER JOHANSON: Both. How's that?

MR. LEVIN: I had a feeling that was going to be the answer.

COMMISSIONER JOHANSON: I had to think about that for a minute. I'd appreciate it. I don't know if you all want to answer that here or if you don't I understand.

MR. LEVIN: Because of the nature of the information.

COMMISSIONER JOHANSON: I understand, certainly.

I took me a while to get my staff to write that in a way which I did not think would be problematic.

How do you all respond to J.B. Hunt's statement on page 36 of its pre-hearing brief that despite the imposition of approximately 100 percent cash deposit requirements as combined anti-dumping and countervailing duty provisional measures purchasers are still buying from CIMC and Signamas and not from Stoughton?

MR. WAHLIN: Yes, as I think Gary mentioned before, to fully comment on that we'd want to see the detail of the agreement and the cancellability of the order and if there's any penalties to that and what those might be.

The other point on that is right now if they need a large quantity of containers in a short period of time we haven't have the opportunity yet to ramp up, so if they need product this year in very large quantities, both us, American Intermodal or anybody else that may be looking into getting into this business we're just not there yet on that type of production volume.

MR. LEVIN: I agree, of course, with Mr. Wahlin, and what we had said before on this previous point; but I just want add one element. Nobody is prevented to date and no one would be prevented moving forward should orders be imposed of buying containers from China. If that's what they want to do, they are perfectly willing and capable of

doing so. The point here is remediation of unfair trade practices.

Perhaps J.B. Hunt said you know at the end of the day we're willing to pay a fair price for the containers. You know we've been paying a nice dumped, subsidized price up to this point. We like our supplier. All things considered we're willing to pay a fair price.

COMMISSIONER JOHANSON: Thank you for your response. Yes, Mr. Wahlin, I assumed that would be yours as that as of now there's simply not the product available for certain reasons and I just wanted to see what your actual response would be.

Could you all please respond to the Respondents' arguments that a large contributor of Stoughton's inability to penetrate the U.S. market has been due to inadequate marketing efforts?

MR. LEVIN: Go ahead guys.

MR. WAHLIN: Well, as far as our marketing efforts, again, we've reached out to customers. We've visited customers. We have taken product to customers. We have taken trips with customers to not only look at facilities, but to develop our product. There's constant visits. And we'd be happy to supply that detail in the post-conference brief.

MR. LEVIN: Also, Commissioner, what we'll put

into the post-hearing brief is this document, which is PBI; but it is a survey of sales calls. The document was created contemporaneous with the time period reviewed, which is 2010 and it goes through the contacts made and often multiple contacts with one, two, three, four, five, six, seven -- yes, seven major potential purchasers.

COMMISSIONER JOHANSON: All right. Thank you. I look forward to seeing that. And along the same lines, talking about the whole issue of marketing, can you all elaborate on the importance of the annual AINA Convention and describe Stoughton's past participation in this convention. This is something that, of course, has been raised by the Respondents.

MR. LEVIN: Absolutely. And it was the question that we discussed I think between the appetizer and the entree last night.

MR. FENTON: The AINA forum is the one forum in the United States that brings together the customers, the users, the suppliers of intermodal service as a whole. So, suppliers, such as ourselves and the Chinese providers, would bring to that format a product to show, here, this is what we have to offer to the industry and we can go through the technical aspects or description of that product. So, it is very important that a representative to the industry and to the market be present at those locations.

We have present since 2011 through 2014. Prior to that, all through the nineties and all the way up through 2005 was a staple to the AINA show.

COMMISSIONER JOHANSON: Thanks for your response. In your pre-hearing brief, you state that a test of the Generation 1 design was surveyed by the American Bureau of Shipping, the ABS. Has Stoughton's latest design prototype been tested under the same conditions? The footnote on the first page of Union Pacific's pre-hearing brief indicates that it understands that the new design of Stoughton has not yet been tested.

MR. FENTON: That test was completed last week, and of the new design it is the fully steel welded design. Many times with regard to testing ABS, the American Bureau of Shipping, which is a standard oversight to witness testing, will look at a design and compare it to a previous design and say, okay, here's the components that need to be tested because they're different.

In this case, we did the full gambit of tests, 24 tests in all to accomplish the testing. It was surveyed, overseen by ABS and the documents and test reports are part of our pre-hearing brief and stamped and signed by the ABS surveyor.

MR. LEVIN: I think I just stopped myself from discussing confidential information, but there's an

indication in one or more of Respondents' brief that -- how do I term this -- that Stoughton played a little fast and loose with some of their testings in years back and we would ask for the opportunity to respond to that in our post-hearing brief. There's a response.

COMMISSIONER JOHANSON: Okay, I hadn't heard that. To be honest with you, I don't recall reading that part. I might have, but I look forward to seeing what you all enclose.

In reviewing the scope definition, I didn't see any mention of the construction methods, that is, whether or not the product is welded. Was adding a description of the assembly method ever considered?

MR. LEVIN: No, it was not, nor is there a direction for methods of assembly in the AAR specifications, which is primarily why the scope does not mention a method of assembling.

COMMISSIONER JOHANSON: That would've made things a bit easier, but I guess that's the way it goes.

MR. LEVIN: If I may suggest, Commissioner, if the AAR specifications directed a method of assembly that required a "fully welded container," then one of two things would've occurred. Stoughton would've started manufacturing a "fully welded container" back in 2011 in order to be compliant with the AAR specifications, or they would have

decided not to enter this market.

COMMISSIONER JOHANSON: Okay. Thank you. My time is about to expire, so I will end there at least for now.

CHAIRMAN BROADBENT: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Thank you. I have a follow up on a couple claims in J.B. Hunt's brief. One of J.B. Hunt's arguments is -- and this sort of goes to this question about you know it seems conflicting evidence, or at least opposing statements about whether or not the problems were communicated to Stoughton, whether you understood that.

They claim that the quality and delivery problems with its initial domestic container orders -- I guess the Generation 1 has "shaped the perception of the major buyers throughout the market and resulted in a difficult position in which Stoughton finds itself today." And that this is an important condition of competition that the Commission has to consider.

So, Mr. Levin, this may be best directed to you. How do you respond to that argument? I guess regardless of whether or not you understood that to be their problem that was their perception and therefore that's a condition of competition we have to take into account.

MR. LEVIN: I don't think that rises to a condition of competition in the marketplace. I think that's best described as an unfortunate misstep out of the box, so

to speak, when Stoughton started to produce domestic containers. Yes, there was some engineering issues with the Generation 1, much like, presumably, if CIMC is 10 generations ahead or whatever that there were engineering problems with the CIMC boxes at the get-go. Was there a perception that we're not going to touch a Stoughton box because there was something wrong with the initial Norfolk Southern order? I don't know why companies would've kept asking Stoughton to respond to RFQs if that was the case. I don't know why there would be continuing communications between the companies.

I think that is an isolated incident that was immediately rectified in cooperation with J.B. Hunt and everybody has moved forward from that. We're talking about an issue that's three plus years old and really has no relevance at this point in time, in spring '15, to whether or not Stoughton can manufacture and bring to market an acceptable product. If that's the case, then any time a manufacturing company makes an error on an engineered product, which probably happens in this country several dozen times a day, should the marketplace be clouded by that one factor? No.

Do we wish that didn't happen? Of course, we wish it didn't happen, but these things do happen in the life of a manufactured product. What'd they do about it?

Well, they worked with the company directly and they rectified the problem. They moved onto Generation 2. They produced a couple of hundred Generation 2s, many of which have been placed into service and there's no issues with those. So, bottom line answer, Commissioner, with all due respect, no. Is it something that happened during the period of investigation? Absolutely. Is it something we wished didn't happen? Absolutely. Is it a condition of competition in the U.S. marketplace? I respectfully disagree with that.

MR. DOUGAN: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Mr. Dougan?

MR. DOUGAN: If I can add, this point is addressed in correspondence from J.B. Hunt to Stoughton contemporaneously, and I read the email from September 2011. They knew what was going on. They obviously had concerns with the issues that they'd heard about in the Norfolk Southern stuff, and they were right to do so. And they said you know you better not have these problems in the prototype you send to us, but send us a prototype, please.

If that had disqualified them from further negotiation or discussion, it would've happened in September 2011. They would've said forget you guys. You know forget it. We're done, but they didn't.

MR. LEVIN: And not only -- if I may add, Jim --

send us a prototype, but they didn't say send us a prototype and make darn sure there's no mechanical fasteners in that prototype.

COMMISSIONER SCHMIDTLEIN: Along the same lines, in the staff report it's reported on page 218 that six purchasers reported that Stoughton had failed in its attempt to qualify certain domestic containers or had lost its approved status since 2011. Can you comment on that here or I'm happy to hear about it in the post-hearing brief?

MR. LEVIN: We'd be happy to go through it in the post-hearing brief. That's not true.

COMMISSIONER SCHMIDTLEIN: That's not true?

MR. LEVIN: It's not true. When we circulated the public version of the pre-hearing staff report and then got on a conference call, Mike and myself, and Jim and Emma and the team from Stoughton, everybody immediately said "Look at page 218." That's not true, right off the bat, initial reaction across the board.

COMMISSIONER SCHMIDTLEIN: Do you have an idea of what is referenced there, like is this completely out of the blue or a complicated explanation?

MR. LEVIN: I don't think it's a complicated explanation.

COMMISSIONER SCHMIDTLEIN: Well, you can address it in the post-hearing brief.

MR. LEVIN: I won't put myself in the mind of those that were responding to the questionnaires.

COMMISSIONER SCHMIDTLEIN: Okay.

I think the last question I have right now is, I think, more of a legal question. And this has to do with -- and there's a bit of a crossover, I think, with Mr. Dougan's testimony. In the brief you state that the Commission needs to consider the following question, even if Stoughton had been making or Stoughton -- I apologize if I mispronounced it -- had been making precisely what customers claimed they wanted all along, had experienced no quality issues while establishing its production capabilities, would these customers have been willing to pay a premium of $1,000 or more per container? And to me, I guess what I'm trying to understand is, are you trying to make an argument there -- in other words, wouldn't they have still wanted to buy a cheaper product even if the -- and by that I assume you all would say a dumped product. So it sounds to me like you're making an argument that in the context of the material retardation claim if you've got dumping, you don't -- you're there. You don't need to establish that there may have been other reasons. No? Am I misinterpreting that? No?

MR. LEVIN: No. If I may, Commissioner, that's surely not what was intended.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. LEVIN: If there's dumping then that's the end of the story, you have to find material retardation. No, you have to find causation. You have to find a causal nexus between the unfairly traded imports and the condition of the domestic industry. Does the unfairly traded imports need to be the sole contributor or the most important contributor to the materially retarded condition of the industry? No, it does not, and I think the law, as you well know there's a whole line of judicial decisions on that factor.

In this case we do believe that that is the case, that it's the dumped prices that are the overarching contributor to the domestically retarded condition of the industry. But under the law, the Commission need not find that the dumped imports are the only or the most important contributor.

COMMISSIONER SCHMIDTLEIN: So you're not trying to argue that we need not consider whether or not these quality issues played a role in decisions? You're not making that --

MR. LEVIN: As counsel for petitioner, I would love to be able to say, yeah, if you have dumped imports, especially of this magnitude, that's the end of your investigation. That would be a wonderful thing. No, that's not the way that the statutory framework is set up. We

recognize that.

COMMISSIONER SCHMIDTLEIN: Okay. Thank you.

I don't have any further questions.

CHAIRMAN BROADBENT: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you.

Okay. Has your firm produced a prototype marine container? And if so were they produced on a manufacture line different from the subject containers?

MR. FENTON: We have produced a prototype of a marine container; yes.

COMMISSIONER WILLIAMSON: Were they produced on the same lines?

MR. FENTON: Yes. Yes.

COMMISSIONER WILLIAMSON: What's the -- is there any major difference in material or equipment used to make those?

MR. FENTON: The only difference is involved in the extreme corners of the 53-foot box.

COMMISSIONER WILLIAMSON: Uh-huh.

MR. FENTON: Those extreme corners now have the ability to interface with one another as they stack them on the corners rather than the 40-foot locations. With the event that the corners have the castings, it does minimize the door opening of the box. Other than that, if you were inside of the box and you looked for a difference that you

could see, you would see in those extreme corners of those boxes, that's the only difference you would recognize between that and a standard domestic 50-foot container.

COMMISSIONER WILLIAMSON: Okay. The scope does include these marine containers now, I think it should?

MR. LEVIN: The Commerce Department has made that determination, yes, Commissioner.

COMMISSIONER WILLIAMSON: Good. See Table 5-11 of the staff report begins on page 5, presents a whole bunch of bids. Actually you probably don't need to look it up right now. And because I think post-hearing you probably should know, do you disagree with any of the data or the characterization of any of the data or the events that are presented in this table?

MR. LEVIN: The table I believe is confidential --

COMMISSIONER WILLIAMSON: Right. That's why I'm saying --

MR. LEVIN: Right. And we'll go through it in the post-hearing brief, but we did go through that in the prehearing brief. And the reason why we went through this in some detail in the prehearing brief and we can go through it again and provide additional detail in the post-hearing brief is that there was -- there's a column which has become central to this investigation about whether or not there's

certain requirements.

COMMISSIONER WILLIAMSON: Uh-huh.

MR. LEVIN: And it just seemed funny the way it was broadly characterized. And so we said, you know, let's go back and look at the actual RFQs and the specifications and see if it matches up with this general characterization. I've got to be real careful here. And as I think we did well in the prehearing brief is indicate that there's probably a bit of a disconnect.

COMMISSIONER WILLIAMSON: Okay. And there are certain -- but I did notice some trends and I was in that column with you.

MR. LEVIN: I understand exactly what you're saying. Yes.

COMMISSIONER WILLIAMSON: Okay.

MR. LEVIN: Yes. And if we may, we'll address that in the post-hearing brief.

COMMISSIONER WILLIAMSON: Okay. Thank you.

In your post-conference brief in Exhibit 4, and it's also discussed on page 318 of the staff report, you know, you have made significant sales of your generation two containers. And you've made reference to that and the fact that there's been no problems. And I don't know how much that's really been either documented or fully explained, I take it these -- and that sale to customers satisfied and

you've been on the market for -- I mean, they've been using it for a while. But I don't know if there's anything additional you can say about what that says about the quality of the product?

MR. LEVIN: I think -- no, I'll let Gary and Bob talk a little bit more about this. I think it says a lot about the quality of the product. I mean, this was the one opportunity that we did have that Stoughton did have -- I keep calling it sweet, but I feel so close to you guys.

It is the one significant commercial sale of the generation two. So that's sort of the -- what's a good term of a canary in a coal mine doesn't quite fit, but I mean, that's the one opportunity that Stoughton has had to put product into the marketplace. And I don't think it's common course in this market or in other markets for the customer to come back to you unless there is a problem. I'm not sure that there's going to be a whole lot of atta-boy, you did it, you did great. The containers are performing as intended to the degree that even the company that purchased the containers is the company that's using the containers, which is not always the case. So the purchasers of the containers, you know, would probably have heard from its customer and then turned around and put the heat on Stoughton if there is or was a problem with these containers, and there have not been.

But in this particular instance, we did go back to the customer, I believe, and asked any issues and the customer said, I think something very much along the lines of, if t here was, you would bet I would have heard about it.

COMMISSIONER WILLIAMSON: And maybe post-hearing is there anything about the way that -- I mean, they've been used in the ways that everybody else has been using these containers? Has there been any talk about additional purchases and things like that?

Anything post-hearing that since this whole question of quality has been central today, is there anything more we can learn from that experience?

MR. LEVIN: We'd be happy to put on the record anything that we do have. This is a situation where it's a little difficult to prove a negative.

COMMISSIONER WILLIAMSON: Understand. Yes.

MR. LEVIN: I think, you know, silence equals -- no news is good news in this situation. And is that an apt characterization of the way it operates in the market?

MR. WAHLIN: Yeah, I think that's a good characterization. But I do want to point out, we have reached out to Universal and you know, we want to get the information. We want to learn if there is something wrong, then we want to learn from it and correct it and continue on

with our next customers.

COMMISSIONER WILLIAMSON: Okay. Thank you. Let's see, Union Pacific states on page 19 of its prehearing brief that -- with the inspection and stuff like that, they intend to place an order. And I was wondering, have you been made aware of this?

MR. LEVIN: I'm sorry, if I may, Commissioner.

COMMISSIONER WILLIAMSON: This is Union Pacific's brief, prehearing brief on page 19 regarding what they will do if Stoughton is successful in passing inspections.

MR. LEVIN: And the question is whether or not we've heard from Union --

COMMISSIONER WILLIAMSON: Are you aware -- and may be too soon if you've just passed inspection last week.

MR. FENTON: We are in close conversation with Union Pacific and are filling out some further documentation which they look for as qualifying us as a supplier. We are trying to coordinate the facility visit that will allow them to inspection similar to what you had experienced.

COMMISSIONER WILLIAMSON: Okay. Thank you. I think I have no further questions at this time. I don't know if anybody else does.

CHAIRMAN BROADBENT: Okay. Mr. Fenton, I wanted to go just back through this once more to make sure I

understand. You personally think there are advantages to you using fasteners over the fully-welded in addition to the cost advantages; is that right?

MR. FENTON: With regard to methods of connection there is always an ideal method of a connection and in any given location for an engineered application for connection. I do agree that that is the case.

CHAIRMAN BROADBENT: But you agree that --

MR. FENTON: I agree that there's always an ideal fastening condition. What we also have to give consideration to and we do this with regard to our customers if they say, this is what I want, then to the best of our ability from an engineering standpoint, we apply that restriction in the design of the product. What they have said to us as of the May 14 hearing was we want fasteners -- we want no fasteners.

CHAIRMAN BROADBENT: Right.

MR. FENTON: So in looking at that, say, okay, how do I provide you a condition that has no fasteners and make sure that I have a design that is adequate to manage the engineering requirements -- the stress requirements around that connection to make sure that we can do that with this type of connection rather than that type of connection.

CHAIRMAN BROADBENT: So you're acknowledging

that the fully-welded is important to your customer?

MR. FENTON: Yes.

CHAIRMAN BROADBENT: Okay. And you don't see that as a red herring at this point?

MR. FENTON: No.

CHAIRMAN BROADBENT: Okay.

MR. LEVIN: Not at this point. For what has happened and how the market would move forward since the preliminary hearing, no, it's not a red herring. I mean, they're saying, this is what they want and I don't think it would be -- I think it would be an uphill struggle at least for the near future to sell a gen two design. We don't know how things will shake down if orders end up being imposed. But at this time, no, it's not a red herring.

Whether or not it was before is a different issue.

CHAIRMAN BROADBENT: Okay. Let's see, could you address Crowley and Seastar's arguments that the 53-foot marine container should be considered a separate domestic-like product and focus on our traditional six-factor test that we used to consider this?

MR. HODES: Commissioner, I'm going to address that. I'm not feeling like an orphan anymore now that I have a chance to --

CHAIRMAN BROADBENT: Yeah, I'm sorry that I've

been ignoring you back there.

MR. HODES: No, that's okay, that's quite all right.

CHAIRMAN BROADBENT: I didn't mean it.

MR. LEVIN: If I may, also, my apologies, I forgot to introduce Richard Raymond, Rick Raymond who is the general counsel and secretary for SDI Holdings which is the parent company of Stone Trailers. Rick, may apologies.

MR. RAYMOND: No problem.

MR. HODES: I'll try to be brief and succinct about this. One of the points that I want to make sure everybody understands is that the marine containers are domestic containers. They're a type of domestic container. They are used in the intermodal trade. They have an additional application for marine transportation, but once those containers are taken off the vessel, they are put on a chassis for rail transportation or for truck transportation, they can be moved to a rail yard where those same containers can be double stacked, and move across a distance of time or distance of place, rather, and taken off the rail, put back on a chassis, and the contents of that container can be delivered. They are used in virtually the same way as a standard domestic container. They have additional features in them to accommodate their use in the marine trade, but it doesn't necessarily diminish their status and existence as a

type of domestic container which is able to be used in the same way as Stoughton's containers.

CHAIRMAN BROADBENT: But they're not made here in the U.S.; right?

MR. HODES: Currently there was no -- there was no -- well Stoughton is now able to make a domestic container, at least as far as their prototype goes. But I don't believe there was any existing marine container production in the United States previously. Maybe the Stoughton folks could confirm that for me?

MR. FENTON: Early on there was production by several manufacturers for this marine service as well. The marine service has changed a little bit in the last ten years from where it imposes its load. As a matter of fact, one of the customers in which you mentioned in your question is actually taking order of ships that will allow for these units to be placed in the hold of that ship. So the holds in that case are going to be much larger than what is the seagoing shipping issue.

So there are changes occurring within the trimodal or the marine environment. But in the past there have been producers that are domestic United States that has provided services to this domestic or this marine environment for the barge operations have been normally the case reaching out from the continent to the islands.

CHAIRMAN BROADBENT: Okay. But it just strikes me that it's a little -- we're going to get into another material retardation analysis here, right, if we've got such a broad domestic-like product description.

Mr. Levin, can you help me?

MR. LEVIN: Yeah, I think it would be subsumed under the same domestic-like product. What we'll walk through, I mean, this is the first time we've seen the argument last Friday when we got Crowley's brief, it is our position that the trimodal containers are the same domestic-like product as the 53-foot domestic dry containers. What we would like to be able to do is walk through the six-factor analysis in our post-hearing brief.

CHAIRMAN BROADBENT: Okay. That would be helpful. Since this is such a new animal for us, this material retardation exercise, Mr. Levin, could you just briefly talk about the other, I guess, two or three cases that we've had and sort of what you learned from those cases to inform your comments here?

MR. LEVIN: Yes. What we've learned from cases, well, we've developed an analytical framework for determining whether or not the industry is established. We've learned that at least through laminated woven sacks, not socks, that if -- if material retardation is found at one -- in a preliminary stage, it could well be the case

that an affirmative determination is reached on another basis at a final stage as was the case in that investigation.

We've learned that there is a causal nexus requirement that is necessary in a material retardation case much like there would be in a material injury or threat case. We've learned that the Commission does look at the degree of causal nexus in this same manner, roughly speaking, a braxed analysis we all love our little braxed analyses. That it has to be more than a tangential or unimportant contributor to the materially retarded condition of the industry. And we believe here the dumping margins and the subsidy margins especially of the magnitude that the Commerce Department is now determined is a very, very significant condition that needs to be taken into account.

We've also learned no surprise to anybody that if this is the thing glass case that if the domestic industry, and I think in that instance it was likewise a single domestic company, Janette Glass, if I'm remembering that correctly that's remarkable because I don't remember what I had for breakfast this morning. But the company needs to have made a commitment to bring a marketable and acceptable product to the marketplace. If the domestic industry or the domestic company is not equipped to do so, or has been unwilling or unable to do so, then that would go a long way

towards breaking the causal nexus between the subject imports and the condition of the industry.

What we've indicated in the prehearing brief, what we've indicated in the post-conference brief, what I'm sure we'll see a lot of argument about is that this is a thin glass case, and it's not. The situation is completely different.

This is a company that's been in transportation, equipment manufacturing for 50 years. You've seen the plant. This is not a company that is incapable of has shown insufficient commitment to bring an accepted product to the market.

What we are debating in this forum is what exactly was the product that the market was accepting at that time and whether Stoughton was properly positioned to bring that accepted product to the market. And obviously we submit that they were.

CHAIRMAN BROADBENT: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Just quickly, getting back to the marine containers, I'm just checking. I take it there are no non-subject sources of these, these products that you know of?

MR. LEVIN: Not that we're aware of.

COMMISSIONER WILLIAMSON: Okay, just checking. I guess some indication of the size of this market. I don't

know whether you want to do it now or later.

(Off record comments.)

MR. LEVIN: What Bob is showing me is load matching in drayage.com, which does some of the industry compilation for intermodal trade, and they're indicating that there were about 3,000 trimodal containers in 2014. But I'm not clear if that ^^^^ presumably that's the size of the total fleet.

MR. DOUGAN: That's the size.

MR. LEVIN: Right, as opposed to --

COMMISSIONER WILLIAMSON: And how much is actually in service now as opposed to --

MR. LEVIN: Right, exactly.

COMMISSIONER WILLIAMSON: Okay.

MR. LEVIN: 3,000 compared to, what are we looking at, about 200 -- 227. 227,053 for domestic dry containers.

COMMISSIONER WILLIAMSON: So it's pretty small?

MR. LEVIN: Yeah. Pretty small, yes.

COMMISSIONER WILLIAMSON: Okay, okay. Thank you. I have no further questions.

CHAIRMAN BROADBENT: Commissioner Johanson.

COMMISSIONER JOHANSON: I have one last question. It's kind of a broad one. Maybe it's a good way

to wrap this up, but can you all explain why the North American market is the only market in the world for this product, because it seems to me like intermodal transportation makes a lot of sense.

MR. FENTON: Basically, it's the infrastructure provided by the highway systems throughout the world, and just like in our continent, in the United States, it was a question as to whether 53 foot equipment would be able to be functional on the east coast here, because the density of the road consideration caused issue with the provision of those longer units in place.

Back in '88, we changed from 48 foot allowance across the industry to 53, and one of the biggest concerns was do we have the infrastructure that's going to allow for the turns and the congestion that may be created by that extra length? The rest of the world does not have that configuration, as far as highway modes.

One area that could support it would be Australia, but they have opted to use multiple trains. You may see a train of trailers or containers running across their continent, that are five, six and seven units long, being pulled by one power unit. But as far as the reason behind it, it's just simply the infrastructure. If you get over to Europe, there's no way that a 53 foot can navigate

within the structure of the system.

COMMISSIONER JOHANSON: All right. Well thank you. That's very interesting. I appreciate your response today. It's actually been a short morning, at least for me. I've had a very interesting time. So thank you all again for appearing here today.

CHAIRMAN BROADBENT: Great. I just had one other question for Mr. Wahlin and Mr. Levin. Have you all had any discussions with the Respondents about, you know, possibly settling this case, and would you be willing to withdraw or suspend it if you got some substantial orders and you could build a track record and get some of your product out there?

MR. LEVIN: There have been no discussions. The issue hasn't been on the table. The time has past for a suspension agreement to be proposed to the Commerce Department. As to moving forward, I'm in absolutely no position to speak on Stoughton's behalf on that point.

That being said, I think it would be safe to say that we would never say never.

CHAIRMAN BROADBENT: Okay. Mr. Wahlin, did you have any comment on that?

MR. WAHLIN: No. I agree with what Jeff said. We have not had any discussions. It hasn't come up to us,

and we haven't seriously considered it, because it hasn't been on the table. But yes, we would never say never.

CHAIRMAN BROADBENT: Okay, all right. Seeing no more Commissioner questions, does the staff have any questions?

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

CHAIRMAN BROADBENT: Great, thank you. I want to thank all the witnesses again for all your time and hosting us up at your plant. It was a great trip, and we enjoyed being up in the middle of the Midwest up there, on a bright, sunny day and the drive between the two plants was enjoyable.

We will suspend here for an hour, take a lunch break, reminding folks that the hearing room is not secure, so don't leave confidential business information out. Oh, I guess I need to ask this question. Do Respondents have any questions of the panel?

(No response.)

CHAIRMAN BROADBENT: No, okay. The hearing room is not secure, so please don't leave your confidential business info out, and I want to thank all of you for coming today, and we'll see you again at two o'clock when we --

actually ten of 2:00, when we resume.

MR. LEVIN: Madam Chair, Commissioners, thank you very much.

(Whereupon, a luncheon recess was taken.)

AFTERNOON SESSION

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

CHAIRMAN BROADBENT: Any preliminary matters for the afternoon session?

MR. BISHOP: Madam Chairman, I would note that the panel in opposition to the imposition of anti-dumping and countervailing duties orders have been seated. All witnesses on this panel have been sworn in. There are no other preliminary matters.

CHAIRMAN BROADBENT: Thank you, Mr. Secretary. I want to welcome the afternoon panel to the ITC. I would like to again remind all witnesses to speak clearly in the microphone and state your name for the record, for the benefit of the court reporter. You may begin when you're ready.

OPENING REMARKS OF ERIC EMERSON

MR. EMERSON: Thank you very much. Commissioner, Chairman Broadbent, Vice Chairman Pinkert, members of the Commission and the Commission staff, thank you for your time and attention to this important matter. I am Eric Emerson with the law firm Steptoe and Johnson, representing Singamas, one of the two foreign producers of the subject merchandise appearing before you today.

We have a very large panel, as you can see, so rather than my providing an overview of the testimony to

come, what I would like to do is to turn this over almost immediately to our witnesses, who will be giving you a very different story from what you had heard this morning. One of the key facts to remember is the fact that counsel for J.B. Hunt said in his opening testimony seated before you today is in excess of 90 percent of the purchasing base for domestic containers in the United States.

So any questions that the Commission has about the market really can be answered by the people in this room nearly definitively. So I think that's an important thing to understand as the hearing goes forward. So with that, I would like to introduce Mr. Jakub Cerny from the Hub Group, who will start us off.

STATEMENT OF JAKUB CERNY

MR. CERNY: Good afternoon. My name is Jakub Cerny, and I'm the Vice President, Fleet Services of Hub Group, based on Oakbrook, Illinois. I presented testimony during the Commission's preliminary staff conference. Since that time, I have continued to think about this petition, and as I do, I'm even more troubled by its filing.

By way of background, Hub Group owns and operates the second largest non-rail fleet of 53 foot domestic containers in the United States. As of today, we have over 28,000 units in use, and we're growing. I have

been involved with Hub Group's container fleet for 13 years and have served in various roles related to our container fleet program, essentially since the program's inception.

Starting in 2008, I took over responsibilities for container specification optimization, the maintenance and repair program and container procurement. Hub Group is currently one of the top purchasers of domestic steel containers in the country. At the outset, I would again like to say that Hub would welcome a U.S. manufacturer of reliable, high quality domestic steel containers.

However, as I expect you will hear from many of the other witnesses today, Stoughton Trailers has simply failed to design and manufacture a product that would be minimally acceptable to the industry. Others appearing before you today will offer more details on this point, and will describe design and manufacturing flaws with Stoughton Trailers products.

I raised many of these points in my testimony at the staff conference last year, and they continue to be true. Stoughton designed a domestic container that did not meet its potential customers' needs, and have failed in the U.S. market. There is no real dispute about that. The real question is why?

The reason, I believe, is that Stoughton failed

to reach out prospective customers of domestic containers. It refused to take into account its prospective customers' experience and their engineering know-how, and it failed to consider the preferences and requirements of its prospective customers. In short, it failed to listen its customers.

Instead, it designed a domestic container that it wanted to make, but that its customers did not want to buy. My own experience confirms this. In late 2010, I learned that Stoughton was developing a domestic container and I was intrigued. It would benefit Hub to have another source of supply, particularly a U.S.-based manufacturer.

It surprised me that Stoughton had not contacted us to set up a meeting to discuss specifications, as we were the second largest non-rail buyer of this product in the United States. Since I had not heard from Stoughton, I contacted them in February 2011, to set up a meeting to discuss their product specifications, and to understand their production plans.

At the meeting that resulted on February 22nd, 2011, our engineering team advised Stoughton that key elements of its design failed to meet Hub's requirements, including the use of mechanical fasteners rather than a fully welded design, and in the use of roof panels for side and nose sections of the container.

We told Stoughton that in our experience, these design features will reduce durability and increase the chance of failure of the container, and that we were not interested in purchasing a container with these features. Unfortunately, Stoughton ignored our comments and continued with their then-existing design. They chose to manufacture a product that worked for them rather than for their prospective customers. I learned later that Stoughton sold a couple of hundred of these containers, only to have to recall them several months later, to fix the very problems we had previously identified.

Through my dealings with Stoughton, I came to understand why they failed to make any significant sales of domestic containers. They ignored what Hub and other prospective customers, of which there are only a handful, and most of them are represented in the room, wanted, a fully welded steel container with proven design features that would result in a durable, low maintenance product, in which we could have confidence. Instead, they ignored our input, our recommendations and our requirements.

Hub never even requested pricing from Stoughton. There was no point. Stoughton did not offer a product we were even remotely interested in buying. In summary, there really is no mystery why Stoughton containers failed to sell. Stoughton decided to jump into the market, thinking

we know best, without doing appropriate due diligence regarding what their customers wanted, and without performing appropriate long-term testing to ensure their product met their customers' durability requirements.

The few containers they were able to sell had to be recalled for entirely predictable reasons. When they failed to sell any others, they filed this petition asking this Commission to protect their inferior product. Yet the fact remains that it is not the Chinese or any other foreign competition that has caused Stoughton to fail.

Stoughton has failed for reasons entirely of its own making, and if Stoughton's petition is allowed to succeed, it would hurt U.S. consumers, the environment, without saving Stoughton from the consequences of its own poor choices. Thank you, and I'm available for questions.

MR. EMERSON: Jakub, thank you. Next up will be Bill Schmelder from Union Pacific Railroad.

STATEMENT OF WILLIAM SCHMELDER

MR. SCHMELDER: Good afternoon. My name is Bill Schmelder. I'm a Director of Strategic Sourcing for the Union Pacific Railroad Company, based in Omaha, Nebraska, and since 2008 I have had overall responsibility for our purchases of domestic dry containers. As I will explain, Stoughton stumbled as a new entrant in the steel container

market for one simple reason. Stoughton's containers did not meet the specifications of Union Pacific and other potential customers.

Stoughton has explicitly required -- I'm sorry. Union Pacific has explicitly required suppliers to furnish fully welded corrugated steel containers since at least 2009. These specifications go beyond the minimum requirements of AAR M-930, and help to ensure that we receive reliable containers with a significant useful work life and low maintenance costs.

Fully welded corrugated steel containers are more durable and less prone to leaks than containers that use mechanical fasteners and pressed steel, the type of containers offered by Stoughton.

Stoughton entered the market after Union Pacific began requiring full welded containers. Yet Stoughton's first and second generation designs both relied on mechanical connections, in the substructure and at the corners. Stoughton also failed to use corrugated steel for the side panels.

Instead, it used side panels with stamped impressions, a panel design that is less able than rigid, corrugated steel, to withstand the stresses of rail transportation. Without continuous welding in corrugated

steel panels, Stoughton's container design simply didn't comply with Union Pacific's requirements.

Stoughton's assertions this morning notwithstanding, this is not a case where a new entrant was unaware of its customer's needs. Stoughton knew our requirements, but ignored them. On multiple occasions, Union Pacific communicated our container specifications to Stoughton, in the hope that Stoughton could become an approved supplier.

In 2010 for example, Union Pacific issued a request for information or RFI to Stoughton and other potential suppliers. A copy of this RFI has been furnished to the Commission. The RFI was not a formal bid request. We were seeking information from potential suppliers regarding such issues as the specifications of their containers, their capabilities and their production capacity, in order to make a determination as to whether to invite them to participate in addition phases of our supplier approval process.

The 2010 RFI explicitly required a fully welded corrugated steel structure. Stoughton never responded to the RFI. However, in July 2011, Stoughton sent Union Pacific an unsolicited offer. Because its design, which had mechanical fasteners and stamped panels, did not comply with

our specifications, Union Pacific took no action on this unsolicited offer.

Union Pacific again included Stoughton in a bid request in 2013, and advised it of the need to meet all of our specifications. However, Stoughton once again offered a non-compliant design. As a result, Union Pacific decided not to proceed further in our supplier approval process with Stoughton at that time.

At no point was Stoughton's price a factor in our commercial purchasing decisions. Because Stoughton was never an approved supplier of steel containers, it was not eligible for commercial sales, and its bid prices were never compared to those of CIMC or Singamas, the only two approved suppliers. Union Pacific continued to communicate with Stoughton during this time, assessing it as a prospective supplier, even though Stoughton's market entry with Norfolk Southern in 2011 had been a disaster.

It was common knowledge that Stoughton was unable to deliver containers to Norfolk Southern on time at commercial scale. For Union Pacific, timely delivery and commercial quantity are critical, because our freight business is seasonal. But timely delivery wasn't Stoughton's only challenge. When some containers that Stoughton made for Norfolk Southern came onto our lines,

Union Pacific personnel saw firsthand that the side walls of Stoughton's containers suffered significant damage during ordinary uses on initial trips.

My colleagues took photographs of the damage, which we have submitted to the Commission. This evidence confirmed our concerns about the quality of Stoughton's containers. I should note that Stoughton has very recently reversed course, and decided to listen to its customers. In December 2014, Stoughton told us in another bid response that it had finally adopted a fully welded design. Because we are eager to find new and reliable sources of supply, Union Pacific is currently engaged with Stoughton in the initial stages of our supplier approval process.

If Stoughton successfully passes our initial evaluation and if test quantities of its containers prove satisfactory during real world use, Stoughton will become eligible to submit commercial bids for the first time. For now, however, Stoughton's December 2014 design remains unproven. In fact, Stoughton has not yet advised us that its prototype has completed internal testing.

In sum, the record is clear that whatever struggles Stoughton has experienced to date are of its own making. If Stoughton is committed to meeting its customers' needs, they will have every chance to succeed in the growing

U.S. market for domestic dry containers. Thank you very much.

MR. EMERSON: Thank you, Bill. And now we'll hear from Dan Drella from Schneider National.

STATEMENT OF DAN DRELLA

MR. DRELLA: Good afternoon. I'm Dan Drella, the current Director of Intermodal Safety at Schneider National. Schneider is located in Green Bay, Wisconsin. It is the leading provider of truckload logistics and intermodal services. I've been employed by Schneider since 1999. During this time, I've been responsible for overseeing procurement and maintenance for domestic containers used by Schneider.

Schneider has previous experience with Stoughton, having purchased domestic containers from Stoughton from 2005 to 2006. This purchase was part of an effort to work with Stoughton, to bring the first 100 plus wide container to the marketplace. The wider than 100 inch interior allowed Schneider to store three additional pallets per load, which is required by many of customers.

The Stoughton containers were manufactured using bolts and rivets at various stress points. While those mechanically fastened containers were in service, leakage problems were chronic. As a result, Schneider incurred

excessive repair costs, and received frequent claims for cargo damage.

Schneider discussed these flaws with Stoughton, but they continued to use mechanical fasteners. While Stoughton continued to build mechanically fastened containers, Chinese manufacturers with expertise building fully welded steel marine containers, branched out into building 53 foot domestic containers. In 2006, Schneider purchased test containers from CIMC, Qidong and Singamas. These containers were fully welded.

We monitored the performance of these new, fully welded containers, and found that maintenance cost and leakage issues associated with them were minimal, compared to the mechanically fastened containers. Consequently, in 2008, Schneider decided to only purchase steel domestic containers that are fully welded, and have a 100 plus inch interior.

From that point on, we have considered anything that looks like a mechanically fastened container with less than a 100 inch interior, to be obsolete technology. Over the last seven years, only Chinese manufacturers have submitted proposals to supply domestic containers that meet Schneider's requirements, and we purchase containers from CIMC.

In 2012, Stoughton introduced a new steel container design. I examined the container at the 2012 IANA trade show and found several problems. In particular, Stoughton's 2012 design continued to use mechanical fasteners in critical areas, and the quality of certain welds was poor. In addition, the design still used a 99 inch wide interior instead of the wider 100 plus inch interior size.

I showed these concerns to Stoughton's representatives at the show. I'm shocked to hear Stoughton's testimony this morning that they were unaware that the market shifted to fully welded containers. Two key Schneider employees were directly involved in both the purchase and maintenance of Schneider's fleet, including CIMC domestic containers transferred to Stoughton in the 2010 time frame. So there's no excuse in my mind for Stoughton not to have been aware.

Because Stoughton's container did not satisfy Schneider's requirement, we continue to purchase domestic containers from CIMC. In October 2014, Stoughton brought their most recent domestic container model for Schneider for review. Unlike Stoughton's previous attempts to build this welded steel container, this container is fully welded. Schneider engineers reviewed the container and concluded

that although it was an improvement, the container still not match the quality of Schneider's current fleet.

Schneider engineers found that several critical components, which are used to lift the container, as well as fittings used to mount the container on chassis for highway transport, were poorly designed and more susceptible to damage or breakage. Schneider also observed that panels in Stoughton's container showed signs of deflection, and that the quality of the welds was inconsistent with strong points and weak points that would become a problem over time.

Schneider also is mindful of the significant cost inherent in acquiring a container with a new design. The CIMC design has been field tested and withstood the rigorous demands placed on it by Schneider. Looking at a new design that requires Schneider to incur field testing costs, which are substantial.

In addition, Schneider has repair mechanics and an inventory of spare parts to keep its fleet of CIMC containers operating in safe condition. Changing to a new container design would render Schneider's inventory of parts somewhat obsolete, and would require Schneider to retrain mechanics with the skills needed to maintain a new type of container.

Additionally, Schneider uses domestic containers in specific shipping networks. CIMC is able to deliver the

containers to ports, and at locations that facilitate absorption into Schneider's network. Also delivering in the port areas during peak season allows Schneider to capture greater volume of premium priced freight, which enhances revenue.

In contrast, the Stoughton containers would need to be delivered from Wisconsin to various points in the network. The additional cost to Schneider of positioning containers is significant.

In summary, Stoughton has not produced a domestic container that meets Schneider's safety and design criteria. Until Stoughton is capable of manufacturing a fully welded container with an interior width of greater than 100 inches, Schneider is not likely to use Stoughton's containers in its intermodal business. Thank you.

MR. EMERSON: Dan, thank you very much for your testimony. Next will be Kent Delozier from J.B. Hunt Transport.

STATEMENT OF KENT DELOZIER

MR. DELOZIER: Good afternoon. My name's Kent Delozier. I'm a Director of Maintenance at J.B. Hunt in Lowell, Arkansas. I've been with J.B. Hunt since 1983, and have been a Director of Maintenance since 2011. J.B. Hunt is one of the largest U.S. purchasers of 53 foot containers.

From about 1993 through 1998, J.B. Hunt

purchased containers that were made of aluminum plate. At that time, there were several domestic producers of aluminum containers, and we purchased all of our requirements from domestic producers, including Stoughton.

However, the aluminum containers could not be double-stacked on the train. They could ride only as a top container. In addition, aluminum containers used mechanical fasteners that allowed water to leak into the containers.

During 2000 to 2004, J.B. Hunt shifted from aluminum containers to Duraplate containers made by Wabash. The Duraplate containers were heavy and smaller than the aluminum containers, but at least they could ride double-stacked. In 2005, the Chinese introduced a new, fully welded container that greatly solved the problems of water damage and increased the life of the container, thereby reducing the total cost of ownership.

These new steel containers also featured reduced box weight and a wider interior than the Duraplate containers, which allowed again for double-stacking on the trains. Since we began buying fully welded containers from China, the number of claims filed for wet damage to cargo has decreased dramatically, even as our total container fleet has increased. This means big cost savings for us, and more importantly happier customers.

Furthermore, the additional width of the Chinese

containers also makes this a big difference to us. The prototype container we've seen from Stoughton is 99 inches in interior width, compared to an interior width of 100 and 3/8ths for the Chinese containers. That may not seem like much of a difference, but it's a huge difference to our customers.

To maximize use of space, the customers pack pallets in what's called a pinwheel arrangement, taking a loaded container that 100 and 3/8ths inches with this pinwheel arrangement, but we cannot do it with a 99 inch container. The ability to pinwheel the pallets translates into at least three additional pallets per load, which is a significant cost savings for our customers.

I cannot emphasize enough how important this is to our customer, and almost all of our customers require a container with an interior width greater than 100 inches. J.B. Hunt would surely welcome a U.S. producer of 53 foot containers. In 2011, we tried to work with Stoughton to get a prototype container that could meet our needs.

We were even going to contribute up front money to help Stoughton with its tooling cost. But we had to reassess the situation after experiencing serious quality problems with a different product, a chassis we purchased from Stoughton. We then saw the Stoughton prototype at the

trade show in November 2011. It still had only a 99 inch interior width. It used a significant number of mechanical fasteners for the container, and had many other quality issues.

We decided then it did not make sense to pursue development efforts with Stoughton. Stoughton makes much of the fact that it significantly reduced the amount of fasteners it uses. That may be true, but where the mechanical fasteners are used at the bottom of the container is a critical part of the structure, and could risk -- and could increase our risk to customer freight and increase our total cost of ownership, and that is a big problem for J.B. Hunt and its customers.

I would like to comment on one other allegation I heard today. Stoughton said this morning that all the customers never told Stoughton that they required a fully welded container. In fact, I did not tell Stoughton that we needed a fully welded container. However, I did tell them I want a container that was produced the same way and to the same quality levels as the Chinese containers we purchased.

At the time, Stoughton knew we had purchased fully welded containers in China for over six years. We had tens of thousands of them in our fleet, and a fully welded container had become the industry standard. It's not our job to educate Stoughton on how to build its containers.

Stoughton should not blame J.B. Hunt.

Instead, Stoughton should have done its own analysis of what we and other customers wanted. Again, we're very interested in supporting development of new U.S. supply source for 53 foot containers. In fact, J.B. Hunt currently is working with another potential new domestic container producer. Thank you.

MR. EMERSON: Ken, thank you. We will next hear from Paul Dean from Norfolk Southern Railway.

STATEMENT OF PAUL DEAN

MR. DEAN: Good afternoon, Commissioners. My name is Paul Dean and I'm the Director of Intermodal Equipment and Maintenance at Norfolk Southern. We are headquartered in Norfolk, Virginia, and are a leading railroad company that operates 20,000 route miles in 22 states, including the District of Columbia.

I've been employed with Norfolk Southern for 41 years. I'm here today to discuss Norfolk Southern's experience inquiring 53-foot domestic containers. First, some background. Norfolk Southern participates in the equipment management program called EMP for short, which is the largest and most successful rail-controlled domestic container program in North America.

Our EMP customers expect their cargo to be

shipped in the highest quality intermodal containers on the market. To meet our customers' needs, we began converting our domestic container fleet to welded steel containers in 2008 because these containers are stronger and less susceptible to cargo damage than the aluminum domestic containers that were mechanically fastened together.

For the first few years, only Chinese manufacturers responded to our requests to supply steel domestic containers. In 2010, however, supply from China was short and we could not get enough domestic containers to meet the growing demand for our EMP service. In need of supply, we approached Stoughton to see if they could make the welded domestic containers. Discussions followed and we awarded Stoughton an order for 1500 and 25 steel containers in February 2011.

We gave Stoughton the opportunity, even though its steel container design was unproven. We were willing to take a risk with Stoughton because of the limited supply from China and because we wanted a U.S. supplier. Unfortunately, our effort in fulfilling our domestic container requirements from Stoughton failed.

In early 2011, Stoughton notified us that they would not be able to deliver the quantities order within the schedule set forth in our agreement. In short, our expectations in sourcing domestic containers from Stoughton

were not met. We ordered over 1500 containers for our flagship domestic container program and ended up with only 199 containers that could not be used in that program.

As a result, we lost at least 1100 potential shipments and business. Also, we have incurred higher repair and maintenance costs on the Stoughton domestic containers, costs that are at least 112 percent more than the repair and maintenance costs we have incurred on the Chinese domestic containers built the same year. After that experience, we decided that we could not buy domestic containers from a new source unless the containers matched the quality of the Chinese products. In particular, we could only accept a fully welded container.

So, we had to reduce our order with Stoughton by 500 containers and we were not pleased, to say the least. Timely delivery is critical to meeting our customers' needs and late delivery equipment causes us to lose business.

Later that spring, we visited Stoughton to inspect the initial containers under construction and saw issues, including distorted side panels. Because of these additional problems, we had to cancel most of the order. And in the end we bought 199 containers of Stoughton's Generation 1 steel container and one of the Stoughton Generation 2, both of which used mechanical fasteners.

Unfortunately, we continued to discover other

issues. After Stoughton containers were placed in service, we received reports of structural failures. In fact, a partner railroad threatened to embargo the Stoughton container due to safety concerns. Stoughton attempted to fix the problem by adding steel reinforcing material to the containers, but this made the containers too heavy for use in EMP program.

Stoughton remained a possible option. If they can overcome their issues, so we have continued to invite Stoughton to bid on our containers since 2011. Unfortunately, Stoughton has made little effort to prove to us that they can satisfy Norfolk Southern standards. In each bidding opportunity since 2011, we have had to reject Stoughton's bid because of quality issues with their container persists and they cannot supply the quantities needed.

We examined Stoughton's containers again in 2013 and 2014, at the AINA trade show, which is Intermodal Association of North America and noted that the 2013 container still used mechanical fastener design for the bottom rail. I told Stoughton representatives on multiple occasions that Norfolk Southern would only accepted fully welded containers.

Until Stoughton is able to demonstrate to satisfy our requirements for quality and delivery, we will need to

continue to purchase domestic containers from other sources. Thank you.

MR. EMERSON: Thank you, Paul. And next we will hear from Vernon Prevatt from CSX Intermodal.

STATEMENT OF VERNON PREVATT

MR. PREVATT: Good afternoon. I'm Vernon Prevatt with CSX Intermodal Terminals, a subsidiary of CSX Corporation based in Jacksonville, Florida.

Our company operates 35 intermodal terminals across the Eastern United States and Canada, handling millions of loaded containers and trailer. I'm Director of Logistics, Safety, and Training and I am responsible for cradle to grave life cycle management for company equipment, which includes the 53-foot domestic container fleet.

CSX owns and leases 20,000 containers, 97 percent of which are steel construction. The acquisition of fully welded steel containers began in 2005 after CSX had concluded the existing fleet of aluminum containers lacked the strength, durability, and reliability required for intermodal service. CSX found the fully welded, corrugated steel container provided the needed durability, security, and leak-resistance required by our customers. Consequently, CSX views fully welded, corrugated steel containers as the industry standard.

CSX Intermodal Terminals began to actively seek

domestic manufacturing capacity in 2010. And in fact, made contact with Stoughton Trailers during the November 2010 Intermodal Association of North American annual Intermodal Symposium in Fort Lauderdale, Florida. CSX continued to engage multiple potential manufacturers, including in the U.S. Stoughton and AICM and internationally from companies like Hyundai in Mexico, CIMC and Signamas in China.

Discussions with all parties have always included three essentials: specification for a steel box that meets CSX Intermodal Terminals performance requirements; number two, demonstrated quality and testing results; and three, the importance of production capacity and delivery timeliness. No progress was demonstrated ever by Stoughton towards three essentials.

CSX became aware of Stoughton's interest in designing a 53-foot container for Norfolk Southern in early 2012, but Stoughton did not provide updates on testing or future capability to produce a container to our specification. In fact, no marketing materials or brochures were provided and there was no offer to inspect or test a prototype container meeting our specification. Nevertheless, as a means of assessing the domestic marketplace, Stoughton was included in CSX's RFP for container purchases in 2012 through 2014.

Through those interactions, Stoughton

acknowledged its inability to meet the RFP quality specifications for lightweight, high tensile steel for the container's cross-members and side panels. On this element alone, CSX would not have proceeded without further questioning the durability and integrity of Stoughton's container.

Additionally, and importantly, Stoughton has not demonstrated the ability to fill a typical CSX Intermodal Terminal's order of 1,000 to 3,000 containers within a delivery period of six to nine months. For example, in 2013, CSX asked for proposals for the purchase of 1,000 containers. Stoughton's proposal was for a fraction of the required quantity and they would have needed two additional months to deliver that lesser quantity.

Because of this combination of factors, CSX Intermodal Terminals has not awarded any procurement contracts to Stoughton for domestic containers to date. Instead, we purchase containers from suppliers in China because they were the only suppliers able to meet our performance specification, able to demonstrate a quality product, and able to meet the quantities and delivery schedules we require.

Currently, with no domestic dry container market from which to source containers that meet our specifications, quantities, and delivery dates, the

imposition of a duty would likely impair CSX and other purchasers' ability to add a significant number of new containers to meet increased shipping demand. Thank you.

MR. EMERSON: Vernon, thank you. Our last purchaser witness will be Michael Hoffman from FedEx Freight.

STATEMENT OF MICHAEL HOFFMAN

MR. HOFFMAN: Good afternoon. My name is Michael Hoffman, and I serve as Managing Director of Facilities and Administration at FedEx Freight, Inc. I oversee the team responsible for specifying and purchasing company fleet equipment, including 53-foot domestic containers.

FedEx Freight provides reliable, on-time performance and fast transit times for less than truckload freight shipping across our extensive network. We guarantee our customers time-definite delivery options and strive for all shipments to be delivered in tact and damage free.

Rail service has been an important part of FedEx Freight's transport network for the last eight years. And more recently, we have opted to utilize domestic containers to take advantage of the rail transport cost efficiencies that they provide. As a less than truckload carrier, we transport cargo of differing sizes, shapes, and quantities for multiple customers with multiple delivery points in a single trailer or container. We handle a wide range of

goods from drums of chemicals to television sets to kayaks to heavy machinery. This freight may be shipped on standard pallets or as irregular sized, stand-alone items.

Our business model has implications for the specifications of the domestic containers that we source. This includes the need for internal, vertical steel logistics posts to which we attach cross beams that allow our mix of freight to ride securely at different heights within the container. This system maximizes available space and helps protect our customers' high-value goods from the rigors of intermodal transport. This type of logistics post system is uncommon within the rail container industry and is critical to our business model.

In late 2012, before issue our first ever RFQ for domestic containers, we contacted Stoughton to determine their interest in participating. Because our only experience to this point had been sourcing fleet equipment manufactured in North America we were seeking and would have preferred a domestic producer because of ease of inspecting production, ease of communication, and avoidance of ocean transport logistics. Unfortunately, Stoughton declined to participate in the RFQ.

CIMC and Singamas were the only companies to respond, and we ultimately placed our order with a Chinese manufacturer whose product best adhered to our

specifications. This Chinese manufacturer we selected did not have the lowest priced bid, but had generally higher scores on various aspects of the RFQ, including degree of compliance to our product specification.

Prior to issuing our second RFQ last summer, we again sought to identify a domestic source of supply and contacted several potential North American producers of domestic containers to determine interest in participating. We view the responses to our RFQ as a supplier's opportunity to put their best foot forward. And although this time Stoughton responded, they indicated in their bid that they could not meet our specifications. Other suppliers responding to this RFQ, however, indicated they could meet the specifications required by our business model.

Most significant was that Stoughton said they could not meet our requirement for logistics posts of sufficient strength to handle the rigors of intermodal shipping. We require steel logistics posts of a minimum material thickness of 11-gauge, which we deem necessary to avoid damage to both the container itself and the goods we are entrusted to carry safely to their final destination.

Stoughton responded they would provide a weaker, 14-guage post. To show you why this is such an important specification for us, I would ask that you please direct your attention to the FedEx exhibits. Exhibit 1 shows the

steel logistics posts installed on the inside of the container. And Exhibits 2 and 3 show cross beams that hook into the logistics posts to support the cargo we ship in these containers.

In Exhibits 4, 5, and 6, you see that the 11-gauge logistics posts in our existing containers are already showing signs of deformation after just two years in the field due to the stress placed on the posts by the beams carrying our cargo. We could not possibly accept a container with weaker logistics posts as proposed by Stoughton.

In summary, Stoughton declined to participate in our first RFQ and did not meet our specification on the second. Under these circumstances, when the specification is not met and the supplier is not responsive, pricing is not relevant. Thank you.

MR. EMERSON: Thank you, Michael.

Now, we have some expert testimony to assist the Commission with analysis of the facts being presented. The first to testify will be Tony Kotler from the Kotler Marketing Group who will present conclusions from their study of the additional life cycle cost of ownership of mechanically fastened containers versus fully welded containers. Tony?

STATEMENT OF ANTHONY KOTLER

MR. KOTLER: Good afternoon. My name is Tony Kotler, and I'm a managing director at Kotler Marketing Group, which is based here in D.C. We're a global consulting firm, specializing in sales and marketing. Our philosophy is based on the work of my uncle, Dr. Philip Kotler, who's a professor of international marketing at Northwestern University's Kellogg School of Management and a world renowned authority on marketing.

We help suppliers get credit for the value they deliver, and we also work with purchasers to determine the full financial implication of their purchasing decisions, and we've worked with dozens of leading suppliers to the commercial trucking and freight industries.

Now, in this case, we set out to quantify what we call the total cost of ownership of the Chinese domestic containers compared to Stoughton's containers offered to date. Our study, which was provided with the Respondents' brief, is based on interviews with major purchasers and also with Mr. Charlie Green, an engineer who designed the first 53-foot domestic containers used in the U.S. We reviewed the ITC's public case record and other relevant public sources.

The total cost of ownership of a domestic container is a critical business matter for all U.S. intermodal transportation companies. Because the estimated

useful life of a domestic container is supposed to be at least 15 years per the American Association of Railroads specifications there are real business and operational consequences that can last many years of the container has fundamental problems with its basic design and construction.

We were able to quantify the differences in four key purchasing factors: one, maintenance and repair costs; two, container life; three, cargo damage claims; and four, delivery costs. Now, considering only these four factors, we calculated the customers associate an additional lifetime per container cost of $2800 to $14,000 for Stoughton's domestic containers compared to the fully welded containers imported from China.

We believe the range of 2800 to $14,000 in additional life cycle costs for Stoughton's containers is well supported, if not conservative. The purchasers we interviewed have years of data to support their view that containers with mechanical fasteners are significantly more costly to maintain than fully welded containers and lead to more frequently claims for damage to cargo.

Based on their prior experience with mechanically fastened containers, purchasers have valid reasons to associate higher life cycle costs to the partially welded domestic containers offered by Stoughton compared to the Chinese domestic containers, which, of course, are fully

welded.

Purchasers also commented that the number of mechanical fasteners used in Stoughton's steel domestic container, while reduced from the number used in the aluminum containers they offered still remains significant. The calculated range of an additional 2800 to $14,000 in the cost to own and maintain Stoughton's domestic container is conservative because it omits several other non-price factors that would have large financial consequences for purchasers, but could not be quantified completely in time for this hearing.

One, the internal width of Stoughton's container does not allow for pin wheeling, as was mentioned earlier, of the larger sized pallets that big box retailers often require. Stoughton's narrow width would impede the ability of large trucking companies like J.B. Hunt and Schneider to win and retain large customer accounts and cause them to lose substantial revenue.

Two, purchasers informed us that they were able to get domestic containers from China in 45 to 60 days, but it takes six to seven months to get containers from Stoughton. The longer lead times for Stoughton make it harder for purchasers to match supply with demand, which forces them to incur higher cost, lose revenue, or both.

Three, the cargo owners have welcomed the advent

of fully welded containers because they leak much less often. Consequently, shippers that use mechanically-fastened containers operate at a serious disadvantage in the marketplace and risk losing substantial customer accounts. These accounts, of course, can run into the millions of dollars.

The bottom line is that intermodal shippers have to weigh the cost benefit implications of the many factors that go into their decision to buy domestic containers, including those that we address in our report. They'll chose to source from the container supplier who can provide the best product at the lowest, long-term operating costs or who can help the purchaser realize the greatest possible return on their up front container investment.

Our findings, which were echoed throughout the ITC staff report point to a clear preference for Chinese fully welded containers over Stoughton's mechanically fastened containers offered to date based on these non-price factors. Thank you.

MR. EMERSON: Tony, thank you. Next, we will hear from Dr. Robert Robicheaux, who is at the Collat School of Business at the University of Alabama at Birmingham. Doctor?

STATEMENT OF DR. ROBERT ROBICHEAUX

DR. ROBICHEAUX: Thank you. Chairman Broadbent,

and members of the Commission and staff, my name is Robert Robicheaux, and I'm a professor of Marketing and Industrial Distribution and Marshal Scholar in the University of Alabama at Birmingham's Collat School of Business.

I have experience and expertise in Marketing and with the development and evaluation of strategic business plans. My written report contains more details of my background. I was engaged in this matter by some purchasers of 53-foot domestic steel containers as a business expert to examine the business plan and strategy of Stoughton Trailers.

Sound strategic planning is a key to success for any business. Crafting and executing sound strategies are the heart and soul of managing a business enterprise successfully. As a professor, I examine why business plans fail and why they succeed. I examined what Stoughton put on the record as its business plan, and I have examined its business strategy. As a professor, I would give Stoughton a failing grade. My written report is detailed, but here are the three main reasons why Stoughton failed.

First, the single most important reason for Stoughton's failure was its complete refusal to respond to customer expectations. Fundamental to the success of a new entrant to an industry comprised of experienced and knowledgeable customers is a high level of knowledge of its

target customers' requirements.

Despite its earlier success as a supplier of trailers as explained in the testimony you just heard, Stoughton failed to determine the needs and wants of its target customers. Stoughton failed to provide a quality product. It failed to provide a fully welded steel container. It failed to provide a container over 100-inches in interior width. And it failed to deliver the few containers that it sold in a timely manner. I find Stoughton's lack of understanding of what the industry wanted to be baffling, at best. Frankly, I believe that Stoughton simply failed to do its homework. And for that, I give it a failing grade.

Second, for any new entrant, a comprehensive business plan with sound marketing and financial components is essential. I've reviewed the record in this case and found no indication that Stoughton had a comprehensive plan or strategy for succeeding in the domestic container market.

The business plan that Stoughton submitted is woefully inadequate. As important as it is to have a plan, more important is the planning process. Had Stoughton conducted a strategic planning process it would have discerned precisely what the target customers required, considering that only a handful of companies account for almost 95 percent of total container purchases.

Stoughton could have engaged with most or all of those customers to identify how it could use its strategic advantages to find opportunities to position itself as a strong supplier candidate and to formulate a unique selling proposition and product design that would be compelling to some customers. Instead, Stoughton insisted on sticking with a manufacturing process it used to produce trailers rather than adapt its process to meet industry requirements for intermodal containers. I also find it incredible that Stoughton is now blaming its customers for its failures. Stoughton alone is responsible for its failure.

Third, a new entrant like Stoughton who desires to take business away from established competitors must demonstrate clearly and forcefully through a marketing plan that its product provides superior value. The marketing plan has to convince customers that the risk of shifting to a new and inexperienced supplier is justified by that superior value.

Stoughton also failed in this regard. As you heard in testimony earlier, Stoughton failed to engage in any significant marketing of its product. If Stoughton truly believed that its mechanically fastened containers were just as good, if not better, than fully welded containers it surely did not engage in an extensive marketing campaign to convince potential customers of that.

Stoughton's marketing plan seemed to be to ask customers to try their product so that it could learn on the fly. Again, as a professor of Marketing, Stoughton's marketing plan receives a failing grade.

In conclusion, based on the evidence I reviewed, Stoughton failed to plan, failed to understand customers' needs, and failed to engage in any significant marketing. The Stoughton experience brings to mind a quote often attributed to Benjamin Franklin. "If you fail to plan, you are planning to fail." Thank you.

MR. EMERSON: Thank you, Professor. We have two more expert witnesses, both of whom will be speaking to the special characteristics of marine containers. The first is Ron Signorino from the Blue Oceana Company.

STATEMENT OF RONALD L. SIGNORINO

MR. SIGNORINO: Good afternoon, Commissioners. My name is Ron Signorino, I'm an independent consultant with more than 45 years of marine transportation industry experience. Please note that my testimony is a change in pace from what you've heard already. I'll be explaining why 53-foot marine containers, by the way, which is equipment that the petitioner does not manufacture, and likely will not manufacture warrant unique consideration in this particular case.

The precious few U.S. flag ocean carriers that

move 53-foot marine containers support American industry, American jobs, and American economic growth. These are Jones Act shipping companies, they sustain a national fleet of ships, and they provide a substantial foundation for domestic trade. That's why I'm here today to highlight why 53-foot marine containers should be considered as separate like products.

First and foremost, the petition covers containers designed for the intermodal transport of goods, quote "primarily by rail or by road vehicle" unquote as its scope indicates.

Marine containers are designed for transport primarily by vessel. There are major physical differences including the required container safety convention approval plate and all that it represents, about 1,000 pounds of additional weight, stronger sidewalls, and the limited interior capacity. The channels of trade for marine containers and domestic dry containers are very different. Trucking and rail industries do not purchase marine containers. Conversely domestic containers in a practical sense cannot be carried safely on ships; 53-foot marine containers are purchased almost exclusively by the few Jones Act ocean carriers. Their acquisition orders are finite based on their ship's capacity to carry them.

For example, between them Crowley and Seastar,

which are two of the three largest domestic ocean carriers, have purchased only about 5,000 of these containers over the past 13 years. A switch in production from domestic to marine containers requires retooling and redesign which is impractical given the limited demand for the marine container product. A domestic ocean carrier does not have the luxury of waiting for this retrofitting when containers have to be placed on departing vessels. Customer expectations and uses differ from marine and domestic containers. Marine containers serve a niche market for carriers that require movement by sea. These customers' expectations for the containers are dictated by structural requirements, safety, and other compliance standards for marine use, by contrast the rail and trucking industries do not purchase marine containers and these industries would not reasonably expect marine containers to replace domestic dry containers because this would result in significant reduction of cargo carriage due to their increased rate and their lower interior capacity.

These products are not interchangeable due to the major physical and technical differences between them. The resulting inefficiencies must be certainly viewed as being detrimental to the financial bottom lines of trucking and rail businesses and are a key reason why international marine containers are not commercially competitive alternate

to domestics.

In summary, 53-foot marine and domestic containers are distinct products that are designed, built, and operated differently and fall squarely within the Commission's discretion to be treated as separate like products.

Thank you very much.

MR. EMERSON: Thank you, Ron. And for our final expert today we will have Mr. Kiki Shahani.

STATEMENT OF P.W. (KiKi) SHAHANI

MR. SHAHANI: Good afternoon, Commissioners. My name is Kiki Shahani. I am an independent consultant with more than 45 years in this industry. I am here to address the significant differences between 53-foot marine containers and 53-foot domestic containers. I will also share my views of Stoughton's claims to material retardation based on price barriers.

First, there is not now nor will there be in the future a sustainable demand for 53-foot marine containers. They are a niche market with limited need for additional containers year over year.

Thank you.

This is because they are used by Jones Act ocean carriers who must meet higher standards on their containers than designed purely for domestic rail and highway use. In

late 1940 -- late 2014, Stoughton was invited to bid on supplying marine containers for Sea Star, my client. They were not selected mainly because they could not deliver the required number of containers in time for the new ship. And equally important, they did not meet the specifications. These requirements are nonnegotiable. Potential liability for safety claims and cost of empty ships is insurmountable.

The external dimensions of 53-foot marine containers are the same as those of domestic containers. That's where the similarity ends. The DNA of 53-foot marine container is different from that of domestics. The devil is in the details. Marine containers are designed and operate on ships, domestics cannot. Domestics are stacked only two high when operating on rail. They cannot be stacked above deck on the ships, nor below deck where they could be stacked six or more high. You have the photographs in your attachments which illustrate above deck storage as well as the photograph of a Crowley 53-foot marine container.

I noticed this morning -- I heard this morning Gary Fenton recognizing that a marine container has four extra corner castings one at each corner at 53-foot ends. And that they protrude on the interior at the door end as well as at the front. I may add, and I'm sure Gary will agree, that in addition to those, there are many other

structural and dimensional differences -- interior dimensions. They have thicker side walls to take a higher load when ship rolls, domestic don't. The rear frame is shorter when opening and narrower as well than the domestics. In short marine containers weigh more, cost more, have a lower interior capacity, lower interior width and a smaller door width and height opening than the domestics (sic). It has been confirmed that the marine containers cannot be used interchangeably with the truckers who use the domestic containers without hurting their bottom line.

We have heard from many that Stoughton was not responsive to buyers' technical requirements. Sea Star had the same experience. At Iona Expo, in Houston, 2013, I inspected Stoughton's 53-foot steel domestic container and Stoughton was told point blank, that the riveted attachments of the side to corner posts were not acceptable. In short, Stoughton is not a manufacturer of marine containers period.

Frankly, they have no record on marine 53-foot containers. And to the best of my knowledge, have never built a prototype.

Thank you.

MR. EMERSON: Kiki, thank you. And with that, that ends our direct presentation. We appreciate the Commission's time and attention. We look forward to the

opportunity to answer your questions, and I would ask the Secretary how much time we have remaining.

MR. BISHOP: You have two minutes remaining.

MR. EMERSON: Thank you very much.

CHAIRMAN BROADBENT: Thank you. I want to thank all the witnesses for coming today. And before we go on I just wanted to remind folks there's a lot of depth of seating out there, so you need to say your name very clearly for the record because the court reporter won't be able to figure out where the voice is coming from.

We will begin our questioning with Vice Chairman Pinkert.

VICE CHAIRMAN PINKERT: Thank you, Madam Chairman. And I thank all of you for being here today and helping us to understand these issues.

There was a lot of testimony on this panel about whether Stoughton was notified of concerns about the generation one and generation two products. And there was also some suggestion, I think, that maybe it shouldn't matter that much whether they were notified by the purchasers. And I'm wondering whether some of the lawyers on the panel or anybody else would like to take on that question of whether it's truly significant that there was such notification or was not such notification by the customers?

MR. HEFFNER: Doug Heffner for J.B. Hunt. I think it is rather important that any new entrant into a market when we're talking about a material retardation case has to be able to produce a product that is a marketable product that customers are going to use. And here I think we have a situation where exactly that happens. So in answer to your question, I think it is point blank important that in fact that it was incumbent upon them to know -- for Stoughton to know itself exactly what the market wanted as a new entrant.

MR. WOODRUFF: If I could comment? My name is Greer Woodruff. And I'm the senior vice president of safety and security for J.B. Hunt Transport. And I want to point out that these intermodal containers are highly engineered and the specifications are determined by the individual purchasers based on the purchasers' customers' requirements or the unique requirements based on their application within the transportation industry. And you heard a number of examples from the different representatives here of how what they require is different than what others here require. As an example the truckload carriers like J. B. Hunt and Schneider have a width requirement of greater than 100 inches and so we need to be able to pinwheel the loads to maximize the cargo for our customers.

You also heard FedEx who is a less than truckload

provider within the transportation industry say that they need 11-guage logistics posts so that they can secure the cargo so that their customers tender to them to be transported. And then you heard differences with what the railroads require in terms of thicker sidewalls, corrugated walls, they do not require the same width. They can be satisfied with a 99-inch width. And then you heard the requirements of the ocean containers and they need containers of different lengths, 20-foot, 40-foot, 45-foot, 53-foot, they require even greater strength and they're willing to sacrifice interior width and some other requirements to get the specifications that they need.

What you heard universally from all was that all of the container purchases expect to have containers that do not leak and do not compromise the cargo that our customers are entrusting us with. With this universal requirement in mind, fully welded containers have replaced the mechanically-fastened containers and have become a de facto standard in the U.S. market over the past ten years. Many purchasers have shared specific design requirements and they testified to that while others have simply outlined a performance requirement. And so I would suggest to you that regardless of how specific a purchaser has been with Stoughton, there have been thousands -- thousands of fully-welded containers put into service in the United

States over the past ten years and Stoughton could have and should have known that this was the de facto standard and it was expected by their perspective customers. Stoughton could have and should have inspected their competitors' product.

Many of the people we do business with, if they're competing in a competitive market will purchase or procure the products that their customers are putting in the marketplace and they'll reverse engineer them. They will look and see what kind of components are used. How are they put together? How am I going to compete in terms of the material specifications and the manufacturing methods so that I can deliver to the customer what they demand.

VICE CHAIRMAN PINKERT: It's your position that it was Stoughton's responsibility to know what the market was demand?

MR. WOODRUFF: That is exactly right.

VICE CHAIRMAN PINKERT: Thank you. Yes, in the back there. Did you have a comment?

MR. CAMPBELL: Are you talking to me?

VICE CHAIRMAN PINKERT: Yes.

MR. CAMPBELL: This is Jay, I'm sorry. This is Jay Campbell with White and Case representing CMC. First of all, just in response to your question, Vice Chairman Pinkert, as to whether it matters from a legal standpoint

whether or not Stoughton was notified of their basic design requirements, whether Stoughton was notified by its customers. As a factual matter, of course, we dispute that customers failed to notify Stoughton of their requirements, but secondly, as a legal matter, that does not matter. The record clearly shows in response to the questionnaire data that large majorities of purchasers considered that Stoughton's product was not interchangeable with the imported containers from China and reported that Stoughton's container rarely or never met minimum specifications.

So based on that reporting nearly unanimous by, or at least large majorities of purchasers, it's incumbent on Stoughton to investigate, do its due diligence and figure out what's going on, what's wrong with its design, why aren't customers buying this product, but that is incumbent on the new entrant.

VICE CHAIRMAN PINKERT: Thank you. Now, help me to understand your thinking about this next issue, assume that Stoughton could produce a good product at a lower cost if it included the mechanical fasteners that are at issue in this proceeding, should the customer take a look at that product and make a determination that, yes, this product is just as good, it may not be what we were expecting, and it's at a lower cost. So it makes sense from a commercial point of view. What's wrong with that thinking?

MR. DELOZIER: This is Ken Delozier with J. B. Hunt. In my testimony I said I didn't require a fully-welded box and earlier this morning I heard from testimony on that we had met together, we had a prototype being worked on, and in actuality we had that prototype, that Gen one prototype that was on the way. We were discussing it. But after we looked at it at the trade show we decided to stop. And then we had discussion again back in July 2012 with photos with some of the Wahlins about the next generation. But they never brought me anything past that. They never brought me a 100-plus inch prototype, never brought me an example, never brought me anything to market their product at all.

MR. SCHMELDER: Yes, Commissioner Pinkert, Bill Schmelder, Union Pacific. And the answer for us is not lower costs. The answer for us goes back to our specification that we needed corrugated side panels to withstand stress of rail transportation and a fully-welded design. We look at total cost of ownership in assessing our experience with any piece of rolling stock and this would fall in that category. So the quality of the product, what it would do in terms of generating damage claims from customers or customer rejections goes into the mix, maintenance costs and so forth, so we start basically with our design and spec and if it doesn't meet that, we don't

even get to the other factors like price or even these other pieces of TCO analysis because our spec is our guideline.

Thank you.

MR. DRELLA: Commissioner Pinker, Dan Drella from Schneider. The last major purchase or last large group of containers that Schneider had purchased prior to the introduction of the prototype from Stoughton included 2,700 Stoughton containers mechanically fastened, huck bolts, rivets, things of that nature, we had a very difficult time and a very expensive time maintaining that equipment and it left us with a bad taste in terms of the cost, reliability, claims experience and so forth. When Stoughton announced to us in February of '11 that they were introducing a new box and had already made their mind up that it was going to include huck bolts and securing certain key areas, we raised concerns and reservations and said that's not what we're looking for. And so we had reservation from that initial conversation. When I saw the first box and saw the number of the 200, I believe, were cited, bolts still used in the nose and the tail of that container, it gave even greater cause for concern about the reliability and that essentially it was a change but it had significant risks of more of the same where we had had a bad taste before and so lower cost, somewhat changed in design, but still had the bolts. It's a nonstarter. It doesn't meet the specification.

MR. CERNY: This is Jakub Cerny from Hub Group. I would like to echo my predecessors here in the discussion that the spec is a paramount, it's a proven spec. We've been buying the same spec, meaning fully welded boxes since 2005. And when I invited Stoughton for a meeting in our headquarters in February 22, 2011 and we had a chance to review their plans and their blueprints with our engineering team and we advised them that whatever they're planning, whatever their plans are and their design, their spec is not going to work for us. There really was no point on discussing pricing or any kind of further plans with Stoughton because it did not meet our specification, our proven specification that's been deployed over the whole network for six years at that point and that's where the discussion stopped.

VICE CHAIRMAN PINKERT: Mr. Dean, the last word on this one.

MR. DEAN: THANK YOU, sir.

VICE CHAIRMAN PINKERT: Thank you.

MR. DEAN: Yeah, regarding the mechanical fasteners, for us it's a little too early to weigh in on this. The fact is that we've seen in the past problems develop after seven years with fasteners and weldings. Now, what we saw when we first looked at our generation one containers as well as the generation two, is the amount of

calk in association with the mechanical fasteners.

So if the mechanical fasteners loosen up over time, and the caulk is certainly not going to be there for 15 years and be effective, we are susceptible to more leakage as well as loose bolts. Now, these bolts are huck bolts. So what happens, you swedge a collar onto it and it snaps the bolt off. So there is the start of some corrosion right at that point when that bolt is broke. It's not protected for the paint products that we put on our containers.

Now, I want to address one other thing. The huck bolts in the bottom rail for the cross members, they're exactly right, it does not affect the ability for the load to get wet because it's underneath the floor level, but that is the strength of that box carrying all the weight and a welded component versus a bolted component cross member that can loosen up could cause problems on road, on the railcar, and ultimately fail.

VICE CHAIRMAN PINKERT: Thank you. I'm going to have to stop you right there. I appreciate the answers this round.

CHAIRMAN BROADBENT: Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you.

Thank you, Chairman Broadbent. I would also like to thank all of the witnesses for appearing here today.

There are quite a few of you. Thanks for taking time to appear before the Commission.

Mr. Dean, I'd like to start with a question for you. You stated earlier that a partner railroad threatened to stop using Stoughton containers for safety concerns. Do you happen to have any other information on this other railroad's stance regarding Stoughton, or if you do not feel like sharing that today could you give that to us during the post-hearing period?

MR. DEAN: I will answer this. I received a call myself from another partner railroad who said these containers are failing and that we're going to get them out of service. The other partner railroad did not talk directly to me. They talked directly to our -- their vice president talked to our vice president. And they're the ones who made the statement that they have to embargo it. There's no communication that I have on that.

COMMISSIONER JOHANSON: Okay. If you do happen to come across anything else about it, you could include that. I'd appreciate it. Thank you.

MR. DEAN: Yes, sir.

COMMISSIONER JOHANSON: And to broaden my previous question, Respondents today and in their briefs have discussed at length the preference of railroads and trucking companies for welded containers over containers

constructed with mechanical fasteners. Are you all aware of any trade publications that have written on this preference, and if so, could you all please attach any such articles in your post-hearing briefs?

MR. HEFFNER: I don't think there are any public standards like that because this is a standard that occurred since 2005 that -- you know there's only a handful of us as far as purchasers. I'm not sure that would be anything that would really go into a major publication.

COMMISSIONER JOHANSON: Okay, I understand, but I'm referring to major publications. It seems to me like every product I work with there seems to be a magazine or trade publication that comes out regarding the industry. And the fact that containers have changed markedly over the past several years from those constructed with fasteners versus steel as opposed to welded containers I would think there'd be something out there which would mention this.

MR. HEFFNER: We'll endeavor to look for it.

COMMISSIONER JOHANSON: If you could look, that'd be helpful just to give an idea of how much notice Stoughton might've had outside of what you all are contained in conversations and email messages, et cetera. If we knew if there was a broader discussion going on out there at some point that'd be helpful.

MR. HEFFNER: Okay. Thank you.

COMMISSIONER JOHANSON: Also, you all, the Respondents have extensively praised AICM, at least, vis-a-vis, Stoughton, and its possibility to produce in the future containers. Are you aware of any trade publications that discuss this promise of AICM with regard to its potential manufacture of these products?

MR. HEFFNER: Again, Doug Heffner. Actually, there was something that just came out recently in a trade publication and we'll be glad to provide that to you.

COMMISSIONER JOHANSON: Okay. That'd be helpful. I look forward to seeing that.

And this is a question I asked this morning of the Petitioners. Do you all know why AICM is not here? It seems to me like they have a stake in the outcome of this. I know that you all cannot speak on behalf of them, but AICM did figure somewhat prominently in the briefs that were submitted to the Commission. Okay. I understand.

And this is a question for Singamas. From pages 12 to 19 of your pre-hearing brief, you criticize Stoughton's business planning. Then on pages 19 to 21, you present AICM as a counter-example of a company with a detailed and well thought out business plan.

First, if you all could please comment perhaps now or post-hearing on the characterization at pages 311 of the staff report, which is confidential material, of AICM's

management, and second, could you all please speculate on whether AMIC would have still come forward as a potential producer if not for the filing of this petition.

MR. EMERSON: This is Eric Emerson on behalf of Singamas. We'll certainly address those in the post-conference brief. I can't remember precisely what AICM is confidential and not, but we'll certainly address that in the post-conference.

COMMISSIONER JOHANSON: Okay, I look forward to that. Yes, Mr. Heffner?

MR. HEFFNER: On behalf of J.B. Hunt, we will also provide information.

COMMISSIONER JOHANSON: Thank you. I appreciate that. And this is a question for Singamas. You take issue with Stoughton's statement that it was surprised by the testimony of customers at the staff conference that these customers wanted a fully welded container.

You all state that customers communicated this to Stoughton before and you cite to an exchange at a trade show. And this is contained or mentioned in the pre-hearing brief at page 22. Are you all aware of other evidence in the record that customers made Stoughton aware of this requirement or this preference?

MR. EMERSON: This is Eric Emerson from Steptoe. I believe that there's evidence in the Union Pacific request

for information that was presented in the public version of their brief in which the requirement for a fully welded container was made specific. I'll turn it over, though, to Bill to provide more detail on that one.

MR. SCHMELDER: That's exactly correct. As we said in our testimony, we provided an RFI to Stoughton in 2010 on page -- I believe 10 of it. It declares time after time this component needs to be fully welded, fully welded, fully welded. And we also stress corrugated side panels in that RFI. And that was our first stake in the ground with those specs and requirements and those continue to be our requirements to this day.

COMMISSIONER JOHANSON: All right. Thank you. Yes?

MR. CERNY: This is Jakub Cerny, Hub Group. I just wanted to reiterate what I mentioned already in my testimony earlier today that it was me who reached out to Stoughton, invited them to our office in Downers Grove, Illinois back then specifically to discuss their spec. We sat down with Gary Fenton, another gentleman from Stoughton, and Charlie Green, our external engineer, and for a couple hours walked through the blueprints and Gary explained to us what their plans are. And we very specifically stated that the bolted or mechanically fastened methodology is not what we're looking for. That we've been purchasing fully welded

containers since 2005 for full satisfaction.

We had problems, definite problems with how the side panels, the structure of the side panels would be attached to the top and bottom rail. And I don't have any written document on that, but as I said, it was February 22 meeting in Downers Grove, Illinois when we very clearly mentioned what our specifications and requirements are.

COMMISSIONER JOHANSON: And Mr. Cerny, I apologize, you said February 22 of what year?

MR. CERNY: 2011.

COMMISSIONER JOHANSON: Okay. Thank you. I appreciate it.

This is a question for CIMC. On page 6 of your brief, you discuss Stoughton's history of producing aluminum containers from 1988 to 2006. And you state that Stoughton did not derive significant benefit from its trailer operations or prior container operations.

Stoughton, on the other hand, at page 64 of its pre-hearing brief states that it has decades of extensive manufacturing experience and has the ability to produce the domestic-like product. Could you all please speak further on your statement about 18 years of manufacturing experience with aluminum containers did not benefit Stoughton? How could this be the case? Stoughton is a long-standing company.

MR. CAMPBELL: This is Jay Campbell with White & Case. We understand the points made by Stoughton, but nevertheless, one of the issues at the crux of this case is Stoughton's history. Stoughton's history as principally a trailer manufacturer and trailers are known to be made with aluminum and with a mechanically fastened assembly process. That was why, in the past, when Stoughton was in the domestic container market manufacturing an aluminum container its aluminum container used the exact same assembly process.

We, of course, supported by the questionnaire responses submitted in this case and the record evidence are making the point that a key reason for Stoughton's inability to succeed in the domestic container market during the POI was its failure to offer the market a fully welded domestic container. And that decision, based on it -- it would seem based on Stoughton's prior experience as a trailer manufacturer and an aluminum domestic container manufacturer, so it continued to use the same assembly process that it had used before and for that reason it did not derive a significant benefit because its new product was not accepted by the vast majority of the marketplace.

COMMISSIONER JOHANSON: All right, thank you, Mr. Campbell. I'm juxtaposing that in my mind with the statement of Mr. Levin this morning that Stoughton is not a

babe in the woods. It has been around a long time, but I do appreciate your clarification. Would you like to address that further?

MR. CAMPBELL: I would just say that, of course, Stoughton's been around a long time, but they have never been what the Chinese manufacturers are, and that is manufacturers of marine containers which are fully welded, steel containers. So, the Chinese manufacturers they were leagues ahead in terms of their expertise and know-how.

Stoughton's counsel itself has conceded today that the Chinese are way ahead in terms of the learning curve. It was admitted in Stoughton's post-conference brief that the Chinese manufacturers' domestic containers are generations ahead of Stoughton. Why is that? It's really based on history. And the fact that the Chinese were already making fully welded steel containers and that's the innovation they brought to the U.S. marketplace that quickly became the industry standard.

COMMISSIONER JOHANSON: All right, thank you for your comment. Would anyone else like to add to that? Yes, Mr. Cerny?

MR. CERNY: Yes, I would like just add that the aluminum box or the aluminum container that Stoughton built for some time and the fully bolted steel container is just a different -- completely different product and it may sound

like container is you know just six sides that you kind of put together. No, it's a very highly engineered product. There's a lot of thoughts and a lot of you know testing has been done over the years overseas to really come up with a product that would work for Hub Group and other companies.

And I would say that anybody can build a heavy, steel box. Probably I can build it in my garage. All right. The point is it's got to be lightweight and it's got to be sturdy and durable, and you just don't build it overnight. Even though you have a history with other products, you just can't assume that one day you're going to decide to build a steel box and it's going to be good and especially if you don't to any kind of research and question your customers what it is that they actually want.

COMMISSIONER JOHANSON: All right. Thank you for your responses. I'm well over my time.

CHAIRMAN BROADBENT: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you. I want to express my appreciation to the witnesses for their testimony this afternoon.

Mr. Delozier, you mentioned in your testimony that you stopped working with Stoughton because of quality problems related to the chassis design. And I was wondering was this chassis design related to the design of the container or is it a different issue.

MR. DELOZIER: It's a different issue.

COMMISSIONER WILLIAMSON: Okay. And the container design that you worked with Stoughton did that use mechanical fasteners at least in some places?

MR. DELOZIER: The one that they were going to bring as a prototype, yes.

COMMISSIONER WILLIAMSON: Okay. Now, this morning they had said that they had been in extensive discussion with you about what they were bringing and you saw that and it seems like you went pretty far down the road on this.

MR. DELOZIER: No, I saw the unit they brought to the trade show in 2011. That was the first fully assembled box I saw and then that's when we stopped. We had cold feet. We stopped. And they never brought me a prototype.

COMMISSIONER WILLIAMSON: So, the discussion -- I mean I got the impression this morning they had given you the design and what they were going to do, which included I guess a certain limited number of mechanical fasteners and that you didn't object to that, at least that's what I heard this morning. Are you disagreeing with that?

MR. DELOZIER: No, I'm not disagreeing. I agree with that.

COMMISSIONER WILLIAMSON: Okay, so there was --

MR. DELOZIER: There was discussion. There was

discussion between J.B. Hunt and Stoughton about progressing along with a prototype unit. We had those discussions prior to the trade show in 2011. At 2011, we looked at the one they had on display, which was not to my spec, which in a 99-inch box, less than the 100-plus inch that I require.

COMMISSIONER WILLIAMSON: And had you told them before in those earlier discussions that you wanted a hundred?

MR. DELOZIER: Absolutely.

COMMISSIONER WILLIAMSON: And they said they were going to deliver that?

MR. DELOZIER: They would in the prototype.

COMMISSIONER WILLIAMSON: So, the prototype in the trade show was the prototype that was supposed to be for you?

MR. DELOZIER: No. No, they never made me a prototype.

COMMISSIONER WILLIAMSON: Okay, so it didn't get that far?

MR. DELOZIER: No.

COMMISSIONER WILLIAMSON: Okay. You see why I'm raising this. You're saying they didn't do a hundred, but then they didn't give you the prototype that they were supposed to give.

MR. DELOZIER: That's right. We stopped after

the trade show. The next conversation was in July 2012. They sent me pictures of the next generation of the box, and it still had multiple fasteners and it still was only 99-inch.

COMMISSIONER WILLIAMSON: Okay. And they were saying let's start our discussions on that even though they knew you wanted a hundred?

MR. DELOZIER: Even though they knew I wanted a hundred plus.

COMMISSIONER WILLIAMSON: Okay. Because I know they've said all along they can make the hundred.

MR. DELOZIER: But they never have.

COMMISSIONER WILLIAMSON: Okay.

MR. HEFFNER: If I could add also. I mean I think the discussion that they were having this morning, Stoughton, is accurate to the sense that J.B. Hunt was going to evaluate a prototype that had mechanical fasteners. Why not? Why not evaluate it? Let's see whether it actually works. But what happened is exactly what they said. They said they had problems -- Stoughton said that they had problems with their Gen 1 unit, and they were going to wait to see, get the Gen 2 unit out.

In the meantime, they saw a unit at the trade show and it had multiple quality problems, still had mechanical fasteners, and still wasn't the 100 plus inch

box. So, they got cold feet. They got cold feet and they decided not to go forward. Stoughton sent them pictures of the Gen 2 box. Nothing ever happened after that. That was it.

COMMISSIONER WILLIAMSON: Okay.

MR. WOODRUFF: If I could too just add as well -- Greer Woodruff with J.B. Hunt. At that same time, the problems with the NS containers that had been put out and resulted in NS having to cancel a substantial part of their order started to find its way into the marketplace. So, that is contributed to why we were hesitant to move forward. And just because we might be willing and receptive to look at a prototype would not be unusual for us to go back even with that prototype and ask for additional changes or another prototype. So, just because you're prototyping doesn't mean that you're committed to a purchase.

COMMISSIONER WILLIAMSON: Understood. They mentioned this telegram or email that came that said that -- mentioned things you definitely didn't want. And I guess that was -- do you agree that was to address the problems that were in the Norfolk Southern?

MR. WOODRUFF: There were some addressing that we had learned from the Norfolk Southern Railroad.

COMMISSIONER WILLIAMSON: Yes, you put them on notice that you didn't want that.

MR. WOODRUFF: That's right.

COMMISSIONER WILLIAMSON: Okay. Thank you.

Can you clarify what fully welded means in this industry? I guess, for example, you state that requires that there be -- your company requires that there be a continuous 100 percent weld at the top and bottom rail, stack door, and front corner post as well as the panel butts, butt joints. This is in your pre-hearing brief at page 8. Does this leave any room for use of mechanical fasteners at any other place in the container?

MR. SCHMELDER: I'll have Walter Watson from our intermodal staff answer that, please.

COMMISSIONER WILLIAMSON: Sure.

MR. WATSON: Hi, I'm Walter Watson. I oversee equipment planning, movement and maintenance for Union Pacific.

So, our specification, which I think was alluded to, dates back to 2010. What we are getting at in our specification is that at each of our joints with our sidewall fixtures, et cetera, that we have a continuous bead of weld and not a mechanical fastener. Our design, however, does have mechanical fasteners in our specification in the door assemblies. So, to the extent that we can reduce or eliminate all mechanical fasteners that is what we desire in our design. And specifically, for reasons that others have

claimed, such as Union Pacific's wet damage claims as well as the overall total cost of ownership tied to the maintenance costs of our containers.

Union Pacific has roughly 60,000 domestic containers. We do own both the corrugated steel design that we've require today and we required since 2010 as well as mechanically-fastened, non-fully welded aluminum and pressed steel type designs in our fleet. When compared to the all-steel, fully welded design we experience, from a total cost of ownership maintenance basis, roughly one-quarter to one-fifth of the maintenance cost over the life cycle of the asset.

COMMISSIONER WILLIAMSON: I mean it's well established that those others aren't --

MR. WATSON: We own them all, and so our analysis is based predominately on our --

COMMISSIONER WILLIAMSON: No, I don't think anybody's disagreeing with that, but what about the question of -- I think Petitioners this morning talked about putting I guess mechanical fasteners at the bottom part, which doesn't penetrate the cabinet or the interior. Does someone want to address that question?

MR. DRELLA: Sure. Dan Drella from Schneider. In the older storage containers we have that have bolted cross members, which support the floor, we've seen searing

of the bolts as they loosen up. And so it can become a risk of cargo loss, cargo damage as the box is lifted and the weight of the cargo pushes down on the floor. We've seen failure of those bolts. And so we have an aversion based on actual empirical history to that construction. We've never seen that happen with a fully welded cross member.

COMMISSIONER WILLIAMSON: Okay. Thank you. Mr. Schmelder, you note in your pre-hearing brief on page 23 you have not only had supplier inquiries from Stoughton and AICM, but other potential suppliers as well. I was wondering in your post-hearing submission you could -- and I guess you mention both U.S. and foreign suppliers. I was wondering if you could identify those companies and describe the status of their current manufacturing operations. This could be post-hearing.

MR. SCHMELDER: We'll be happy to do that.

COMMISSIONER WILLIAMSON: Thank you. Let me stop there because this question is going to take time, so I'll do it next time around.

CHAIRMAN BROADBENT: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Thank you. Good afternoon. I just want to also welcome the witnesses and thank you all for coming, all of you. So, I wanted to follow up, as is not unusual when I follow Commission Johanson. He takes some of my questions.

This question about the industry standard and that fully welded containers have -- and I've heard people say that today and you know this afternoon in the direct testimony that this had become an industry standard. And I'm just wanting to clarify is that the Respondents' position that fully welded containers was an industry standard? And I'm curious, and maybe Mr. Drella or Mr. Cerny from Hub might want to speak to this. When did it become the industry standard because you seem to have very strong statements about not wanting containers with fasteners?

So, my first question is is that your position it was an industry standard? And the second would be when do you think that it became the industry standard?

MR. DRELLA: Dan Drella from Schneider. I think you could look at the wind down of production of the sheet and post containers, the former mechanically-fastened occurring essentially end of 2006 and I think that's when Stoughton referenced closing their factory. And most purchases, if not all purchases, after that point, certainly within the Schneider fleet of new equipment was fully welded steel containers after that point.

And I think the same is much reflected for my peers, and then that's what we saw happening in the industry is that shift at about that point where there was a

generally strong perception and the initial experience with the welded steel containers had been very good and people said it's time to make that transition.

MR. CERNY: Jakub Cerny, Hub Group. I'd like to confirm that it is my strong belief that it is an industry standard now. It wasn't always. There was a transition period, which I believe was 2006 and 2009. And to my best knowledge, there was not a single aluminum sheet and post or mechanically fastened container purchased in the United States after 2009.

COMMISSIONER SCHMIDTLEIN: Mr. Campbell?

MR. CAMPBELL: Thank you, Commissioner Schmidtlein. This is Jay Campbell. I'd also like to point you to -- I believe it's either Exhibit 3 or Exhibit 4 to CIMC's pre-hearing brief. We submitted an affidavit that was prepared by Charlie Green. He is an engineering consultant and he's the foremost expert on domestic containers. He was instrumental in designing domestic containers. And his testimony also discusses the history and how after the Chinese manufacturers introduced the fully welded steel design that that became the industry standard. So, that affidavit we submit is important and it corroborates what the purchasers are discussing today.

COMMISSIONER SCHMIDTLEIN: Okay. Thank you. One thing I'm trying to square with that, and maybe Mr. Dean you

can help me understand this. If it had become an industry standard -- and you know perhaps by 2009, as someone just testified, then Norfolk Southern, or at least my understanding in your contract in February of 2011 for 1500 containers was not fully welded. It was with some fasteners and it was not more than a hundred. It was in the 99-inch size. Is that correct?

MR. DEAN: Paul Dean with NS. Yes, ma'am.

COMMISSIONER SCHMIDTLEIN: Yes, okay, there's a bit of a disconnect, at least if I'm trying to look at it from their perspective of, well, the whole industry knows that except for we just got a big contract that doesn't --

MR. CAMPBELL: This is Jay Campbell with White & Case again. And I think I'll invite Paul Dean to add to this, but my understanding from Mr. Dean's testimony is that they were purchasing the fully welded steel containers imported from China and they were using those in their flagship intermodal program, the EMP program.

But around 2010, they could not get the supply they needed from China, so they, as Mr. Dean testified, they gave a look. They took a look and took a bit of a gamble of Stoughton's design. So, it wasn't that fully welded containers weren't recognized as the industry standard. It was simply that Norfolk Southern could not get the supply they needed, so they decided to take a chance on Stoughton's

design.

COMMISSIONER SCHMIDTLEIN: Mr. Dean, do you want to follow up on that? I assume then at some point that was communicated. That, well, we don't really like your design, but we're going to order 1500 of them?

MR. DEAN: Again, it was -- Paul Dean with NS. It was earlier mentioned that the -- I left the word "fully welded" out of our testimony in 2011. It was welded. Our intent was to get away from the rivet connection for the panels. Now, it was a surprise to us when we saw the rivet line in the bottom rail and up the sides, that they were not in our spec and it was oversight on my part after that part -- after we acquired them that we didn't put it in there, but we had conversations with our suppliers for fully welded a container. And in 2014, the latter part of it, we did include fully welded in our RFQ for this year's bill.

COMMISSIONER SCHMIDTLEIN: In the latter part of 2014?

MR. DEAN: Yes, ma'am.

COMMISSIONER SCHMIDTLEIN: Okay. All right. Thank you very much. You know one thing -- I mean again there's been some discussion about the perception and how is it legally relevant. I mean just to put this in the context, at least for me, I mean I find the relevance of whether or not this was communicated to the Petitioner is to

weigh the credibility of the claim that those decisions were made based on other factors than price, right? So, I just wanted to make sure that was clear. I mean and that's why sort of the facts of this is important because what we're trying to do is decide whose story do we believe, right, and we do have sort of conflicting stories it seems here.

So, I would appreciated it if in the post-hearing brief I would invite -- and all the purchasers that are here today if you've made a statement, and you can go back and look at the transcript as easily as I can, that you communicated to the Petitioner that fully welded was necessary I'd like you to point out where that's supported.

If there is contemporaneous documents, if it's affidavit, if it's statements at the staff conference -- you know whatever it is I'd like to like sort of break this down in a simple way to look at it. So, if that's your position, you've made that statement either here or before, I'd like in the post-hearing if you could lay it out, like where is that supported. I would appreciate that.

And I know, in particular, I mean I tried to write as fast as I could since we don't have the written witness statements here in front of us, but there were a number of pretty specific statements made. Mr. Cerny, you know you mentioned that again, this February 22 meeting in 2011. I take it from that that there's no contemporaneous

written evidence of that. It's your recollection of that meeting.

MR. CERNY: Yes, that is correct.

COMMISSIONER SCHMIDTLEIN: And that's fine.

MR. CERNY: If I may, just add one more thing.

COMMISSIONER SCHMIDTLEIN: Sure.

MR. CERNY: In 2011, we were purchasing 4,000 53-foot containers. That's why I reach out to Stoughton because we were interested in kind of split our order, diversify our risk in terms of deliveries, and that's why I invited them because we were very interest. As I mentioned, we were intrigued their wanted in enter the market again. And after the meeting -- I mean I don't have a written email that says after we met -- we just communicated them verbally, but we didn't even ask about price or anything. Since we were planning to make a big purchase, I did not say you know significant proof that we were not interested in that design.

COMMISSIONER SCHMIDTLEIN: Right. And I appreciate that. I mean sometimes you know it doesn't have to be an email back to them. If you have an internal email reporting on the meeting to somebody else within your organization you know that's helpful, again, if it's contemporaneous. If you wrote a memo to the file on that meeting, that's helpful. You know anything that just

supports what you're saying I think that's helpful, not that what you're saying is not in and of itself evidence. Mr. Campbell.

MR. CAMPBELL: Commissioner Schmidtlein, as you weigh the credibility of each side's story, I think it's important to also consider the interior width point. Both J.B. Hunt and Schneider are very large purchasers in the market. They made it abundantly clear to Stoughton that they required a container with an interior width greater than 100 inches and Stoughton didn't provide it. They never provided a prototype to them meeting that specification.

So, there's a pattern here, and it corroborates the fully welded point. There's a pattern of Stoughton trying to give the customer what it can produce and not meeting the customer's basic design specifications. So, I think the interior width, although it's not required by the entire market, it's required by a very large chunk. And the fact that Stoughton didn't provide a prototype that satisfied that basic design specification speaks volumes.

COMMISSIONER SCHMIDTLEIN: All right. Thank you. Well, my time is almost up so I will wait for the next round.

MR. SHAHANI: If I may, Commissioner, as to your question on rivets and welded and steel, I want to share with you my experience that goes back 45 years. And I

worked with the pioneer firm that started this revolution of continuation, Sea Land Service. Now, while I was at Sea Land, it was aluminum sheet and post riveted construction, dry as well as refrigerated. And after 10 years after leaving Sea Land, became a consultant to a very large company who was buying many new ships and needed many thousands of marine containers, U.S. lines.

First thing I did there was to reverse what I had been doing at Sea Land because it had peaked its usefulness. That is aluminum sheet and post. What we used to do that because it was corrosion resistant and it's lighter in weight. However, it's durability and frequency of damage and therefore frequency of repairs, all that created down time. I was among the first American flag buyers of very large steel containers, albeit they were 40-foot, subsequently, 45-foot.

I was also instrumental in changing marine containers, refrigerated containers, which are insulated to keep perishable cargos at control temperatures from sheet and post aluminum to welded stainless steel and which is the present standard carried over. First thing when I decided this for United States line, I did call my former colleagues from who I also consulted that I was making this big change.

That change, in my opinion, is irreversible in marine containers that I worked now on 53s. Riveted

construction of any nature, whether of those rivets in the cargo space like the side panels attaching to the panels or cross members, which are below the cargo space I think is not proper. Welding is better. It is synonymous to your wearing a winter jacket with buttons as compared to with the zipper.

COMMISSIONER SCHMIDTLEIN: Thank you. I can appreciate that analogy, so thank you.

CHAIRMAN BROADBENT: Okay, let's see the Chinese Respondents, I guess that Mr. Yeung; is that right?

MR. YEUNG: Yes.

CHAIRMAN BROADBENT: What efforts does your company make to market its products to purchasers, and have you changed your approach since 2011?

MR. YEUNG: No, I have been in charge of the 53 sales since 2011. So, I think basically on a daily basis we would answer to customer's inquiry, customer's questions both on the production as on the delivery. And most often, I will visit the United States with my colleagues, sometimes with my colleagues, sometimes alone to visit customers in the United States twice a year because it's not like marine buyers. They are quite scattered all around America, so it would be quite an extended trip. So, usually we take two weeks and I think I will visit like five or six places and trying to cover any one of the at least once a year to meet

them personally and me trying to get some feedback from them.

I think most importantly is, as all the purchasers has already said, it is the quality of the products as well as the timely delivery and being able to deliver to them at the timeframe and volume that they required. And I think as many of those has also mentioned about the show, which will be held -- I mean in a different place during the end of the year. So, I will attend. And most likely our box will be display in the show and we will try to meet some old customers as well as the new one.

MR. ROBICHEAUX: If I might, my name is Bob Robicheaux, and I'd like to respond briefly to that, if I may?

CHAIRMAN BROADBENT: Sure.

MR. ROBICHEAUX: The question was addressed to marketing efforts and Mr. Yeung responded about his personal selling efforts that he made and communications to visit with customers and learn about what their needs were and to let the customers know what his company is doing.

I want to offer a view that marketing is much involved than persuasive communications. What I think is essential in a comprehensive marketing program is to understand how the product in the industry is evolving and to have design considerations factored in with engineers and

design experts in designing production facilities so that each company that is competing in whichever industry can maintain its competence with the emerging technologies in the industry. And equally important to persuasive communications and visits and emails is what companies do to provide more reliable delivery, more efficient delivery, more efficient production, scheduling so that customers' demands for delivery during key periods are met. And so all of those things become part of the offer, and it's not just price. It's not just an individual attribute of the product, but it's the whole composite of the market offering that has to be I think managed to meet customer expectations.

CHAIRMAN BROADBENT: Well, has a business analyst, what is your sense of what's going on in Stoughton? Do you think it can be improved?

MR. ROBICHAEUX: Well, I suspect it can be improved. I have not had a chance to talk directly within in Stoughton to learn exactly what they have done or what they plan to do, but in the record that was available to me what I found missing any discussion of how they were significantly responding to the customers' comments about interior width and structural soundness and concerns about deformity and breakage and repairs. So, what I think any producer, whether it's Stoughton or any other in this

business is going to have to be responsive and be proactive in learning how, as we've seen today, even among a handful of purchasers. Although they're small in number and they account for 90 to 95 percent of all purchases, most of their needs are different. They're each somewhat unique. And it's that -- I think the term "market intelligence" was used earlier in the day by Stoughton representatives, but market intelligence didn't seem to turn up the importance of interior width and the design features that these buyers wanted to have offered to them. So, I think that something different is going to have to be done in the future.

CHAIRMAN BROADBENT: But do you think it's ignoring market intelligence or do you think they just don't have the practical capability to produce a quality product?

DR. ROBICHEAUX: Well, I have limited expertise in engineering, so I'll have to defer to somebody else about the technology requirements to produce these things. I don't know what their facilities are like. I've never visited them.

CHAIRMAN BROADBENT: Right. Well, to me, someone had mentioned how -- it doesn't seem at first blush you would think it would be not that complicated to make a box that could transport things without getting them wet. Is there a lot of intellectual property involved in what the Chinese processes are for manufacturing these products?

DR. ROBICHEAUX: I didn't quite get -- is it highly?

CHAIRMAN BROADBENT: And actually, I really am talking to the fellow next to you. Excuse me.

MR. YEUNG: Can you repeat?

CHAIRMAN BROADBENT: Is your manufacturing process highly intensive in terms of intellectual property?

MR. YEUNG: I don't think so, but it is type of production that we get used to because we have been in the production of marine containers for 20 years in China, so we are just adapting that skill into the production of the 53-foot. And I think it is easier for us because we just get used to that kind of mobile production. And at the same time, I think I'm just trying to -- I do agree with Robert that it is the whole team effort of trying to satisfy the customers because it's not only the -- as Robert say, it's not only the daily communication, but sometimes customer has a request. Do you have a strong enough technical team to have immediate response to the customer -- some adjustment on the size or adding something on the exterior, that kind of thing, or change the detail, add some detail? That's always involve a lot of technical drawings, that kind of thing. So, you need to have that kind of background to respond to that kind of request. And usually, when you have an RFQ from customers the response time will usually be

relatively short. So, you may have only one week to prepare all your price, your calculations, and all your drawings, specifications so that you can submit your proposal in time. So, I think it's all about a whole team work to satisfy the customers rather than -- I mean, as Robert said, it's not a single person's business. It's all the company needs to be -- need to invest in such a process.

CHAIRMAN BROADBENT: Okay. Thank you very much. Sir?

MR. CERNY: Jakub Cerny, Hub Group. If I may just comment on Johnny Yeung's prior comment. You asked him about how the single mass marketing of their product and I just wanted to offer a quick comparison. Since 2010, Johnny asked me if he can visit us in our office nine times, and he did. Singamas hasn't asked me -- I'm sorry -- Stoughton has asked me once, and they're in Wisconsin and Singamas is in Asia. So, that's just a comparison of how proactive they are with customer relations.

CHAIRMAN BROADBENT: Okay. Yes?

MR. DELOZIER: Kent Delozier with J.B. Hunt. Also, I'd like to chime in on that and say the CIMC and the Singamas both have visited my office numerous times over the last five years. And I've not seen the Stoughton Group, which resides here in the United States in the last four years.

CHAIRMAN BROADBENT: Okay. This is a question for Mr. Emerson. How do you respond to the Petitioners' argument that subject import prices are sold at prices well below the domestically-manufactured container and that import prices are declining dramatically since 2011?

MR. EMERSON: This is Eric Emerson with Steptoe. I think the public data do show that imports prices have declined moderately over the POI. I think that's in the public record, but there are a number of reasons that those prices have declined that really have nothing to do whatsoever with import competition.

Mr. Dougan this morning spoke to this issue specifically and I appreciate his raising it, though I don't agree with his conclusion. I think that there is a direct correlation, and other people here on our panel can speak to this as well, a direct correlation between the decline in the price of perhaps the largest input into the production of the subject merchandise, cold rolled steel, over the relevant POI, 2011 to 2014. It's not just the producers that read American Metal Market and see those prices declining. The purchasers sitting in this room are well aware of what is happening with the price of the major input into the production of the subject merchandise.

And so what we see over the course of the POI is purchasers pushing back, understanding precisely what our

cost structure is and requiring our offer prices to reflect the fact that the most significant input into the production of the subject merchandise has declined. Those aren't profits that we're allowed to keep. So, I would also turn that over perhaps to some of the purchasing folks as well. I think they can also speak to our cost structure, frankly, probably as well as we can to help the Commission understand why those prices have declined.

CHAIRMAN BROADBENT: Okay, well, hold that thought. My time has run out, but we can get back to that. Commissioner Williamson?

COMMISSIONER WILLIAMSON: Do any purchasers want to address that?

MS. TAURIELLA: Hi, Marcia Tauriella, Union Pacific. I have purchasing responsibilities for all of our freight car and intermodal equipment so, as you can imagine, I buy a lot of steel every year in the form of our assets. And I can tell you that I do not agree with the assessment this morning that steel is not a large contributor to the cost of a container. I will actually tell you that it is a major component of that.

COMMISSIONER WILLIAMSON: Well, it's not that it's not a contributor to the cost of it, but it wasn't that that was the only or the most important factor.

MS. TAURIELLA: So, as a buyer, I look at those

things when I'm evaluating what I should pay for an asset. And I will tell you that looking over the POI that the price of steel has dropped 25 percent. So, it is reasonable to assume that, likewise, you would see a reduction of price of a container.

COMMISSIONER WILLIAMSON: Okay. Because when I heard it this morning I was wondering is this a buyer's market?

MR. DELOZIER: Kent Delozier with J.B. Hunt. One of the other steps that we've experience and we've learned over the past few years is the purchaser we're able to follow some flexibility and help with the manufacturing working together, buying by larger groups, buying on a more smoother delivery process, so it allows the manufacturers to fill our boxes in when they're having down time. And that is seemed to have given us more of a buyer's help over time that we've learned that we didn't learn when we first started in the market.

COMMISSIONER WILLIAMSON: Okay thank you. Could you clarify that again I'm sorry.

MR. DELOZIER: Okay, being able to buy large volume with a very smooth delivery timeline allows the manufacturer to build on their schedule instead of --an example would be in years past we would want boxes, containers built May through July delivered August through

September.

COMMISSIONER WILLIAMSON: Okay.

MR. DELOZIER: We couldn't pull that off overseas so we went back and asked okay I want this amount build but you can build it through the year and I need delivery so many units per month and that allowed them to keep their factories full and helped me in the purchasing.

COMMISSIONER WILLIAMSON: Okay.

MR. EMERSON: Commissioner Williamson this is Eric Emerson again from Steptoe. If I could add just one last comment on the pricing point. The allegation was made this morning that one significant reason for price declines was that the Chinese producers had caught wind that there was a new entrant into the U.S. marketplace Stoughton and therefore dropped their prices in order to be able to keep Stoughton out of the market.

What you have heard today from this -- this afternoon's panel is that it makes absolutely no economic sense. Stoughton is not a qualified supplier to the majority of the purchasing public here in the United States. It would make absolutely no commercial sense for Singamas or CIMC to cut prices in order to be able to keep out a competitor that's not frankly a competitor. Rather the reasons given by United Pacific tracking the fact that prices track the decline and the major input of the

production of the merchandise and the other reasons given by Mr. Delozier are the explanations here for the price trends that you have seen in the staff report.

COMMISSIONER WILLIAMSON: Okay, thank you. I cut you off was there something else you wanted to add on?

MS. TAURIELLA: I'm sorry are you speaking to me?

COMMISSIONER WILLIAMSON: Yeah.

MS. TAURIELLA: No I'm good thank you.

COMMISSIONER WILLIAMSON: Okay, okay thank you. Okay thank you. Let's see if the Commission were to determine that there is an established domestic dry container industry in the U.S. -- in particular dry container industry in the U.S. what are your principal arguments on why the Commission should not find material injury and also what about that material injury, Mr. Heffner?

MR. HEFFNER: Anyway it's causation. This is a causation case.

COMMISSIONER WILLIAMSON: Okay.

MR. HEFFNER: And I think here we have a situation where there is no price effect because Stoughton is not qualified. J.B. Hunt is the largest purchaser out there and they never purchase anything from them as far as containers. You know how can that affect the price? So what are we talking about here? We are talking about design

issues, we are talking about quality issues, we are talking about delivery issues.

All those break the causal connection between the Chinese product and why they were bought. Even if there was material injury which you know, we are not going to get into that or threat of material injury, there's absolutely no causation here whatsoever.

COMMISSIONER WILLIAMSON: Would you see a difference if there was a threat given the fact that they have the all fully welded now, you have I guess potential other U.S. companies coming in who would also meet the specs that the purchasers are asking for so does that make any difference?

MR. HEFFNER: No, to me again Doug Heffner for J.B. Hunt. That doesn't make a difference between they haven't proved themselves yet. The same factors apply that have applied in the past. Once they are qualified, once -- you know and that could be you know three weeks from now or it could be a year from now, it is going to be a situation at that point whether anything would be rise to a threat level.

But as of right now there is nothing whatsoever that would indicate threat because there is no causation whatsoever.

COMMISSIONER WILLIAMSON: Okay Mr. Schmelder?

MR. SCHMELDER: Yes Mr. Williamson, Bill Schmelder Union Pacific. And our supplier qualification process which we could explain in detail if you like but basically it is at least a year or more once we get the supplier qualified and then we actually get a test order of boxes and run them for a year so it is not an overnight process for us.

COMMISSIONER WILLIAMSON: Okay Mr. Campbell?

MR. CAMPBELL: Thank you Commissioner Williamson this is Jay Campbell, White & Case. I would just add that I understand the hypothetical question but with all due respects there is no reasonable basis on this record to find that a domestic industry is established and all the parties on the Respondent's side agree with that and Stoughton agrees with it as well.

COMMISSIONER WILLIAMSON: Okay I heard you but I still ask the question. The issue of the question is you talk about the qualifications. What if you do have a company that gets established given that you have two strong competitors already in market -- allegations about pricing and the Commerce Department findings, could they ever make it? Because some people laugh at the comparison that there is a potential U.S. company that you know has got to meet the requirements, people have offered that as an affirmative argument.

MR. CAMPBELL: Just again respectfully that's not an issue that's ripe at this point. There is just no basis to find that a domestic industry is established under the department -- I'm sorry the Commission's criteria for determining whether a domestic industry is established.

COMMISSIONER WILLIAMSON: Okay I would think there would be an argument on that, go ahead Mr. Heffner.

MR. HEFFNER: If I could add one more thing along those lines. Just because they made one container at this point that's fully welded that no one has tested, no one has approved, I respectfully say that you know this is not a material injury case but at the same time there is no basis to determine whether there is a threat, thank you.

COMMISSIONER WILLIAMSON: Okay thanks. Thank you for those answers. Table 4, Table 4-4 on page 4-8 the previous staff report presents apparent U.S. consumption. In the post-hearing can you address the sharp fluctuations in the consumption that occurred during the POI. I understand that 2011 was high because it was a recovery from the recession but after that, I almost asked this question this morning.

MR. HEFFNER: Doug Heffner, J.B. Hunt can you explain why your products went up in 2011 because I don't think it's exactly the recession.

COMMISSIONER WILLIAMSON: Okay good.

MR. HEFFNER: That might help you.

MR. DELOZIER: Kent Delozier J.B. Hunt. 2011 was one of the years that we were trying to finish up exiting some of our aluminum plate containers, a large portion of them that were of age and they were time to retire so I was backfilling equipment needs.

COMMISSIONER WILLIAMSON: Okay.

MR. WOODRUFF: I might address also I'm Grier Woodruff from J.B. Hunt and additionally we are seeing movement of freight in the United States from over the road transportation with trucks to intermodalism both in the east part of the country and then transcontinentally so in addition to retiring some of our old-aged equipment and replacing that with the fully welded steel boxes we were also seeing growth in our intermodal product which contributed to larger orders from us.

COMMISSIONER WILLIAMSON: Okay what about the increase in 2014, I think you remember the chart that the Petitioners showed this morning.

MR. DELOZIER: Kent Delozier with J.B. Hunt. 2014 was still a growing year for us so we are still adding to our fleet, we are still making good conversions from truckload freight into railroad freight, more of a demand for us to continue to grow our intermodal fleet.

COMMISSIONER WILLIAMSON: Okay thank you.

MR. CERNY: Jakub Cerney, Hub Group just a quick comment. In 2014 we had one of our largest purchases we have made over the last five years and a big portion of it was deterioration of the rail service that slowed down which ate up some capacity so basically we needed extra containers to cover our growth and make sure to cover our existing business so a portion of the growth at least on the hub styles attributable to worse rail service that we experienced in the prior three years.

COMMISSIONER WILLIAMSON: Didn't you say you were the second largest non-rail?

MR. CERNY: Correct.

COMMISSIONER WILLIAMSON: Does that mean used in trucking?

MR. CERNY: It means private but I don't want -- private means non-government what we mean by private means that it is not a -- we are a publicly held company but we are not a railroad.

COMMISSIONER WILLIAMSON: Okay thank you. Good, anyone else want to address that?

MR. DRELLA: Dan Drella from Schneider I would echo Mr. Cerny's comments in regard to 2014 the polar vortex that hit much of the northern U.S. dramatically slowed the rail networks down in the first half of the year and congestion from other freight commodities slowed them down

as well it was a very difficult rail year so for providers like Schneider and our competitors we needed more boxes in our network to move the same amount of freight because they were spending more time dwelling on the railroads during that period and so we had to advance purchases that would have normally happened in '15 forwarded to '14 just to keep up with the kind of volumes that we moved in prior years.

COMMISSIONER WILLIAMSON: Okay thank you. Your answers were so interesting I didn't realize my time had expired thank you.

CHAIRMAN BROADBENT: Commissioner Johanson?

COMMISSIONER JOHANSON: Thank you Chairman Broadbent. This morning I spoke to the Petitioners regarding the issue of repositioning I want to speak a bit more on that this afternoon. What factors typically contribute to repositioning costs for domestic containers and I guess I should have prefaced that question with this one and that is exactly what does repositioning mean? Yes?

MR. DRELLA: Dan Drella from Schneider. We are repositioning particularly with respect to new containers would mean the cost of moving the container from the delivery point, the manufacturer's delivery point into operation and so for instance it could be from Wisconsin into the Chicago market for a stone box or it could be into the Southern California market or another market for a

Chinese build box.

In terms of the cost drivers, one of the unique dynamics is when you are taking delivery of containers you are getting generally a lot of them, there might be an order of 1,000, 2,000 but it is a lot of equipment in a fairly short window. So if you are taking delivery in Chicago what will happen is you will saturate that market unfortunately at the same time that I am buying particularly my competitors are buying because the market has a similar dynamic so I may be flooding the market as well as Hub as well as Hunt and others.

EMT containers, CSX, UMAX containers and so forth so we saturate a market so I have got the cost of about $500.00 to go up to Evansville and back to Chicago to bring that box in then we saturated the market now what I have done is simple supply and demand economics. I have depressed the price in that market because we are all fighting for that same bear freight to get those boxes, the containers are launched out into the marketplace and so there is a cost there in terms of having to take reduced costs or decided to move them empty, I am going to move them to Texas, I am going to send them to the West Coast empty and pay the railroads that empty cost which could be considerable as well so that's a Chicago delivery contrast.

Now with a west coast delivery particularly if we

can dovetail it into peak season because of all the imports that come into California particularly the L.A. basin there is always more freight than equipment or nearly always more freight than equipment in the market because the imports often trans-load out of the marine boxes into domestic boxes so what we are able to do is by having those boxes delivered into Southern California during peak season we have customers located right near the port areas where we pick up at the port, ship them to those customers they load them it is all Southern California Freight which is the strongest premium freight highest revenue paying freight in the country so I have the choice of a long ray and the depressed rate in Chicago or a short ray and very high revenue in California one is significantly better than the other and so that's where I would like the boxes to deliver most times.

COMMISSIONER JOHANSON: I'm sorry behind you gentlemen?

MR. WATSON: Walter Watson, Union Pacific. So my group is directly responsible for re-positioning and I can tell you that we do have preferences for where we would take delivery. Specifically with Chicago, bringing new equipment into Chicago has its own challenges. There are operational challenges with a hub like Chicago: volume on the railroad network is a big contributor, our train schedules and capacity, from a train perspective, out of

Chicago.

Additionally, in Chicago that market would be more susceptible to weather-related challenges. Contrast that with bringing a new piece of equipment into L.A.: we have more rail capacity -- so we have roughly, for Union Pacific alone, we have roughly 75,000 feet of track space -- as well as about four times the storage on-terminal space for that equipment. It gives us operational flexibility.

From a cost perspective, which is the other big area to move a container, a new container out of Chicago for Union Pacific to another location on Union Pacific's intermodal network, that carries roughly a 20% premium when compared to onboarding a new piece of equipment out of L.A.

So if I wanted to, for example, if I wanted to send a piece of equipment from the city of Chicago to Dallas that will carry about 20% in additional cost. That said, Union Pacific's position is that we are willing to take on those additional impediments and challenges for the right product -- provided we have the right product, because we value supplier diversity, specifically we would like another domestic supplier -- that wouldn't be insurmountable and we would take that on.

But as of today we do not have that.

COMMISSIONER JOHANSON: I'm going to go back again to AICM which Respondents have written on some length,

I believe they are planning to produce in Alabama is that correct? Wouldn't that be an issue for them as well then?

MR. WATSON: Yes. I'm sorry this is Walter Watson from Union Pacific, that would also be a logistics challenge, but Union Pacific's stance is that with the right product that we will entertain that challenge.

COMMISSIONER JOHANSON: Okay yes Mr. Cerny do you want to comment?

MR. CERNY: I just want to comment that yeah it would not be as nearly as desirable a location as Southern California but from Hub Group perspective Memphis is we are probably on board over at Memphis and that is a fairly desirable market for us as well, not as good as California but better than Chicago I guess.

COMMISSIONER JOHANSON: Okay yes Mr. Delozier?

MR. DELOZIER: Kent Delozier at J.B. Hunt the Alabama area as well is not as strong as California for us but we do have Memphis that is a good rail hub for us, Birmingham is a good rail hub for us and also Nashville is not that far so we have some pretty good freight in all those three areas.

COMMISSIONER JOHANSON: All right and I had read somewhere that a part of Houston has become maybe the second or so largest port in the United States in part because containers are being shipped to Long Beach and across the

United States the railroad to Houston then put back on ships and sent elsewhere and that way the ships can avoid the Panama Canal, is that correct?

Because certainly if that container patterns, maybe not.

MR. SHANANI: Mr. Commissioner this is Kiki Shahani and I apologize I did not introduce myself when I made the comments on rivets and welded. With regard to delivery locations West Coast, Chicago, Alabama or Houston in marine containers, as you know, and how we had made statements we buy in smaller numbers. In hundreds specifically and only when there is a requirement for them for a new ship or a new ship capacity they go on ships.

And in our case speaking for Sea Star my client delivery of 53 foot marine containers are required at Jacksonville, Florida. That's where our line haul vessels meet and serve for a recall. I cannot speak for Crowley but I suspect they too would have a preference to one port. The other Jacksonville being where sone of them get off. Stoughton it is quite clear that their delivery cost to Stoughton, Wisconsin to Chicago is shorter but it was not an applicable case in our case.

Our Chinese containers or anywhere else built need to be delivered only at Jacksonville.

COMMISSIONER JOHANSON: All right thanks for your

response. A key contention by Respondents is that welding is a far superior method of container construction as compared to that of mechanical fasteners but are there advantages to using mechanical fasteners and I am asking this because my staff Michael Robbins who is sitting right here next to me worked in the aerospace industry and he informed me that most if not all aircraft fuselages use a significant number of mechanical fasteners so he seems to be of the view that maybe we should be denigrating mechanical fasteners so much.

And I know we are not talking about aircraft here but I think he might have a point, yes Mr. Delozier?

MR. DELOZIER: Kent Delozier with J.B. Hunt. Our experience, we have been in the container market not as long as some of the others but in '93 is when we started with aluminum plate, all mechanically fastened, rivets and the hub fasteners in the base rails and we still operate several thousand trailers that operate with the hub fastener in the base rail, due to cross members.

But over time the 20 year time span that I need them to last in a container we haven't been able to see the life go that far without having a welded piece. We have been seeing degradation in our trailers less than 15 years in the fasteners and the cross members. I have had aluminum containers go to the distance but I also had higher

maintenance cost, total cost to ownership cost compared to the steel containers.

MR. DRELLA: Dan Drella from Schneider. From a point of comparison we certainly have a large basis to evaluate. We have about 8,000 mechanically fastened containers and what we see is about a 2X increase in the cost of maintenance. We see about a 20% increase in the frequency of down time. We expect 99% of our boxes to be available every day which is a very high standard but in the razor thin margins that work in this industry you have to utilize your assets very well or when you find that mechanically fastened boxes are in the shop much more frequently than your welded steel boxes, that becomes a differentiator.

When they are in the shop there is an incremental cost of the chassis that is sitting under it and the payment that you owe a rental company for that and so we have seen just in the maintenance data another point in terms of differentiators is cargo claims. So as we have seen our fleet grow overall we have actually seen a reduction in the number of cargo claims and I was surprised and I'm accountable for that cost area as I scan through the listing of cargo claims for a given period when I see a welded steel box it is a surprise because it is so infrequent that it happens but I see it often with the mechanically fastened

boxes.

I'll reference a claim from last month of $135,000.00 on one load that got wet on a mechanically fastened box because a seam that our driver nor our customer could detect was split and let water in and damaged a load of television sets, high-end television sets and so these costs just continue to compound and I would offer that maybe the differentiator is as you think about the aerospace industry different environment temperatures, stresses and so forth and welding aluminum, and thin aluminum would be used in aircraft virtually impractical versus using mechanical fasteners in that environment so a bit of an apples and oranges situation.

COMMISSIONER JOHANSON: Right I understand and yes Mr. Heffner?

MR. HEFFNER: Just real quickly in our prehearing brief in the Kotler report which was attached to Exhibit 3, page 32 actually gives the wet damaged claims, all that we had looking at aluminum and steel and it is a good comparison because what you are looking at there is the mechanically fastened product versus the fully welded product and you can see as we retired the fully -- the aluminum containers with mechanical fasteners, our wet claims went down dramatically, dramatically and again on page 32.

COMMISSIONER JOHANSON: All right my time is expired so I'm sorry Mr. Cerny I am going to have to let Miss Schmidtlein go now thanks.

CHAIRMAN BROADBENT: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Thank you, I actually had a follow-up question about the Kotler reports. Do -- have any of the purchasers here done that kind of lifecycle cost analysis prior to the creation of that report? In other words the report stated April, 2015 do you all have that type of analysis? Do you do that internally when you are looking at these different containers? Any of you?

MR. DELOZIER: Kent Delozier, J.B. Hunt yes ma'am. We follow that -- I follow it monthly, by all the different makes and models of my equipment.

COMMISSIONER SCHMIDTLEIN: What do you follow monthly?

MR. DELOZIER: The cost, the cost versus the maintenance repair cost and the wet damage cost.

COMMISSIONER SCHMIDTLEIN: So you do something similar to what was done in the Kotler report?

MR. DELOZIER: Yes.

COMMISSIONER SCHMIDTLEIN: Internally, could you put something like that on the record in the post-hearing brief?

MR. DELOZIER: Yes.

COMMISSIONER SCHMIDTLEIN: Confidentially of course and any other purchaser do that type of analysis, somebody in the back I see?

MR. DRELLA: Dan Drella from Schneider. Like J.B. Hunt, Schneider will trend each month to understand our cost by design of container and that is we segment a different numeric series so we can look and say series A are the oldest sheet and post series the newer sheet and post are mechanically fastened. Series C are the welded steel and we will compare and contrast between amongst and understand. We will also measure the maintenance cost per month by again container type.

We will also evaluate down time where we evaluate that based on the equipment turns, that is how many revenue loads per month that haul and various and that is often predicated on the down time that was associated or the desirability as a customer looks at it, I have two boxes sitting, two containers in my yard. I have got this box that had concerns and this box that looks really great, I am going to learn my precious cargo in that one that drives more utilization as well as we evaluate those by series also.

COMMISSIONER SCHMIDTLEIN: And I guess you use that in your purchasing decisions?

MR. DRELLA: We do, we do that ultimately yields

a part of our total cost of ownership.

COMMISSIONER SCHMIDTLEIN: I think there was someone in the back I'm sorry I just can't read the name?

MR. PREVATT: Yes ma'am Vernon Prevatt with CSX Terminals. Our metric is very similar to my colleagues is the maintenance cost per load. We have each series of box categorized and we can track those as they perform loads through the month or through the period and then track that cost associated with owner's repairs which would be typical wear and tear and then damage associated with just movement on the rail or movement over the road out for delivery, so much like my colleagues we track that on a monthly basis.

MS. TAURIELLA: Marcia Tauriella, Union Pacific. We also evaluate that in a similar fashion. As you could imagine, we don't have any of the fully welded steel design that have reached their full lifecycle but what we can state is that the remainder of our fleet, which is not of the fully welded corrugated steel design, in the wet damage claim area which is significant for us, over 90% of those claims are non-corrogated, non-fully welded box or containers.

I can also state, referencing what Mr. Watson said earlier, that we experience maintenance and repair costs of five times those that are non-corrogated steel, not fully welded designs than we do of the newer fully welded

designs that we purchased.

COMMISSIONER SCHMIDTLEIN: Mr.Cerny?

MR. CERNY: Jakub Cerny, Hub Group. We do not track costs or the maintenance costs on mechanically fastened containers because we don't have any. We have never purchased one, we only purchased fully welded containers we know through our external advisers what the cost is so we did the math but not necessarily on our containers.

What we are really concerned about the Stoughton design is the residual value at the end, say 15 years from now if your container that has been on the rail, you know twice a month, sometimes three times a month it is a highly utilized box, our fleet is one of the most utilized in the network and the fastener just become looser over time and if you have a purchaser and he can pick between a fully welded box or a mechanically fastened of the fully welded box and have a higher value at the end of its lifecycle so that was another factor we were also considering.

COMMISSIONER SCHMIDTLEIN: All right did anyone else, one more there I can't see your name plate.

MR. KOTLER: Tony Kotler, Kotler Marketing Group and putting together this TCO analysis that you referenced earlier I mean we did it over a very short period of time but I was impressed that the purchasers in the room supplied

information and did so very quickly and that tells me that they clearly track things like maintenance cost, damage claims as several have said on a regular basis.

I would also say that in addition to some of the TCO items that we were able to quantify and that people track regularly there is very much I think a realization that mechanical fasteners threaten customer relationships, customers don't like the mechanical fasteners and that puts multi-million dollar accounts at risk.

So in addition to the things that we are able to quantify and that these folks look at on a regular basis there is I think very much a sensitivity and awareness that there are some bigger costs at play here so I thought I would just offer that.

COMMISSIONER SCHMIDTLEIN: Okay thank you for that. That's actually not a bad segway to my other point that I want to follow up on with J.B. Hunt. Mr. Delozier I think earlier this morning you correct me if I am wrong but I heard you say that J.B. Hunt is very interested in American supply source.

MR. DELOZIER: Yes ma'am that's correct.

COMMISSIONER SCHMIDTLEIN: And can you tell me when that interest began?

MR. DELOZIER: Well when we first started our container intermodalization it was with all American

suppliers. It was after we started making the switch that all the American suppliers fell out.

COMMISSONER SCHMITLEIN: Right.

MR. DELOZIER: And the only suppliers that remained were the Chinese suppliers.

COMMISSIONER SCHMIDTLEIN: Okay well I guess one confusion, one source of confusion I guess I had was I thought I heard you say that and I also heard you explain this morning, or not this morning, earlier this afternoon that you didn't tell Stoughton that you wanted a fully welded container and that it was and then you explained it was really incumbent upon them to seek out what their customer wanted and so I was slightly confused that if J.B. Hunt was truly interested in having an American supply source why would you put that you know, why would you assume that? In other words why wouldn't you be more forthcoming given that there were no other American companies on the horizon?

Why wouldn't you tell them exactly what you want?

MR. DELOZIER: Some of the relations -- a lot of our business is on relationship. We have done business with a Stoughton company for many years. We run a lot of their equipment until recently -- actually I still own several thousand of their chassis and still run them. Having a lot of confidence in this company we would ask Stoughton for

several years as they alluded to this morning to get back in the container market, to give us an option.

Several of the purchasers in this room we had a lot of battles in '09 and '10 getting equipment into the states due to various reasons.

COMMISSIONER SCHMIDTLEIN: So you were one of the purchasers they referenced in their brief who came to them in '09?

MR. DELOZIER: Yes.

COMMISSIONER SCHMIDTLEIN: Requesting that they try to get back into the market?

MR. DELOZIER: Yes. As we did with the Hyundai group out of San Diego, Tijuana, we wanted them to get back in it if they would. Why I didn't tell them I wanted a fully welded steel container, I wanted them to bring the best they could to me.

COMMISSIONER SCHMIDTLEIN: Okay are the other purchasers, do you have the same sentiment in terms of being -- I know Union Pacific does because I heard you testify to that, being interested in an American source of supply, a domestic source? Mr. Cerny.

MR. CERNY: Certainly and that's why I reached out to Stoughton in February of 2011 kind of you know inviting them, say guys I heard that you are ready to build a container please show me what you have, that's where they

showed us what they had and we said unfortunately this is not advice that we are interested in so we didn't -- we are not among the companies that approach them to start building containers, it wasn't until after we heard that they are getting ready to start production and at that point that's where I didn't know -- look them over and show us what you have and said no this is not going to work sorry.

COMMISSIONER SCHMIDTLEIN: So do you still have quality concerns with Stoughton that persist that preclude you from wanting to do business with them or affect you wanting to do business with them as you sit here today and I would ask that of each of the purchasers so go ahead.

MR. CERNY: Well so far I haven't seen the spec of the new box so I can't really tell you. The one that was in September my major concern was with weight. It showed 10,800 pounds which is 800 pounds over our required tear away which is 10,000 pounds so that still, that particular piece still doesn't mean our requirement but it is really what I have been able to see I haven't seen any detailed spec. I wasn't approached by Stoughton, I wasn't offered any information.

COMMISSIONER SCHMDITLEIN: But I mean the roll out with Norfolk Southern, the issue of reputational competence, does that persist with you?

MR. CERNY: Yes. If I may just a quick

explanation, you have to understand that we have 28,000 containers they are spread through the network from Mexico to North America to Alaska. If there is a problem with a container it is recalled and needs to be fixed. It is extremely complicated for us to get the containers to a particular location where it can be fixed and released back. It is very, very hard, very disrupting to our business.

Our position has been that we only buy proven products so that's another approach that we are taking.

COMMISSIONER SCHMIDTLEIN: I mean my time is up but we can come back to this in the next round, we will come back in the next round and finish up.

CHAIRMAN BROADBENT: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you. Turning to Respondents do you agree with the Petitioner's argument that volume of subject imports from China are likely to increase in the future?

MR. EMERSON: This is Eric Emerson with Steptoe. I think in this case and we put this in our brief I think the volume metric which is obviously so critical in most Commission investigations, in most Commission proceedings, clearly is a little bit less relevant here under the particular circumstances of the case. I think it is really conceded that Stoughton is not in a position yet to satisfy any U.S. demand and so when you look at volume trends for

imports really all you are seeing is just consumption whatever these companies happen to be ordering in a particular year which are driven by their economics, their purchasing cycles, their desire to replace existing equipment and so forth.

So when we take a look at for example the Petitioner's bar charge from earlier today and we see volumes changing over time I think that that is less a reflection of the Chinese Respondent's you know efforts to sell more or less quantity into the U.S. market and really just a reflection of the Chinese Respondents having to satisfy whatever demand happens to be here so I don't -- in terms of whether import volumes are likely to increase or decrease again I think it's really more a reflection of what overall demand looks like in the market.

COMMISSIONER WILLIAMSON: What if there are U.S. producers coming on line who meet the specifications of the domestic consumers how might that affect the volume?

MR. EMERSON: Again this is Eric Emerson from Steptoe. Certainly if we have you know, if which is not in the near term certainly but if we did have domestic producers that were able to set to get their product qualified and were able to sell a commercial quantities of merchandise in the marketplace they would be in competition with Chinese producers at that time and Chinese volumes

could be affected accordingly.

But I think looking over the data over the course of the POI I think again that the volume data you see really is more reflective of satisfying demand rather than a desire by the Chinese Respondents to either increase or increase export volumes.

MR. FERRIN: Yes this is Richard Ferrin on behalf of J.B. Hunt with Drinker Biddle. From a perspective keep in mind that things can only get better from the U.S. standpoint. I mean I can't see how the volume of Chinese product is going to possibly result in a threat.

They already have virtually the entire U.S. market. Stoughton already currently produces almost nothing in the U.S. market. Right now we know that the Chinese capacity utilization is very high and we have also submitted some information on the record pointing out what the Chinese producers capacity trend has been over the period of investigation so you know if there is going to be any direction in what happens it is going to be if companies like AICM or perhaps Stoughton if their new, their latest and greatest box is approved are going to displace Chinese producers, not the other way around.

COMMISSIONER WILLIAMSON: Okay, how might this affect price competition, if those things were to happen, you know if there were more U.S. producers in the market?

MR. FERRIN: In terms of price competition I think it is difficult to say how it is going to affect price competition at this point since at this point it is so early on in terms of what the U.S. producers can make. There's really no data to compare the pricing competition is all between Singamas and CIMC right now.

COMMISSIONER WILLIAMSON: Okay thank you. What about the pre-report on page 4-3 footnote 6 suggests that pronounced increase in the volume of subject containers from China in the 6 months following the filing of the Petition to what do you attribute this increase to?

They have -- some of the domestic purchasers have talked about increase in their demand but I just wondered what you.

MR. DEAN: Commissioner, Paula Dean with NS. From the NS perspective our order was a multiple year order in 2014 awarded to supplement the EP product for growth and replacement of boxes which was done prior to the action from Stoughton.

COMMISSIONER WILLIAMSON: Okay thank you so you just say it's -- delivery schedule is what drove, excuse me, you say the delivery schedule of pre-ordered things is what drove --

MR. DEAN: What I am saying is before the anti-dumping counterveiling action was even known we placed

a multiple year order.

COMMISSIONER WILLIAMSON: Okay thank you.

MR. DELOZIER: Kent Delozier with J.B. Hunt. For J.B. Hunt as well, we place our orders for the next year, we start talking about them in September and usually we get our orders placed for the upcoming year by October so our 2014 order was already placed in October of 2013, we were already working for it and that goes for the full year and the next year we do the same.

COMMISSIONER WILLIAMSON: Okay thank you.

MR. EMERSON: This is Eric Emerson with Steptoe and I would also add just one point that deliveries of the subject merchandise are highly seasonal as Mr. Drella testified there is a desire to make sure that the subject merchandise, domestic containers arrive for example in the Los Angeles port at about the same time that merchandise, particularly for the holiday season is also arriving at the port so that that can be transported across the country so if you take a look at not just for -- not just in the period immediately following the filing of the Petition but in years prior you will find that the delivery of these containers is highly seasonal so I don't know that you can really draw a cause and effect between the filing of the Petition in this case and then an increase in any imports thereafter.

COMMISSIONER WILLIAMSON: Okay thank you. Excuse me, Ms. Boattini?

MS. BOATTINI: Yes, thank you Jennifer Boattini with J.B. Hunt and I just wanted to add one comment to what Kent said and without getting into confidential terms of our contracts with the suppliers I would say that our decision to continue purchasing containers from China even through today is not due to or based upon the terms of our contracts regardless of when we entered into them.

COMMISSIONER WILLIAMSON: Okay thank you. Let's see this for Crowley and Sea Star I was just wondering why you hadn't raised this issue of marine containers being treated separately at the time of the questionnaire.

MR. LUDWIKOWSKI: Thank you Commissioner this is Mark Ludwikowski from Sandler Travis for Sea Star and Crowley. I think the explanation is that originally the marine container importers believed this case was on dry domestic containers so it took a little while before this became known at the Department of Commerce that they were in scope. They did submit their questionnaire responses. They are on the record.

COMMISSIONER WILLIAMSON: Okay thank you. Is there any other and I asked this of the Petitioners this morning, producers of the containers in non-subject producers anywhere? Either in the U.S. or overseas?

MR. SHAHANI: This is Kiki Shahani. If I may clarify is your question are there other manufacturers of 53 foot containers domestics or marines in the United States or in China?

COMMISSIONER WILLIAMSON: Or elsewhere.

MR. SHAHANI: Or elsewhere -- to the best of my knowledge there are two that we know CIMC and Singamas in China. Stoughton has built prototypes of domestic, none of the marine 53 that I know of. And I have heard about AIMC working this way forward to produce containers and they are focusing. My discussions with them were on the domestic containers not marine.

COMMISSIONER WILLIAMSON: Okay.

MR. SHAHANI: And there is a talk that I heard in the industry that there is a manufacturer in Korea thinking of building 53 foot. Once again domestic primarily simply because the volumes quantities of orders for 53 domestics is significantly larger than those of the marines.

COMMISSIONER WILLIAMSON: Okay thank you.

MR. AZZO: Yes this is John Azzo with Crowley Maritime. The preliminary conversations that we have had with AIMC is that their focus of their going to production is going to be excuse me on the domestic containers rather than on the marine containers.

COMMISSIONER WILLIAMSON: Okay thank you, thank

you for those answers.

MR. LUDWIKOWSKI: Commissioner this is Mark Ludwikowski one more time, I just wanted to add one more point on the questionnaire responses. The fact is also that there is no domestic production so there is no data to report from the domestic side. As far as the imports it is pretty easy to extrapolate from the questionnaires that are already on the record. They are limited to two companies. Basically limited among data to be extrapolated from those imports.

COMMISSIONER WILLIAMSON: Okay thank you.

COMMISSIONER JOHANSON: Thank you Chairman Broadbent, I have just one more question and this is for any of the parties. Does responsibility for future maintenance costs ever play a part in negotiating purchase contracts? Yes, Mr. Delozier?

MR. DELOZIER: The maintenance costs for future contract, Kent Delozier with J.B. Hunt I'm sorry, state my name. Maintenance cost is a factor in purchasing absolutely and the way that J.B. Hunt views it is a total cost to ownership, so we are looking at every aspect of it.

Anything that puts it out of service, it can't be used, it can't be loaded it has to be repaired so the total cost to own it from the time I receive it until the time I can get rid of it.

COMMISSIONER JOHANSON: Does that ever play a role in contracts? Is that mentioned in contracts?

MR. DELOZIER: It is going to be in the negotiation of the pricing because we will be looking at the total cost of ownership by each of the manufacturers that could provide.

COMMISSIONER JOHANSON: All right, yes?

MR. HOFFMAN: Thank you Michael Hoffman, FedEx Freight. I think to your question warranty and the duration of that warranty and what it covers is the typical point of negotiation with any fleet equipment purchase so the extent to which repairs or defects are warrantable is certainly an element of the responsibility for that maintenance cost, thank you.

COMMISSIONER JOHANSON: All right Mr. --

MR. DRELLA: Dan Drella from from Schneider National. I would make a comment that warranty is a critical component of the negotiations varying by component of the piece of equipment but certainly the owner will negotiate for a longer warranty period to cover any potential defects and mitigate that cost of maintenance.

COMMISSIONER JOHANSON: In any potential contracts with Stoughton I assume you all had discussed warranties and I guess that's perhaps confidential that having been the case.

MR. SCHMELDER: Bill Schmelder, Union Pacific. Mr. Johanson we have not gotten that far with Stoughton yet because they have not met our specification -- that is the first step, then we do supplier qualification, then we would do a request for purchase and eventually get to contract negotiation which would include definitely warranty as FedEx has spoken to, but there is a process to get there.

COMMISSIONER JOHANSON: Mr. Drella and Mr. Cerny after that.

MR. DRELLA: Dan Drella for Schneider National. Because Stoughton was unable to meet our specification of fully welded steel box as well as a 100 plus inch wide box we never got to the contract discussion phase.

COMMISSIONER JOHANSON: Okay yes Mr. Cerny?

MR. CERNY: Yes same here, we never got to discussing any pricing on the home contracts or warranties.

MR. DEAN: And Paul Dean from NSCS we do get warranting not only from a manufacturer but for the paint product as well.

COMMISSIONER JOHANSON: Was that an issue in the contract you had before?

MR. DEAN: It has not been an issue with them.

COMMISSIONER JOHANSON: Okay yes?

MR. SHAHANI: Yes Mr. Commissioner this is Kiki Shahani again. In our case in dealing with Stoughton we

didn't go that far as I stated earlier we had issue with their delivering the number of containers required and the numbers that we needed for our new ship and also they were not able to meet our specifications.

I do remember however that they had offered us one year warranty but we didn't discuss that further because it was an academic issue. On the containers that we have purchased in China, 53 foot marine containers, we have two year warranty, five year on paint to a scale of RE3 which is a level of corrosion, 10% described in the standard which is used quite commonly in Europe but is used universally at least used in the marine container industry universally.

So RE3 level of corrosion of five years and the decals, the names and the numbering on all of those are warranteed for 9 years. I want to remind you and all of the Commissioners that we work in the marine environment quite differently than inland domestic containers do and as a result our specifications for paint and decals and indeed the container structure warranty are a little more stringent because of the environment in which they operate and the extra loads and stresses that the containers see on the ships.

COMMISSIONER JOHANSON: All right yes Mr. Dean?

MR. DEAN: I would just like to clarify something. On all of the containers we purchased we have a

warranty for the container as well as the paint, not just for Stoughton and we have never had an issue with that with them supporting.

COMMISSIONER JOHANSON: All right well thanks for your responses that completes my questions. At the end of the morning I said it had been very informative and a very short morning, this afternoon was not as short, I don't attribute that to the witnesses, it is just the time of day but I do thank you all for being here today I found it very informative.

CHAIRMAN BROADBENT: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Yeah things do tend to start to seem a little long, 4:45 but I did want to finish with the final questioning that I had pursued in the last round which was this question about the purchasers that are here today continue to have concerns about Stoughton's quality and I know Mr. Drella you were going to say something so I will let you speak to that.

MR. DRELLA: Dan Drella for Schneider thank you. Certainly we continue to have concerns, the most recent opportunity we had to look at the most recent generation Stoughton container of which we are aware was October, 2014. They brought one of their units to Green Bay for us to view and we did a literal physical side by side comparison between one of the CIMC boxes and the Stoughton box.

We had one of our engineers the primary trailer engineer participated in any evaluation and did a write up following that. He identified a couple of key areas that were of significant concern so at the top of the containers is what we call lift pocket and that was a shoebox size metal box that is used to lift the container. When loaded that's about a 50,000 pound lift at four small points.

The gusting inside of that what is substantially less than what we find in the CIMC box which means it has less area to distribute that stress as it is being lifted and so we are concerned about the long-term viability there and we have seen in older containers within our fleet those lift points fail because of repetitive stress over time and that's a big deal and when those fail from the safety perspective in terms of potentially dropping on somebody or dropping cargo but also from the cost standpoint a major component so that was one.

I mentioned earlier in my testimony that there were concerns about fittings where we attached the chassis in the front of the container there are two pins that lock it to the chassis and Stoughton is using a fabricated steel ring inside of a post rather than a casting as is used in the CIMC container so what we believe will be a less durable solution over time.

As we looked at the panels on the container we

saw waves in the panels where they were fastened between the side and the corner post replacing what had been one of the bolt lines and the stresses that are placed on a container during its cycle time during the loading forklifts with heavy product going in and out, being lifted off the chassis and set on the train, having another 50,000 pound container being set on top of it and traveling perhaps 2,000 miles or more being lifted again and all those cycles puts a variety of stresses downward, upward, side to side in a parallelogram fashion and so forth.

By seeing panels that already appear to have deflection in a -- I'll call it a best case prototype model gave us cause for concern that over time we would see distortion in having about 17,000 containers in our fleet in a given period of months, we kind of see it all in terms of the kinds of sorts of things that happen to containers in recycle of use so seeing that already said there is a weak point, there is a suspect point that feels like it is going to give us trouble.

And our engineering agreed that that was again another trouble spot and so -- and then finally the prototype that was brought to us was a 99 inch wide container and this is a critical point. So a DOT restricts us to 102 inches on the outside, we want to get to 100 inch on the inside and the primary reason is many of our shippers

ship in trailers.

The trailers are 101 inches wide and the customer ultimately says why can't you get me a trailer that I can experience with your container, what is the issue there? I want to be able to load that box in the same way that I do in the same number of pallets, the same configuration, I don't want to have to cut pallets and so forth, restack product so we want to get to that hundred plus inch wide interior.

So what that means is if you have 102 inches to the outside and over 101 inches to the inside what you are getting to is off an inch on either side keeping in mind that has to carry 40,000 pounds of product and carry a 50,000 pound container on the roof.

You had asked a question earlier before about intellectual property and the amount of engineering that goes into it. There is a tremendous amount of finite element analysis engineering that goes into making sure that the box can do that for two or three cycles a month for 12 to 15 years without a material failure, without a substantial or catastrophic failure.

And so as we looked at those components and saw what appeared to be less quality in those critical areas it gave us pause and recognizing right now the stone boxes about an inch and a half on the other side, to cut that to

half of that thickness and still carry that weight, lifting and on a compression, that's a big deal and that's a big change and Stoughton has not provided that prototype yet.

We have discussed it as early as February 24th of '11 with them the need for that and they had ideas of how they would do that but to this day that prototype has never materialized.

COMMISSIONER SCHMIDTLEIN: And I assume that you communicated all of these different concerns that you found to them?

MR. DRELLA: My primary point of contact in doing that is my predecessor from Schneider so he negotiated early contracts with Stoughton as well as CIMC for containers recognizing and ordering 100 plus inch wide boxes. He is now my contact at Stoughton, he is highly cognizant of that as being a Schneider requirement.

COMMISSIONER SCHMIDTLEIN: Do you, you know Stoughton points out in its briefs that apparently during a prelim staff conference you testified that there were quality concerns with one of the Chinese suppliers in terms of at least one thing was buckling of the side panel and that you had worked through that with them and apparently the product had improved through that redesigned process? Do you recall this?

MR. DRELLA: Yeah that was an issue that was

another company's box. I don't believe that we have had that problem. We had one small retrofit that they provided the parts for but we haven't had any chronic problem with panel buckling within our fleet.

COMMISSIONER SCHMIDTLEIN: So there wasn't a supplier that you had to look through while talking with and --

MR. DRELLA: There was one container and it was a fairly small fix that CINC covered under the warranty program.

COMMISSIONER SCHMIDTLEIN: Did anyone else?

MR. HEFFNER: Doug Heffner for J.B. Hunt. I just want to make the point that when we saw the prototype for Stoughton in 2011 and got cold feet because of the quality problems --

COMMISSIONER SCHMIDTLEIN: Are you speaking for all the Respondents here?

MR. HEFFNER: No, just J.B. Hunt.

COMMISSIONER SCHMIDTLEIN: Oh just J.B. Hunt, okay.

MR. HEFFNER: Sorry, when they got cold feet because of the quality and design issues at that point basically we heard back from Stoughton in 2012 and then everything went cold, nothing happened after that so J.B. Hunt moved on. In our questionnaire response we go into

details about us working with another supplier, another U.S. supplier and there are details on the record about that it is confidential and we can't get into that but it suffices to say that that company provided us with -- they came to us and said we are going to provide you with a fully welded container and there are lots of details in the questionnaire response and follow up from Commission Staff on that about where we are in that, thank you.

COMMISSIONER SCHMIDTLEIN: Thank you and I would invite you to respond to this point that they have raised about having discussions in 2012 and then nothing happening so I would invite you to respond to that if you have something to say.

MS. TAURIELLA: We would like to speak on this, I would like to address -- Marcia Tauriella, Union Pacific. I would like to address your earlier question regarding willingness to continue to work with Stoughton. So Union Pacific has been very clear in its process and it starts with compliance with the specification. We have not seen that, until recently, that Stoughton has been willing to do that.

But what I can say is that you mentioned reputation and concerns about quality. Yes, Union Pacific does have those same concerns, but our willingness and desire to have a domestic -- a viable domestic supplier is

very great and year over year, despite those challenges and despite the fact that they continued to respond with a product that did not meet our specification we have continued to pursue them.

Recently in late 2014 they responded with a product that on paper meets our specification and I can tell you that it further shows our willingness to continue to work on the development of a viable supplier in the domestic market because we are actively right now and we are in the process that they referenced this morning of scheduling site visits to look at their newest prototype.

We are going to evaluate the quality of that prototype and that design as well as the quality of the manufacturing facility and the processes. We will look at their quality control measures. We want to make sure that we are going to get a reliable product. I understand that people stumble. If you went to buy a car and you saw that somebody had a ton of recalls it would give you some concerns but our desire to have a domestic supplier is very great and as a result we are continuing to push along.

If we continue through this process and we deem that they have passed all of our preliminary testing, our intention is to enter into an agreement to purchase prototype units for testing on the road. If they are successful in that process, they will be approved to

participate in our bids and be a viable supplier for commercial quantities.

I could tell you though, we have concerns because our commercial quantities are well in excess what their capacity is planning to be well into the future and so even if we pass this test with them, and even if they are approved, they are going to have to step up on the production side in order to become commercially viable with us and probably many of the other Respondents.

COMMISSIONER SCHMIDTLEIN: Does anybody else want to add? Mrs. Boattini if I am pronouncing that right I'm not sure.

MS. BOATTINI: Thank you Jennifer Boattini with J.B. Hunt and I just want to echo a lot of what she just said and so I will keep it brief but J.B. Hunt is likewise dedicated to having a domestic supply for these containers and we have been -- it dates back to September of 2011 when we were willing to pay $20,000.00 to move forward to help Stoughton with tooling and to have a prototype built for us at that point.

And as Stoughton has confirmed today it was not us that walked away from that situation it was Stoughton, Stoughton they say proactively came to us and said we are not ready, we can't do this for you. You need to wait for generation two and it is important to keep in mind that what

happened between September of '11 and July of '12 to understand why we didn't move forward after July of '12.

Between September of '11 and July of '12 the NS problems became very known to everyone. The -- we had our own bad experience with the chassis that also we have a list of the concerns and problems from October of 2011 where chassis, the Stoughton chassis were inspected.

We also asked Stoughton at some point after Stoughton walked away and said you need to wait on generation two we asked them you know who else has placed orders with you for generation two and the answer to that question was no one. And at that point given the history of problems and all of the circumstances J.B. Hunt was not willing to be a guinea pig for Stoughton for generation two.

But even more importantly after that, after they offered generation two and we had cold feet, Stoughton simply didn't -- they failed at that point to do anything to help us overcome those concerns and to regain our confidence in Stoughton. You have heard testimony here today about the complete lack of any effort to market and to come in and explain to us why a container with mechanical fasteners would be as good as the fully welded container, or what they have done to overcome the problems that they experienced within us.

COMMISSIONER SCHMIDTLEIN: Okay thank you very

much. I have one more question but if you want to, I don't know if -- no? You too, go ahead.

CHAIRMAN BROADBENT: Yeah I mean following up on that line of questioning can I see a show of hands of who would want a domestic supplier, who puts a value on the diversity of supply in this sector?

And I guess what my question would be for the record if each of you as purchasers of -- this is sort of a red, white and blue American company. I mean I don't think we have ever had this many big American companies here, if you could sort of estimate what the risk to your enterprise is of having to be totally dependent on one country for these boxes.

I mean is there -- in business how do you estimate that? Could you just give us an order of magnitude of whether that is a serious problem or a non-serious problem? And that's my last question, Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: My question actually had to do with something you said Ms. Boattini about the contracts, the contracts that are entered into and you said they are entered into not based on the terms of the contract and I know that that was an abbreviated answer I think but what did you mean by that exactly?

MS. BOATTINI: I'm sorry Greer told me I should

expect another question --

COMMISSIONER SCHMIDTLEIN: but I did go to law school.

MS. BOATTINI: But I am sorry I wasn't more clear. I was responding to I think a question about an increase in imports maybe since this Petitioner I mean since this Petition was filed and Kent had talked about how we would have already entered into contracts for the deliveries in '14 and I was simply trying to clarify that.

Our decision to continue purchasing containers and importing containers from China and paying the deposits was not due to any of our contractual terms and I think the question was asked earlier this morning about whether the purchasers contract terms obligated them to continue purchasing that might be the reason why and I don't want to get into the confidential terms of our contracts and we can address that in post-hearing briefs but I did feel comfortable saying that our decision to continue purchasing was made without regard to our contract terms.

COMMISSIONER SCHMIDTLEIN: Okay and that was the question I had. In the staff report if you look at page Roman number VII-XI it has -- it's confidential but the imports that have been arranged from China for 2015 so I'm not even talking about 2014 but this upcoming year and so my question is is again this is all bracketed, you know if the

purchasers here have entered into contracts for delivery in 2015 if you could answer that question yes or no in the post-hearing and do those contracts give you the ability to cancel?

If not, you know for any reason are there specified reasons so if each of the purchasers could address that I would be curious what the situation is there.

And with that I don't have any further questions so thank you all very much.

COMMISSIONER JOHANSON: My apologies I said a minute ago I had already asked my last question but Miss Boattini a comment you made sparked another question in my mind and I might add I can be smart at 8 but other than that I'm not in a big hurry so but I don't think this question will take to 8. I'm curious you stated Miss Boattini that J.B. Hunt would prefer domestically produced container and then Commissioner Broadbent asked a question and basically everybody in the room raised their hands and said that you would prefer to have a domestically produced container available to you.

Exactly why is that the case? I should say I'm glad I think it's good for the U.S. economy perhaps if these are produced in the United States but I have a smart phone here, in fact I have two of them up here and I think everybody in this room probably has a smart phone and I

don't think any smart phones are produced in the United States although we all use them every day, they are very integral to our lives, I think that they were talking about producing them in Fort Worth, Texas I don't know if that ever got off the ground or not but why is it so important to have these products produced in the United States, yes Miss Tauriella?

MS. TAURIELLA: Yes Union Pacific would like to speak. So I would like to talk to you a little bit about the risks associated with offshore sourcing because I think that will help answer your questions. So there are some inherent offshore sourcing risks and I am sure you are very familiar with them, things like exchange rates, inclement weather, long lead times, lack of quality control and people on the ground to control the production. Those are all things that are inherent in any offshore sourcing.

Specific to this industry though, one of the big areas of concern is the fact that although offshore, we have a very limited supply base, only two container manufacturers that service this market and meet our specification -- those two container manufacturers, this is a fraction -- a fraction of a fraction probably -- of their total business. Their core business is international marine containers, 20 foot and 40 foot, what we refer to as ISO containers.

At any point in time this business could not be

attractive to them, we could be competing with that capacity and as others have referenced earlier, we saw this in 2010 where there was a difficult time being able to get them hence leading to folks like NS having to place these orders for non-preferred containers. That is critical to our operation.

Another area that is very unique to this situation and you may have seen this if you are following in the news, but we have had significant port congestion in the past year and a half. I personally and I know this got raised earlier, but I can speak on behalf of Union Pacific and state that we have four vessels sitting in the port right now with my already manufactured and shipped containers for 2015 waiting to arrive and have been there for some time.

We can't get them in and we are missing revenue, we are missing business opportunities and it is impacting our customers. That is a risk associated with offshore sourcing. We would not have that risk had we had an onshore supply chain so you know that also addresses your concern about the contract terms and such. We don't have to worry about cancellation in our contracts, they are manufactured and waiting for us to take delivery.

COMMISSIONER JOHANSON: Okay to be devil's advocate but I guess that's part of the job. If every

company in the room would prefer to have a domestic source as well as a foreign source why are there none?

MS. TAURIELLA: What I can state is that until now none of them have met, for us at Union Pacific, we have not had a Respondent that has provided us with a design that met our specification. Our process is very clear, when we do get a submission from them, and we go out every year looking for these opportunities, we evaluate them through our supplier approval process which is very lengthy and then they become viable suppliers. There are only two manufacturers that have passed that process to date solely due to the fact that they meet our specification, not even to do with all the other parts of that process. Those are the two Chinese manufacturers.

When Stoughton came to us recently with a product that met our design or at least on paper meets our design we immediately followed that process. AICM, who was referenced also came to us with a product that met our design. Immediately, two weeks after their prototype was done, we had a team there to evaluate. That is our process we are committed to this.

COMMISSIONER JOHANSON: Yes Miss Boattini?

MS. BOATTINI: Yes thank you. I would just say we are very close to having one and that is a U.S. supplier that is and that is as a result of discussions that have

been ongoing and that began prior to this Petition being filed and we are working towards one. I can't speak other than what has already been said today as to the reasons why Stoughton has not stepped up to produce it.

COMMISSIONER JOHANSON: All right thank you I appreciate your responses.

CHAIRMAN BROADBENT: The Commissioners have no further questions, does staff have any questions?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you Madame Chairman staff has no additional questions.

CHAIRMAN BROADBENT: Do Petitioners have any questions for this panel?

UNIDENTIFIED SPEAKER: No Madame Chairman we have no questions.

CHAIRMAN BROADBENT: Okay thank you in that case I want to thank this panel for their testimony and I will dismiss you now.

With that we will come to closing statements. Those in support of the Petition have 3 minutes from direct and 5 from closing for a total of 8 minutes. And those in opposition have 2 minutes from direct and 5 from closing for a total of 7 minutes. As is our custom we will combine those times, you don't have to take all of your time.

CLOSING REMARKS BY JEFFERY LEVIN

MR. LEVIN: Thank you Madame Chair, thank you Commissioners once again Mr. Dougan of Economic Consultant Services and myself will both do our closing and rebuttal. Jim would you like to start please.

MR. DOUGAN: Sure Madame Chairman and Commissioners most of my comments are in the way of rebuttal. Mr. Levin will be handling the closing statement. I just want to address briefly and I can talk about it more and this is in response to a question from Commissioner Williamson about the reasons for the price declines and so on and Singamas has made the argument about how tight the direct correlation is with steel but as part of that discussion it sort of came out that purchasers here you know they said well we read American Metal Market and we know that steel prices have come down and you know we are going to extract that.

We are going to negotiate the prices down. The Chinese producers aren't buying their steel in Chicago they have access to subsidized steel and because of this and their other unfair trading the prices probably have come down, definitely have come down more than any market based trends would suggest. Now if there had been a third party non-subject country container coming in, sold on a fairly traded basis we would have a comparison point but we don't so it is difficult to judge the decline as anything other

than being driven by obviously the price decline being extracted by what purchasers can negotiate and by the unfair trading of the subject imports.

With regard to the panel today and the standards and the question as to whether a fully welded box as the industry standard there was -- it was interesting because customers on the one hand are saying this is a specialty product, it is highly engineered, it is customized to their specifications. It needs to be you know of a certain height, the door needs to be put together in a certain way, all of these dimensions and materials all of these are highly specified, highly engineered.

On the other hand everybody knows it is de facto. We may not say it, we may not tell them we did not feel the need to communicate this but everybody knows that every connection needs to be welded and that there should be no fasteners there. Those things are -- there's a tension between those two that spec is very important it is revealed in that a spec provided by some of these purchasers was highly detailed and in some cases did include exactly a requirement for a fully welded connection but that was not, was not universal and in some cases when there are communications as presented in Petitioner's pre-hearing brief when the variances were observed and pointed out, customers said well that's okay we will take the other's

back, that's fine.

Mr. Delozier said that it is not our job to educate Stoughton and it's almost as if providing specifications to a supplier was some sort of onerous burden but Stoughton went back to them, there's a letter on the record where they say look that email you sent us with that bullet points on what you need it is not complete, please send us your complete specifications, those were never sent.

So all of that sort of flies in the face of their being an understanding and it is interesting in something that is highly customized and very highly engineered that it is sort of incumbent upon someone who would just automatically know of a de facto standard.

Levin do you want to go ahead?

MR. LEVIN: Are you done?

MR. DOUGAN: I have a little more but why don't you go ahead.

MR. LEVIN: Fair enough Jim. First of all I just want to start out by thanking Commissioner Johanson and Mr. Robbins for what you had stated before. The image of Rosie the Riveter had come up several times in our discussions for fun and it's absolutely true it's used in the aerospace industry, it is probably used in the international space station as well.

But that aside, the argument was not we are

telling -- Stoughton is telling its customers what's best for them use partly mechanical fasteners that's better for you. The point is as we said this morning as is the central issue of contention here, was this actually communicated? I still have yet to see any documents, any contemporaneous documents.

Anything aside from references to the preliminary conference transcript to their own questionnaire responses and presumably as we will see in the post-hearing brief citations to today's hearing as support for what was communicated and what was not communicated.

But that aside what emerged this afternoon is that this "standard" for fully welded container is actually it is a de factor standard, it is not really there, it is not something that we should have put in specifications. In fact a witness even indicated yeah I probably should have put that in, that's an oversight that we did not indicate that.

And in fact as we see some of the market relationships to the extent that it is an industry standard, well it is until it is not really necessary to be an industry standard and we have seen instances of that before.

There was a remark made that Stoughton went into the steel welded containers using the same design that they

did for their aluminum sheet and post containers. No, that's not true we talked several times this morning about the 97% reduction in mechanical fasteners when Stoughton moved from the aluminum sheet and post containers to the steel welded containers so it is far from the same design that was used.

Right at the end here I want to make one point, we have heard a bit we have heard a bit from the Congressman this morning. We are hearing from some of the potential purchases if an order goes into effect the economic difficulty that this is going to cause and the travesties and the delayed deliveries and all of that sort of stuff, I would like to suggest to the Commission respectfully, whatever economic cost may stem from that and we think it would be minimal because there will be production capacity coming online. There will be new manufacturers coming online.

But to the extent that there is an economic cost resulting from any shortages, that should rightly be balanced against the economic benefit of real actual manufacturing jobs that will be created. This is a rare instance where if the opportunity is provided to the industry to compete on fair ground, jobs that don't exist today will exist, about 450 for Stoughton and the multiplier effect is exacted upon the communities in which these 450

families live and that is not even including whatever additional U.S. manufacturing jobs are created by other market entrants based here in the United States.

And with that and again we thank the Commission for its attention and we respectfully submit that the evidence of record supports an affirmative determination in these investigations, thank you.

COMMISSIONER BROADBENT: Thank you.

CLOSING REMARKS BY JAY CAMPBELL

MR. CAMPBELL: Hello again this is Jay Campbell. The totality of the record evidence points to one conclusion. Stoughton alone is responsible for its inability to establish a domestic container business. Stoughton did not have a comprehensive business plan. Stoughton submitted projections but there is no evidence of the record of any market analysis or research that went behind those projections.

Stoughton did not have a marketable product and Stoughton was not equipped to service the market. Let's start with fully welded. Fully welded containers have been the industry standard ever since the Chinese containers set that standard in the mid to late 2000's, everyone knows this. Purchasers accounting for nearly all domestic containers in circulation reported this in response to questionnaires.

Industry consultants like Charlie Green have submitted a statement on record certifying to this, attesting to this fact and AICM plan to come to the market with a fully welded container. The only one who didn't notice apparently is Stoughton and that is all you need to know. There is no excuse for Stoughton's failure to recognize the market standard.

Union Pacific's specifications made this crystal clear and you have heard from testimony today that other purchasers informed Stoughton of this requirement. Despite this Stoughton pleads ignorance and blames customers for not putting Stoughton on clear notice of the requirement but this is no excuse.

It's Stoughton's job to meet the needs of the market, not the other way around. If Stoughton had conducted reasonable efforts to engage with customers and understand their needs they would have come to the market with a fully welded container. Instead Stoughton designed a container that continued to use mechanical fasteners much like its trailers and aluminum containers from before.

Stoughton also did little to promote its product in the marketplace. Stoughton's testimony today about its customer outreach does not square with the questionnaire responses from purchasers or the testimony that you heard today. For example Jakub Cerny from Hub testified that

basically as of February 2011 its contact from Stoughton have been nil.

Maybe in Stoughton's mind it did enough to reach out to the market and market its product but what matters is the customer's view and the customers have reported Stoughton's efforts fell short.

Let's also talk about interior width. Stoughton also neglected J.B. Hunt's and Schneider's requirement for a wider than 100 inch interior. Not J.B. Hunt and Schneider are two very large purchasers in the market and they made this requirement abundantly clear. How could Stoughton ignore them? Again it comes down to Stoughton's lack of planning and a fundamental misunderstanding of the market.

There's a pattern here. Stoughton is focused on its production capabilities and not the needs of its customers. Another example, Michael Hoffman of FedEx testified that FedEx gave Stoughton it's specification for a light gauge post and Stoughton came back and said we will give you a container with a heavier gauged post.
Again there is a pattern here.

Customers are giving Stoughton their requirements and Stoughton is not meeting those requirements. On top of all of this there is other issues that have been noted that customers have detected in Stoughton's container design. Union Pacific for example rejected Stoughton's failure to

use corrugated panels and Hub's constructual issues with Stoughton's sidewall and door design.

Stoughton points to the 400 containers in serve with Norfolk Southern and Universal Truckload as evidence that its containers work with no issues. Now with respect to Norfolk Southern Paul Dean testified that the containers that even after repair were too heavy for use in Norfolk Southern's flagship intermodal program. Mr. Dean also testified that the maintenance cost for the Stoughton containers after repairs are 112% higher than the maintenance costs for the Chinese fully welded containers.

These containers are not issue free. Stoughton also points to universal truckload, this is a very small purchaser in the market and one purchaser's experience cannot outweigh the evidence of the general market as a whole.

Now it's kind of odd that Stoughton says that its product was fine and worked well if customers had simply tested it because Stoughton at the same time concedes that Chinese containers are generations ahead and argues that customers should have been willing to work with Stoughton to "improve the basic designs and produce a quality product which truly meets the needs of trade".

As you have heard in testimony today, customers want a U.S. source of domestic containers and are willing to

work with Stoughton and others to help them develop a business but purchasers are not willing to invest in the time and effort to field test a container that fails to meet their basic requirements.

Stoughton's container failed to meet this test. Stoughton also blames its import prices for its lack of commercial sales, this is its key argument but a new entrant cannot make commercial sales until its container has been qualified. Stoughton only has itself to blame for failing to make a container prototype that meets the customer's basic design requirements.

As Jakob Cerny of Hub testified in this regard, Hub never even entered into a price discussion with Stoughton because of this fact. In fact all of the press related evidence on the record corroborates the conclusion that purchasers rejected Stoughton's container for non-price reasons. This evidence includes the questionnaire survey data which show that purchasers consider non-price factors to be more important than price and overwhelmingly rated Stoughton as inferior with respect to these non-price factors.

Large majorities of purchasers also reported that Stoughton's container is never interchangeable with subject imports and rarely or never meets minimum quality specifications. The bid data and responses to lost sale and

revenue allegations also confirm that purchasers rejected Stoughton's containers for non-price reasons as discussed in the Respondent's briefs.

And the Kotler total cost of ownership study shows the purchasers would have rejected Stoughton's container even if it was priced lower than subject imports. On top of all of this there is clear evidence as more additional clear evidence that Stoughton's containers are seen in the market as inferior and not substitutable with the subject imports.

Purchasers have continued to order excuse me the Chinese imports even after the preliminary imposition of duties as high as 100% when the AD and CBD duties are combined. We haven't even gotten into service issues Stoughton's problems are not limited to its whole product design.

Stoughton also lacks the capability to produce sufficient volumes and make timely delivery. Stoughton has been silent on this issue. The Norfolk Southern Disaster reinforced customer's concerns with Stoughton's reliability as a supplier. Again responsibility for this rests with Stoughton.

The great irony here is that through the conduct of this investigation Stoughton has effectively done the market research that it should have done before and it is

now undertaking measures to address the flaws in its product design and limitations on its capability to service the market.

Although it remains to be seen whether Stoughton will be able to resolve customer's concerns, U.S. purchasers would no doubt like Stoughton to succeed but Stoughton's belated actions now do not excuse its missteps during the POI. In light of the failures of Stoughton's failures during the POI, Stoughton's performance is not worse than what could reasonably have been expected.

Stoughton is not materially injured and subject imports were not the cause of any material retardation, thank you.

CHAIRMAN BROADBENT: Thank you Mr. Campbell. I want to express the Commission's appreciation to everyone who came today. Your closing statement, post-hearing briefs, statements responsive to questions or requests of the Commission and corrections to this transcript must be filed by April 23, 2015.

Closing of the record and final release of data to the parties will be on May 11, 2015. Final comments are due on May 13th and with that this hearing is adjourned, thank you.

(Adjourned 5:34 p.m.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: 53-Foot Domestic Dry Containers from China

INVESTIGATION NOS.: 701-TA-514 and 731-TA-1250

HEARING DATE: 4-16-2015

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 4-16-2015

SIGNED: Mark Jagan

Signature of the Contractor or the Authorized Contractor's Representative

_____

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Gregory Johnson
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Larry Flowers
Signature of Court Reporter