

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
CERTAIN STEEL NAILS FROM )  
KOREA, MALAYSIA, OMAN, TAIWAN, )  
AND VIETNAM ) Investigation Nos.:  
701-TA-516-519 and 521 and  
731-TA-1252-1255 and 1257  
(FINAL)

**REVISED AND CORRECTED**

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Place: Washington, D.C.  
Date: Thursday, May 14, 2015



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THE UNITED STATES  
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF ) Investigation Nos.:  
CERTAIN STEEL NAILS FROM ) 701-TA-516-519 and 521  
KOREA, MALAYSIA, OMAN, ) 731-TA-1252-1255 and 1257  
TAIWAN, AND VIETNAM ) (FINAL)

Main Hearing Room (Room 101)  
U.S. International Trade  
Commission  
500 E Street, SW  
Washington, DC  
Thursday, May 14, 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

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1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Meredith M. Broadbent (presiding)

5 Vice Chairman Dean A. Pinkert

6 Commissioner Irving A. Williamson

7 Commissioner David S. Johanson

8 Commissioner Rhonda K. Schmidtlein

9

10 Staff:

11 William R. Bishop, Supervisory Hearings and Information

12 Officer

13 Sharon D. Bellamy, Program Support Specialist

14

15 Fred Ruggles, Investigator

16 Gerald Houck, International Trade Analyst

17 Lauren Gamache, Economist

18 Mark Klir, Accountant/Auditor

19 Nataline Viray-Fung, Attorney

20 James McClure, Supervisory Investigator

21

22 Opening Remarks:

23 Petitioner (Adam H. Gordon, Picard, Kentz & Rowe LLP)

24 Respondents (Ned H. Marshak, Grunfeld, Desiderio, Lebowitz,

25 Silverman & Klestadt LLP)

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1 APPEARANCES (Continued):  
2 In Support of the Imposition of  
3 Antidumping and Countervailing Duty Orders:  
4 Picard, Kentz & Rowe LLP  
5 Washington, DC  
6 on behalf of  
7 Mid Continent Steel & Wire, Inc.  
8 Fernando Villanueva, President and Chief Executive  
9 Officer, Mid Continent Steel & Wire, Inc.  
10 Chris M. Pratt, Controller, Mid Continent Steel & Wire,  
11 Inc.  
12 Peter M. Cronin, Corporate Vice President, Sales and  
13 Marketing, Heico Wire Group  
14 James M. Miller, Vice President, Corporate Development,  
15 Tree Island Steel  
16 John W. Martin III, Chief Executive Officer, Mar-Mac  
17 Inc.  
18 Daniel W. Klett, Principal, Capital Trade Inc.  
19 Adam H. Gordon, David A. Yocis and Jordan C. Kahn - Of  
20 Counsel  
21  
22  
23  
24  
25

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1 Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP  
2 Washington, DC  
3 on behalf of  
4 Taiwan Respondents  
5 Mona Zinman, Consultant, Retired President, Itochu  
6 Building Products Co., Inc. Co-Chief Executive  
7 Officer, Prime Source Building Products, Inc. and  
8 Co-Chief Executive Officer of Progressive Steel &  
9 Wire, Inc.  
10 Brian C. Becker, Ph.D., President, Precision Economics,  
11 LLC  
12 Ben Grieser, Senior Consultant, Precision Economics,  
13 LLC  
14 Andrew Mohrmann, Senior Consultant, Precision  
15 Economics,  
16 LLC  
17 Jennifer A. Bressler, Department Merchandising Vice  
18 President, Hardware, The Home Depot  
19 Marguerite Trossevin, of Counsel, Jochum Shore &  
20 Trossevin, PC  
21 Max F. Schutzman, Ned H. Marshak and Andrew T. Schutz  
22 - Of Counsel  
23  
24  
25

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1 In Opposition to the Imposition of  
2 Antidumping and Countervailing Duty Orders (continued):  
3 Perkins Coie LLP  
4 Washington DC  
5 on behalf of  
6 Oman Fasteners LLC (Oman Fasteners)  
7 Steve Karaga, President, Oman Fasteners  
8 Aaron Joseph Leffler, Vice President, Sales and  
9 Marketing,  
10 Hitachi Power Tools  
11 Michael P. House, David S. Christy, Jr. and David J.  
12 Townsend - Of Counsel  
13  
14 Kutak Rock LLP  
15 Washington, DC  
16 on behalf of  
17 Building Material Distributor, Inc. ("BMD")  
18 Ken Ippoliti, National Affairs Manager, BMD  
19 Lizbeth R. Levinson - Of Counsel  
20  
21 Rebuttal/Closing Remarks:  
22 Petitioner (Adam H. Gordon, Picard, Kentz & Rowe LLP)  
23 Respondents (David S. Christy, Jr., Perkins Coie LLP)  
24  
25

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## 1 P R O C E E D I N G S

2 CHAIRMAN BROADBENT: Good morning. On behalf of  
3 the U.S. International Trade Commission, I welcome you to  
4 this hearing in Investigation Numbers 701-516 to 519 and  
5 521, and 731-1252 to 1255 and 1257, involving steel nails  
6 from Korea, Malaysia, Oman, Taiwan and Vietnam.

7 The purpose of these investigations is to  
8 determine whether industry in the United States is  
9 materially injured or threatened with material injury by  
10 reason of less than fair value imports from Korea,  
11 Malaysia, Oman, Taiwan, and Vietnam of certain nails, by  
12 reasons of imports of steel nails that are subsidized by  
13 governments in those five countries.

14 Documents concerning this hearing are available  
15 at the public distribution table. Please give all prepared  
16 testimony to the secretary and do not put it on the public  
17 distribution table. All witnesses must be sworn in by the  
18 secretary before presenting testimony.

19 I understand that the parties are aware of time  
20 allocations, but if you have any questions about time,  
21 please ask the secretary.

22 Speakers are reminded not to refer to business  
23 proprietary information in their remarks or answers to  
24 questions. Please speak clearly into the microphones and  
25 state your name for the record so that the court reporter

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1 knows who is speaking.

2 Finally, if you will be submitting documents  
3 that contain information you wish classified as business  
4 confidential, you are requested to comply with Commission  
5 Rule 201.6.

6 Mr. Secretary, are there any preliminary  
7 matters?

8 MR. BISHOP: No, Madam Chairman.

9 CHAIRMAN BROADBENT: Very well. Let us proceed  
10 with opening remarks.

11 MR. BISHOP: Opening remarks on behalf of  
12 Petitioner will be by Adam H. Gordon, Picard, Kentz & Rowe.

13 CHAIRMAN BROADBENT: Welcome, Mr. Gordon.

14 OPENING REMARKS OF ADAM H. GORDON

15 MR. GORDON: Thank you very much. Good morning,  
16 Madam Chairman, members of the Commission and Commission  
17 Investigative Staff. My name is Adam Gordon from Picard,  
18 Kentz & Rowe, counsel to Mid Continent Steel & Wire,  
19 Incorporated.

20 Mid Continent and other members of the domestic  
21 industry are here today seeking relief from unfairly traded  
22 imports for the third time in eight years, facing the same  
23 parties in opposition that we have seen in each of the past  
24 two cases. It's impossible not to think of Yogi Berra and  
25 say that this is deja vu all over again.

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1           It's clear, if you look back at the witness list  
2 in both the China and the UAE case will find both Hitachi  
3 and Prime Source appearing in all three cases in  
4 opposition, as well as BMD appearing in the China and the  
5 current set of cases.

6           That we are here again today does not reflect an  
7 inability of the domestic industry to operate efficiently,  
8 to produce a full range of the highest quality products or  
9 to serve its own market segments or an industry that has  
10 decided to seek government protection because it can't  
11 stand on its own.

12           Our appearance here today, just three years  
13 after the completion of the antidumping investigation of  
14 imports from the UAE, is a function of specific actions  
15 taken by a group of U.S. distributors who have developed a  
16 particular affinity for unfairly traded imports and an  
17 aversion to fair competition in the domestic market.

18           Just as they moved from China to the UAE  
19 following imposition of that antidumping order, with the  
20 imposition of antidumping duties on the United Arab  
21 Emirates, these distributors abandoned ship and moved to  
22 the countries under investigation here today.

23           During the final hearing in the UAE  
24 investigation, then Chairman Okun asked Prime Source's  
25 co-CEO, who is scheduled to testify this afternoon, why its

1 actions should not be considered serial dumping. I suggest  
2 that the same question would be appropriate to ask today of  
3 the distributors who will testify this afternoon.

4 As our panel will discuss in detail, the  
5 evidence before the Commission satisfies every statutory  
6 criteria and supports an affirmative determination of  
7 material injury for all five countries.

8 The volume of subject imports increased from 34  
9 percent of apparent domestic consumption in 2012 to over 41  
10 percent in 2014.

11 To do this, subject imports repeatedly reduced  
12 prices and vastly undersold the domestic industry  
13 throughout the period.

14 The impact of these actions was the same as it  
15 has been in the past. After a brief improvement with the  
16 completion of the UAE case, subject imports surged into the  
17 market. In an environment of increasing demand, the  
18 industry was only able to maintain its market share by  
19 chasing import prices down.

20 Imports from the subject countries took over,  
21 took the volumes put under order in the UAE case and then  
22 some. Unit values dropped across the period  
23 notwithstanding the fact that demand increased  
24 significantly as the economy and housing market continued  
25 to recover.

1           The industry's financial performance  
2 deteriorated again, and operating income was at levels as  
3 low as or lower than the levels observed in the China and  
4 UAE cases.

5           Employment, which increased in anticipation of  
6 improvements with both -- with both China and the UAE under  
7 order, fell by 20 percent from 2013 to 2014. Domestic  
8 producers have continued to exit the industry.

9           These are not indicia of health. They are  
10 indicia of an industry pushed to the limit and barely  
11 breaking even.

12           Against this backdrop of facts on the record, it  
13 is truly remarkable to read the Respondents' prehearing  
14 briefs and learn that the industry is a picture of health  
15 and that any challenges it faces are its own fault.  
16 Respondents offer the same arguments they made in both the  
17 China and the UAE cases, that the domestic industry doesn't  
18 supply the full range of product the market demands, that  
19 the domestic industry does not produce under private  
20 labels.

21           Well, they offer one new argument, claiming that  
22 Mid Continent is the price leader in the market and was  
23 responsible for declining prices.

24           As you can see from the Staff report, however,  
25 these assertions are at odds with the evidence that has

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1    been gathered.  The domestic industry continues to produce  
2    the full range of products that the market demands.

3                   The domestic industry does substantial amounts  
4    of private label production.  And the evidence shows that  
5    Prime Source, not Mid Continent, is the price leader in the  
6    market.

7                   The Staff did an excellent job of developing  
8    detailed evidence on each of these points.

9                   Our panel this morning will testify in detail  
10   concerning these and other issues and will look forward to  
11   the Commission's questions.  We are confident that at the  
12   end of the day, despite the Respondents' repeated efforts  
13   to cast dispersions on the domestic industry and muddy the  
14   waters with questionable claims, the record will speak for  
15   itself, and that an affirmative determination will be fully  
16   supported.

17                   As a final matter, let me note for the record  
18   that we have a display table with a variety of product  
19   samples in front of us.  These samples are intended to  
20   illustrate part of the range of products and packaging that  
21   are produced by the domestic industry and sold through  
22   various channels.

23                   We've have also included several examples of  
24   subject merchandise from the subject countries.  We will  
25   refer to these samples at several points during our

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1 testimony and invite the Commission and Staff to examine  
2 them and ask any questions that may arise. Thank you very  
3 much for your time and attention.

4 MR. BISHOP: Opening remarks on behalf of  
5 Respondents will be by Ned H. Marshak, Grunfield,  
6 Desiderio, Lebowitz, Silverman & Klestadt.

7 OPENING REMARKS OF NED MARSHAK

8 MR. MARSHAK: Good morning. I am Ned Marshak of  
9 Grunfield, Desiderio, counsel to Taiwan Respondents. In  
10 the morning session, the domestic industry will focus on  
11 three themes. Serial dumping, nothing has changed, and  
12 domestic mills are ready, willing and able to sell all of  
13 the nails, all U.S. consumers will ever need.

14 This afternoon, our clients' customers and their  
15 customers will provide a detailed rebuttal to these  
16 arguments.

17 Right now I would like to briefly summarize the  
18 fundamental flaws in the domestic industry's case. First,  
19 Petitioner alleges that we are guilty of serial dumping.  
20 This is a catchy phrase, full of evil connotations.

21 But allegations of serial dumping have no place  
22 in U.S. antidumping duty law.

23 U.S. law is remedial, it is not punitive. This  
24 Commission can reach an affirmative determination against  
25 nails from the five countries subject to investigation if

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1 and only if exports from these countries have materially  
2 injured the domestic industry.

3 As recently as March 2012, Mid Continent  
4 acknowledged that we were the good guys. Thus, the  
5 Commission should confine its analysis to conditions of  
6 competition in this industry in the last three years, since  
7 2012, when our clients were for the first time accused of  
8 being evil doers.

9 Simply stated, the lingering effects of injury  
10 caused by nails exported from China in 2008 and the UAE in  
11 2012 cannot be the basis for an affirmative determination  
12 on nails exported from five other countries in 2015.

13 Second, Petitioners allege that nothing has  
14 changed. Here the facts speak for themselves. The data  
15 tells the story. Domestic shipments, production, capacity  
16 utilization profits are all up. The industry has expanded.

17 The industry leader, Mid Continent, continues to  
18 dominate the pallet nails market that now is owned by  
19 Deacero, a large Mexican multinational, which supplies Mid  
20 Continent with wire and wire rod and complements Mid  
21 Continent's American-made nails with nails made in Mexico  
22 sold under Mid Continent's Magnum brand name.

23 Finally, Petitioner argues that American mills  
24 are ready, willing and able to sell all types of nails in  
25 virtually unlimited quantities, but have been unable to do

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1 so because we dump.

2           Again, we ask the Commission to look at the  
3 record and listen to our customers who will testify today.  
4 In reviewing the data, several questions should be asked  
5 and answered. Does any domestic mill or even all domestic  
6 mills combined ready and able to supply over 400 SKUs, many  
7 of which are hand-derived nails in 1- and 5-pound boxes, to  
8 2000 Home Depot stores located in every corner of the  
9 United States?

10           Prime Sources created a 28-state, 35-warehouse  
11 distribution network to service its national mass  
12 merchandise market. Can this very significant market be  
13 serviced from domestic mills? We recognize that Mid  
14 Continent's Magnum brand is the leading name in the pallet  
15 nail market. But is this brand truly competitive with  
16 Paslode, Hitachi, Stanley, Bostitch, Senco and Grip Rite  
17 brand nail guns and nails in the collated construction nail  
18 market? And is competition in a branded nails market, when  
19 the Commission considers prices charged for these branded  
20 products at the same level of trade, be based on price?

21           Are many of these branded nails sourced offshore  
22 by the same companies which continue to make these nails in  
23 the United States? And if so, do these mills move  
24 production off shore because of our clients' acts between  
25 2012 and 2014?

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1                   Many customers want to buy nails in private  
2 label packaging. Is Mid Continent really willing to supply  
3 private label packaging to all of these customers in the  
4 quantities they desire, especially when it is at the same  
5 time trying to build its Magnum brand name?

6                   The answer to these questions will be important  
7 factors to consider in this case.

8                   Finally, nails may be a commodity product, but  
9 as counsel for Mid Continent advised Department of Commerce  
10 at its April 16, 2005 public hearing, and I'll quote, "to  
11 say that nails is not specialized product is simply not  
12 true. There are literally thousands of different types of  
13 nails, each of which is highly specialized features and  
14 it's intended for different uses. They're as specialized  
15 product as anything."

16                   We agree, in this highly specialized industry,  
17 there is room for domestic mills to realize healthy profits  
18 by producing nails to satisfy certain market segments. And  
19 there is room for competition among well-known national  
20 brands for construction nails used in branded nail guns.  
21 And there is room for private label brands, and there is  
22 room for sales to Home Depot and Lowe's stores located all  
23 over the United States.

24                   Where there is no room and what is not needed  
25 and what will not return production to the United States

1 are antidumping and countervailing duty orders on nails  
2 from the five countries under investigation at this time.

3 Thank you.

4 MR. BISHOP: Would the first panel, those in  
5 support of the imposition of antidumping and countervailing  
6 duty orders, please come forward and be seated.

7 Madam Chairman, all witnesses on this panel have  
8 been sworn.

9 CHAIRMAN BROADBENT: Welcome. You may begin  
10 when you're ready.

11 STATEMENT OF ADAM H. GORDON

12 MR. GORDON: Thank you very much. Good morning  
13 again. For the record, I am Adam Gordon of Picard, Kentz &  
14 Rowe, appearing today on behalf of Mid Continent Steel &  
15 Wire.

16 With me are my colleagues, David Yocis and  
17 Jordan Kahn of Picard Kentz and Mr. Dan Klett of Capital  
18 Trade Incorporated. Our panel includes industry witnesses  
19 from our different domestic producers. With us this  
20 morning to my left is Mr. Fernando Villanueva, Mid  
21 Continent's president and CEO, Chris Pratt, behind me, Mid  
22 Continent's controller, John Martin, chief executive  
23 officer of Mar-Mac, Inc., Peter Cronin, corporate vice  
24 president, sales and marketing of the Heico Wire Group, and  
25 James Miller, vice president, corporate development of Tree

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1 Island Steel.

2 I will begin our testimony this morning by  
3 addressing a number of the legal issues in this  
4 investigation, followed by our industry witnesses.  
5 Mr. Klett will conclude our affirmative testimony by  
6 addressing certain economic and data issues.

7 My comments this morning will address like  
8 product, the domestic industry, cumulation and several  
9 claims made by the Respondents concerning the range of  
10 products produced by the domestic industry, its production  
11 of private label products, price leadership and a few  
12 comments on threat.

13 First, with respect to like product, we believe  
14 that the Commission should continue to find one like  
15 product coextensive with the scope as defined by the  
16 Commerce Department. The Respondents conceded this issue  
17 during the preliminary phase investigation, and no  
18 challenge has been made in this final phase investigation.

19 Second, the Commission should continue to  
20 cumulate imports from all five countries in this final  
21 investigation as it did in the preliminary investigation.  
22 The Respondents also do not challenge this.

23 Third, with respect to domestic industry, we  
24 believe that no basis exists to exclude any members of the  
25 industry from the overall analysis. While certain members

1 of the industry are related parties, the record does not  
2 demonstrate any basis to exclude any of them for purposes  
3 of this final investigation.

4           The Respondents do not argue that any of these  
5 parties should be excluded, though they do assert that the  
6 financial performance of one industry member should be  
7 excluded from the analysis.

8           This is clearly a results-driven argument, and  
9 we believe that no basis exists to exclude any member of  
10 the industry from the financial or trade data compilations.

11           The performance of the industry varied over the  
12 period, and including all of the producers' experiences  
13 will yield the most accurate picture of the industry before  
14 the Commission.

15           Fourth, as they did in both of the prior two  
16 investigations, the Respondents have argued that the  
17 domestic industry does not produce the full range of nails  
18 that they need. As the Staff recognized in the  
19 questionnaires, this could mean two things. First, that  
20 the industry does not produce every single kind of nail in  
21 existence, and second, that the industry does not produce  
22 the full range of nail types that the market demands.

23           The Staff gathered data to examine both ideas.  
24 In both cases, the evidence disproves the Respondents'  
25 contentions. Only 26 percent of responding purchasers

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1 indicated that certain types of nails or SKUs are available  
2 only from certain countries. Nearly all of the types of  
3 nails that they identified as being of limited  
4 availability, such as wire coil nails, hot-dipped  
5 galvanized nails, stainless steel nails and pallet nails,  
6 are unquestionably available from U.S. producers. Indeed,  
7 we have examples of many of them on the display table  
8 before us.

9           Moreover, fully 75 percent of the responding  
10 purchasers stated that certain types of nails are not  
11 available only from certain countries. In other words,  
12 three-quarters of the responding purchasers reported that  
13 all grades, types and sizes of nails are available from all  
14 country sources.

15           The second inquiry allows the Commission to  
16 evaluate the real demands of the market by asking about the  
17 ability to supply needed SKUs as opposed to every single  
18 type of nail, no matter how uncommon.

19           Here again, the data show that the domestic  
20 industry offers what the market needs. In fact, more  
21 purchasers stated that the domestic industry, the U.S.  
22 industry, can supply all needed SKUs than the industries in  
23 any of the other countries.

24           In short, notwithstanding the claims made by the  
25 two Respondents here today, the market recognizes, the

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1 market recognizes, that the domestic industry is fully  
2 capable of supplying what the market needs.

3 Fifth, on the issue of private label production,  
4 the record establishes that the domestic industry actively  
5 produces private label products. Five out of the 12  
6 domestic producers reported receiving requests for private  
7 label production and reported that up to 16 percent of  
8 their 2014 production was for private labels.

9 Mid Continent is a significant producer of  
10 private label production, as Mr. Villanueva will discuss.  
11 Only 14 purchasers reported any difficulty obtaining  
12 private label product, giving reasons such as longer lead  
13 times, unacceptable minimum quantities and a producer's  
14 desire to promote its own brand.

15 As we have discussed in our prehearing brief,  
16 these are very valid business reasons for any producer to  
17 hesitate to produce private label product.

18 I would also note that purchasers claimed to  
19 have challenges sourcing private label product from both  
20 U.S. and foreign producers, as well as from large U.S.  
21 distributors. I would note that on the table in front of  
22 us, we have many examples of private label packaging that  
23 is produced by the domestic industry for various customers.

24 Next I will turn to perhaps the only new issue  
25 raised by the Respondents in this investigation, the claim

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1 that Mid Continent is the price leader, and hence was  
2 responsible for leading prices down and for any injury to  
3 the domestic industry. Here again, the data simply do not  
4 support this claim. As the Staff report shows, Prime  
5 Source was identified as the price leader far more than any  
6 other firm.

7 Mid Continent was certainly identified as a  
8 price leader as well, but the associated comments show that  
9 many purchasers see Mid Continent as a price leader in  
10 raising prices or in reacting to other pricing changes  
11 initiated by other parties, and not in lowering them.

12 As a final matter, I would like to touch briefly  
13 on the issue of threat. As we discussed in our prehearing  
14 brief, substantial evidence supports a threat determination  
15 as well as a determination of present material injury. I  
16 would like to focus on one element of the threat analysis,  
17 namely the ability to shift production from other products.

18 Both Taiwan and Korea have very significant  
19 roofing nail industries. Roofing nails are simply one form  
20 of nails and are produced on the same equipment. They are  
21 collated in the same way as well.

22 Any producer of roofing nails could shift  
23 production to the nails covered by these cases merely by  
24 changing out the dies and tooling in the nail heading  
25 machines.



1           With that, I will conclude my comments and turn  
2 to our industry witnesses, starting with Mid Continent's  
3 president and CEO, Fernando Villanueva.

4           STATEMENT OF FERNANDO VILLANUEVA

5           MR. VILLANUEVA: Good morning. My name is  
6 Fernando Villanueva, and I am the president and CEO of Mid  
7 Continent Steel & Wire. I joined Mid Continent last  
8 October and took over full responsibilities in December,  
9 when the company's founder, David Libla, retired.

10           By way of background, I have a degree in  
11 industrial and systems engineering, as well as an MBA. I  
12 moved to Missouri and joined Mid Continent last fall after  
13 over 20 years working with wire and wire products at our  
14 parent company, Deacero.

15           Mid Continent is the largest producer of steel  
16 nails in the United States. We produce a wide range of  
17 nails that are used in construction and to make pallets and  
18 crates. We sell all over the country from our plant in  
19 Missouri and our warehouse in California.

20           My job as Mid Continent's president is simple,  
21 to take a great company and make it even better.

22           Mid Continent has always been committed to U.S.  
23 manufacturing, and that commitment, that commitment has not  
24 changed.

25           We are continually looking for ways to improve

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1 and expand our product offerings and to offer and serve our  
2 clients' needs.

3           We are also continually working to be as  
4 efficient as we can be, and to offer the highest quality  
5 products and customer service in the industry.

6           If anything, that focus has increased since Mid  
7 Continent was acquired by Deacero. In fact, we are in the  
8 process of moving several collated nail lines from  
9 Deacero's nail mill in Mexico to Poplar Bluff, so we can  
10 expand manufacturing and employment in Missouri.

11           Like every other U.S. nail producer, Mid  
12 Continent has been severely tested over the past eight  
13 years by repeated waves of unfair imports. As I believe  
14 should be apparent by now, Mid Continent will defend our  
15 markets and our industry from unfairly traded imports, as  
16 we are doing again today.

17           I am testifying today because my company is  
18 being harmed by a third round of serial dumping and serial  
19 injury. A small number of large distributors and importers  
20 have chosen to rely on dump imports to support their  
21 business models. They have been very aggressive about  
22 driving prices down in order to gain market share.

23           Over the past three years, we watched as the  
24 price leaders in the market, particularly Prime Source,  
25 reduced prices and increased imports from the countries now

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1 under investigation.

2 This is not fair competition. Twice now we have  
3 successfully challenged this behavior exactly as the law  
4 permits. Each time we obtain relief. First against  
5 imports from China, and then against the UAE.

6 These distributors have abandoned the suppliers  
7 placed under order and moved to another country or group of  
8 countries.

9 As I prepared for today's hearing, I reviewed  
10 the transcript from the final hearing in the 2012 case  
11 involving imports from the UAE. I was surprised, surprised  
12 by the testimony of several of the large U.S. distributors  
13 when they openly told the Commission that they were already  
14 shifting imports away from the UAE and over to the  
15 countries that are now under investigation.

16 If these distributors had imported nails at fair  
17 prices, we will not be here today. We have never claimed  
18 that imports should not have a place in our market. Any  
19 product that competes fairly has a place in the market, as  
20 we welcome competition on that basis.

21 As we know, however, these distributors, like  
22 the other large distributors who have chosen to rely on  
23 dump imports, do not appear capable of controlling their  
24 behavior in the market. Instead of pricing imports fairly,  
25 they lead prices down as they try to gain market share,

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1 forcing Mid Continent's and other domestic producers to  
2 follow or lose volume.

3 Over the past three years, since the UAE word  
4 went into place, Mid Continent was forced to react, again  
5 and again, to price reductions led by Prime Source and  
6 other importers. This was the only way we could maintain  
7 our volumes and market share.

8 This pattern, which is the same as we have saw  
9 in the cases against China and the UAE, has led to the same  
10 result, our financial performance, which improved slightly  
11 when the UAE order took effect, deteriorated again and  
12 remains very poor.

13 It is impossible to look at the industry's  
14 performance over the past three or even eight years and  
15 conclude that it is healthy.

16 In this regard, it is important to recognize  
17 that over the last three years, demand for steel nails has  
18 been growing as the U.S. economy continues to recover from  
19 the severe effects of the 2008-2010 global recession.

20 The housing market, which is the single biggest  
21 demand driver for steel nails, has recovered somewhat.  
22 Though the recovery has been uneven and overall levels  
23 remain significantly below historical averages.

24 However, Mid Continent's performance and the  
25 performance of our industry as a whole has been decoupled

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1 from the performance of the economy and the housing market.  
2 This is unnatural and is purely the result of the latest  
3 wave of imports that rushed into the market after the order  
4 was imposed in the UAE case.

5 I believe it's very important that the  
6 Commission consider the entire business cycle as it makes  
7 its decision in this case. The last time our industry was  
8 not injured was in 2005, before the wave of imports from  
9 China arrived.

10 Since that time, imports from China, then the  
11 UAE and now from the countries under investigation have  
12 continually harmed our industry.

13 When the China AD order went into effect, the  
14 industry and my company saw some improvement in the market,  
15 before the company had completely made the switch to the  
16 UAE imports.

17 Along the same lines as the UAE case was in its  
18 final stages, we again saw some improvement in the overall  
19 market, exactly as the law intends.

20 This improvement was the result of both the  
21 impending trade reliefs and the improvements in the U.S.  
22 economy and the residential construction market.

23 The improvements we saw, however, did not last  
24 as imports from the five countries under investigation  
25 increased significantly and were being sold at lower and

1 lower prices. As the UAE case was ending, Mid Continent  
2 worked hard to grow our production volume and to use more  
3 of our capacity and be more efficient.

4 For example, we added a third shift at our plant  
5 in Missouri and made plans to invest in new equipment.  
6 Because of the surge in imports from the countries now  
7 under investigation, the only way we were able to grow our  
8 volume was by chasing the import pricing as prices went  
9 down and stayed down.

10 This severely reduced our margins and rate of  
11 return. When we realized that import volumes from these  
12 countries were not going to slow down and that pricing was  
13 not going to improve, we were forced to cut back to two  
14 shifts, again at our Poplar Bluff facility, which is the  
15 level at which we operate today.

16 We also had to cancel and/or postpone plans to  
17 upgrade and add equipment in our facilities because we  
18 simply could not justify the expenditures, given the  
19 uncertainty in the market.

20 By the end of 2014, however, we have reached the  
21 limit, the limit of our ability to delay many needed  
22 upgrades and repairs without having long-term negative  
23 consequences for our company.

24 At the end of this year, we announced a \$5  
25 million investment project that will ensure that we

1 continue to have the ability to provide the high quality of  
2 products and customer service that our customers expect and  
3 demand from us.

4 Let me discuss the work we are doing for a  
5 moment, because it is a very big focus of the briefs filed  
6 by the Respondents.

7 All of the investments we're making are intended  
8 to reduce our costs and increase the quality of our  
9 service. We will be upgrading existing machinery, both  
10 electrically, mechanically, so we can run at high  
11 productivity and with less overtime.

12 We will be repairing and restoring existing  
13 machinery that is out of operation, so we can reduce our  
14 labor overtime and costs. Also, as I mentioned a moment  
15 ago, we are moving production equipment from Mexico to  
16 Poplar Bluff, so we will make more nails closer to our  
17 customers and reduce freight costs.

18 All of this work has been delayed over the past  
19 several years, given the uncertainty of the market, caused  
20 by unfair traded imports.

21 However, it is not prudent to delay these  
22 investments any further without impacting our operations.

23 I know that the Respondents have made a great  
24 deal out of these investments, claiming that they show that  
25 Mid Continent is flourishing.

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1           I must disagree. These investments have to be  
2 made if we are to continue serving the market and our  
3 customers in the long run.

4           Ours is a global business, and many overseas  
5 competitors have invested significantly to build production  
6 capacity just for the U.S. market. Oman Fasteners is a  
7 good example of this.

8           In order for Mid Continent to remain  
9 competitive, these investments are mandatory at this time.  
10 While we know that we need to make these investments, we  
11 are doing so with real, real concern, concern about the  
12 future of the market in light of the harm being caused by  
13 imports from the five countries under investigation.

14           Over the period of investigation, the increases  
15 in low-priced imports from the subject countries made it  
16 impossible for us to obtain an adequate return on our  
17 investment.

18           In the first quarter of 2013, we began to see  
19 increases in our raw material costs that led us to the  
20 difficult decision to try to raise prices 5 percent in  
21 March and April, only to see lower and lower prices from  
22 imports from the countries now under investigation.

23           Every month we left our price increase in place  
24 we lost orders, until we were forced to roll back prices  
25 back in July by the full 5 percent. Even then, our order

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1 volume remained much lower than before. In fact, our order  
2 volume in the second half of 2013 was 16 percent lower than  
3 it was in the first half, despite the fact that the market  
4 as a whole was growing and demand was up.

5           These poor market and pricing conditions  
6 persisted into 2014, until we filed these cases. After the  
7 Commission issued its preliminary determination, we were  
8 able to see some modest improvements in both pricing and  
9 volume across the board.

10           Prices slowly improved into third and fourth  
11 quarter of last year. We have continued to see some  
12 improvement in the market this year, as you could expect.

13           If this case result in orders on the five  
14 countries under investigation, we anticipate additional  
15 improvements for both our company and the industry as a  
16 whole.

17           Before finishing my testimony, I would like to  
18 comment on the issue of private label production. Mid  
19 Continent produces very substantial amounts of nails under  
20 private labels for its customers. There is an important  
21 part of our business, and we are willing and able to  
22 accommodate private label requests. Of course, the  
23 business has to make sense for my company, just as it would  
24 for any other company.

25           We have reported our percentage of private label

1 production in our questionnaire response. More  
2 importantly, we have calculated the actual volume of our  
3 private label production in our prehearing brief.

4 As you can see, it's a very substantial amount.

5 As a final matter, let me say that on behalf of  
6 Mid Continent Steel & Wire, our more than 400 employees and  
7 myself, we appreciate the time and hard work the  
8 Commission's Staff put into these cases. We do not expect  
9 or want to be back here just three years after winning the  
10 UAE case, and we appreciate the Commission's effort --  
11 efforts to help us address the injury caused by this most  
12 recent round of unfairly traded imports.

13 I will be happy to answer any questions you may  
14 have. Thank you very much.

15 MR. GORDON: Thank you, Mr. Villanueva.

16 Mr. Cronin.

17 STATEMENT OF PETER M. CRONIN

18 MR. CRONIN: Thank you. Good morning. I am  
19 Peter Cronin, the corporate vice president, sales and  
20 marketing, of the Heico Wire Group. Davis Wires is one of  
21 the Heico Wire Group companies, and until this year,  
22 produced steel nails in Pueblo, Colorado. Like the other  
23 members of this panel, I have been involved in the wire and  
24 wire products industry for many years.

25 As I testified at the Staff conference last

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1 year, I have witnessed many changes in the U.S. nail  
2 industry over the course of my career. Most significantly,  
3 I have witnessed an industry with dozen of significant  
4 producers become reduced to a small handful, most of whom  
5 are a fraction of what they once were, largely due to  
6 imports.

7 Over the past eight years, I have been struck by  
8 the willingness of large distributors to rapidly shift  
9 their production sourcing from country to country, each  
10 time our government imposes duties on unfairly traded  
11 imports.

12 I have been involved in several trade cases on  
13 behalf of my company over the course of my career, and in  
14 my experience, this pattern of behavior is very unusual.

15 The repeated import surges have had a highly  
16 detrimental effect in the U.S. industry. Many  
17 long-standing venerable U.S. producers have exited the  
18 industry or closed plants over the past eight years.  
19 Nearly all of those that are left are operating at a  
20 fraction of their capacity. In fact, my company's nail  
21 plant is the latest victim of the untenable conditions in  
22 the market.

23 Going back 20 years, a nail mill in Pueblo,  
24 Colorado, employed about 22 workers. Our mill produced  
25 26,000 tons annually, included a coating line and

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1 galvanizing line.

2 Over the past eight years, the repeated waves of  
3 low-priced imports created market conditions forcing us to  
4 reduce our operations. Because of low-priced imports, we  
5 eliminated product lines and only produced those nails  
6 where we could make a profit, such as pull barn nails,  
7 spikes and other less common nails.

8 When we did not have profitable orders, we were  
9 forced to idle our lines and switched our workers to other  
10 jobs.

11 Eventually on March 31 of this year, we closed  
12 the Pueblo plant and consolidated the wire operations in  
13 our other facilities.

14 When we did this, we closed the nail mill  
15 permanently and sold our equipment.

16 Our decision to shut down our Pueblo facility  
17 was not made lightly. Our plant in Colorado traced its  
18 heritage back to 1881, and our nail mill had operated since  
19 1895.

20 The imports that have harmed the U.S. market and  
21 our industry have affected not only U.S. operations but our  
22 Canadian operations. Until May 2014, our sister company,  
23 Sivaco, located in eastern Canada, supplied bulk nails to  
24 the North American market. Principally because of the  
25 market conditions caused by unfair traded imports, we

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1 exited the bulk nail production and sales at Sivaco.

2           The latest floods of imports have entered the  
3 market with prices that continue to undermine the health of  
4 the industry. This continues to be the case even though  
5 U.S. demand has been growing along with a recovery in the  
6 housing market.

7           It has been remarkable and frustrating to see  
8 the economy and the housing market recover and demand for  
9 nails increase, while our industry keeps getting clobbered  
10 by imports.

11           It is exactly during times of better demand and  
12 growth that our industry needs to be able to earn a  
13 reasonable return so we can weather the downturns in the  
14 business cycle.

15           I would like to pause for a moment to comment on  
16 Prime Source's U.S. nail mill progressive steel and wire.

17           Prime Source and Dubai Wire, one of the  
18 Respondents in the UAE case, created this company as a  
19 joint venture during the pendency of the UAE investigation.  
20 They were very open with their intentions for this mill.

21           During the final hearing in the UAE case, they  
22 testified that they were committed to American  
23 manufacturing and that they intended to open new plants in  
24 California and Pennsylvania in 2012.

25           They also testified that they intended to

1 replace their import sourcing by producing here in the  
2 United States every single nail in the Prime Source or Grip  
3 Rite catalogue.

4 We follow market conditions very carefully, and  
5 I can tell you, none of this has happened. Progressive  
6 remains a small producer making a limited number of  
7 products in Dallas, Texas, only. Instead of reshoring U.S.  
8 production, Prime Source simply switched from its UAE  
9 supplier to suppliers in the countries under investigation,  
10 just as it has moved from China to the UAE.

11 I believe you should keep this in mind when  
12 listening to the testimony this afternoon from the  
13 Respondents.

14 Thank you for your time and attention this  
15 morning. I will be happy to answer any questions.

16 MR. GORDON: Thank you, Mr. Cronin.

17 Mr. Martin.

18 STATEMENT OF JOHN MARTIN

19 MR. MARTIN: Good morning. My name is John  
20 Martin. I am the CEO of Mar-Mac, Inc., a producer and  
21 distributor of wire and wire products based in McBee, South  
22 Carolina.

23 Mar mac is a third generation, family-owned  
24 business founded by my father in 1953. McBee is a small  
25 town in north central South Carolina, and we are one of the

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1 largest employers in the area, with nearly 100 employees.

2 Mar mac produces and sells a wide variety of  
3 products related to the concrete construction business.  
4 Our product line includes rebar tie wire, merchant wire  
5 coils, bar ties, anchor bolts and nail stakes. We also  
6 produce common and duplex nails, which are used in building  
7 concrete forms.

8 Nails are not the biggest part of our business,  
9 but they are a natural complement to the various types of  
10 concrete-related products that we make and sell.

11 Concrete foundations are poured using forms  
12 which are built temporarily, filled and then taken down  
13 once the concrete is hardened. The forms are made of wood  
14 and are put together with nails.

15 Duplex nails are best suited for this work  
16 because they have a secondary head that stops the nail  
17 before it is fully driven into the wood. This makes it  
18 easy to remove the nails and take the forms apart.

19 You can see samples of these nails on the table  
20 in front of us.

21 We came to be a nail producer in a bit of an  
22 unusual way. We initially began importing nails that we  
23 would sell with our other products -- with our other  
24 products. This let us better serve our customers' needs  
25 and allowed us to fill out truckloads to ship orders that

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1 otherwise would be less than a full truckload.

2           As this part of our business grew, we became  
3 interested in developing our own internal capacity. This  
4 was natural for us for two reasons. First, all of the  
5 products we manufacture come from wire and rod. Second, we  
6 prefer to manufacture in South Carolina, rather than  
7 import.

8           In 2007, we decided to develop our own nail  
9 production capacity initially as insurance against supply  
10 disruptions. We bought our first nail header and packing  
11 equipment, which we use to make duplex nails.

12           In 2008, when the China antidumping suit was  
13 going on, we decided to increase our in-house production  
14 and purchase more nail headers to produce duplex and also  
15 common nails.

16           Today we have a total of seven nail heading  
17 machines, which we use to manufacture duplex, common and  
18 sinker nails up to 4-1/2 inches long. We package these  
19 nails in bulk 30-pound buckets and 50-pound boxes.

20           We would like very much to grow our nail  
21 operations. Given the needs of our customer base, nails  
22 should be a bigger part of our operations and our business.

23           Our ability to grow our operations, however, has  
24 been limited by the repeated surges of low-priced imports.  
25 These conditions have persisted ever since the first wave

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1 of dumped imports from China that started arriving in 2005.

2 Each time the industry has taken a stand and  
3 obtained relief, the distributors and importers here today  
4 have simply moved to new sources of imports.

5 The market conditions that have been created by  
6 these imports have made it difficult and in some cases  
7 impossible to earn a reasonable return on our operations.

8 As you know, the economy and construction  
9 markets have continued to recover from the recession of  
10 2008-2010. Demand for all our products, including nails,  
11 has increased with the rebound, exactly as you would  
12 expect.

13 Despite this, we have not seen the kind of  
14 improvements in our performance that we would have  
15 expected. The only cause for this that I can see is the  
16 low-priced imports that you are investigating.

17 If the conditions in the market that have been  
18 created by these imports do not improve, it will become  
19 impossible to compete. We may well need to reduce our  
20 production and again turn to imports, just to compete on  
21 price.

22 We don't want to do that, but the inability to  
23 earn a reasonable return on our investment is something  
24 that we cannot ignore.

25 Thank you for your attention and consideration

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1 of my comments, and I'll be glad to answer any questions.

2 MR. GORDON: Thank you, Mr. Martin.

3 Mr. Miller.

4 STATEMENT OF JAMES MILLER

5 MR. MILLER: Good morning. Thank you very much  
6 for the opportunity to appear before you today. My name is  
7 James Miller. I'm the vice president of corporate  
8 development for Tree Island Steel.

9 As you know, Tree Island is a longtime member of  
10 the U.S. nail industry. Historically we were a very large  
11 producer, though our operations have been greatly reduced  
12 over time due to the impact of unfairly traded imports.

13 At one point, we employed over 100 production  
14 workers making nails in the United States. In 2007, as the  
15 industry was overrun by Chinese imports, we were forced to  
16 close our facility in Ferndale, Washington. Before closing  
17 we had fewer than 12 production workers and were running  
18 only one shift five days a week.

19 We've also been forced to greatly reduce our  
20 Hull Steel operations in California, where we currently  
21 have only 40 workers. If we were running at a healthy  
22 level of capacity, we would employ about 100 workers in the  
23 plant.

24 I would like to talk a bit about the way  
25 collated nails are used in pneumatic nail guns. As you

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1 know, there are different kinds of collating and different  
2 nail guns for each type. Regardless of whether a nail is  
3 sold in a Grip Rite box or Hitachi box or interchange box  
4 sold by Carlson, if the nail has the correct specification,  
5 the length, diameter, angle of collation and the like, you  
6 can use it in any gun that takes that nail, regardless of  
7 the brand.

8           In fact, you can see on the display table in  
9 front of us the different brands of nails specifically  
10 advertise the fact they can use their nails in different  
11 brands of nail guns.

12           A box of Grip Rite, for example, collated  
13 framing nails specifically states that the nails are also  
14 for use with most 21 degree plastic strip framing nailers,  
15 including Bostitch, Makita, Dewalt, Porter Cable, Duo-Fast,  
16 Rigid, Hitachi and Senco.

17           The box of Hitachi 3-inch by .120 21 degree  
18 plastic strip framing nails on the table states that the  
19 product fits most full round head plastic strip framing  
20 nailers.

21           The Hitachis of the world want users to think  
22 you can only use Hitachi brand nails. That is not how the  
23 market works. And Hitachi itself would never want to limit  
24 its potential customers that way.

25           So some users are loyal to a brand, but most are

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1 not and will purchase other brands of nails that work in  
2 their guns, brands like Hull Steel and Magnum.

3           We produce our -- we produce nails at our  
4 California facility for both our own Hull Steel brand and  
5 for customers who would like nails produced under private  
6 label. If we're provided private label production for a  
7 variety of customers, including Prime Source, National Nail  
8 and Menards, and we have not turned down requests for  
9 private label production, though of course any transaction  
10 has to make business sense.

11           And along these lines, let me note that we have  
12 in fact done private label for Hitachi. We stopped doing  
13 that after Hitachi asked us to match import pricing on  
14 product from China. It was below our cost of production.

15           Regardless of our present size, we have  
16 significant capacity and are able to produce steel nails of  
17 nearly all type in any bulk or collated package which could  
18 be sold under our Hull Steel or Tree Island brands as well  
19 as private label.

20           And you can see from our questionnaire response,  
21 we have significant available capacity and would be happy  
22 to use if the market allows us a fair return on our  
23 investment.

24           Seven years have passed since the dumping order  
25 on nails from China was issued and three years have passed

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1 since the duty on UAE nails went into effect. Over the  
2 past three years, I've watched our industry and my company  
3 continue to suffer from imports from countries under  
4 investigation took over the market. Their prices are low  
5 as or lower than the Chinese and the UAE prices before  
6 antidumping orders were imposed.

7 Like Mid Continent's and Davis Wire, we have  
8 watched large distributors engage in serial dumping,  
9 abandon suppliers in China and then the UAE when those  
10 countries were put under order.

11 As soon as they faced the prospect of not having  
12 access to unfairly priced nails from China and the UAE,  
13 they simply sought out new sources of unfairly traded  
14 supply.

15 Even when importers have had their own U.S.  
16 production sources, such as the case with Prime Source,  
17 they have chosen to find other foreign suppliers who can  
18 satisfy their appetite for unfairly traded product.

19 If we can stop this latest surge in unfairly  
20 traded imports, we expect that we will be able to expand  
21 our production and thus increase the volume and variety of  
22 nails we offer to the market. With the nail machines we  
23 own, we can produce over 1000 SKUs of nails, any suggestion  
24 that our industry is not capable of producing a full range  
25 of nails is simply wrong.

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1           As the Commission specifically found out two  
2 years ago.

3           Like others in industry, Tree Island has the  
4 capacity to build a full range of bulk and new market gun  
5 nails. If profitable, orders became available, we would  
6 once again produce and sell the full range of products from  
7 our California plant. This is particularly true given the  
8 slow but important improvements in the U.S. housing market  
9 that we have seen in recent years.

10           Ultimately, my company, along with Mid  
11 Continent, Davis Wire and other domestic producers, is  
12 ready, willing and able to compete with any manufacturer  
13 anywhere in the world so long as competition is fair. The  
14 actions of the foreign producers have not been fair, and  
15 those unfair trading practice have badly injured my company  
16 and our industry over the past several years.

17           As my company testified in 2012, we have been  
18 able to survive so far, but if market conditions do not  
19 change, it will be more and more difficult to justify  
20 continuing our nail operations even in the reduced state.

21           On behalf of Tree Island, I urge the Commission  
22 to find the nails from the countries under investigation  
23 are injuring the domestic industry and threatening domestic  
24 industry with further injury. Thank you for your time this  
25 morning. I will be happy to answer any questions you might

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1 have.

2 MR. GORDON: Thank you, Mr. Miller.

3 Our final witness will be Dan Klett from Capital  
4 Trade.

5 STATEMENT OF DANIEL KLETT

6 MR. KLETT: Thanks, Adam. Good morning.

7 My name is Dan Klett. I'm an economist with  
8 Capital Trade testifying on behalf of Petitioner. I will  
9 address three issues.

10 First, injury and causation must be viewed in  
11 the context of the business cycle and the two prior  
12 investigations involving steel nails.

13 Second, imports from U.S. producers and such are  
14 highly substitutable.

15 And third, data collected in your questionnaires  
16 demonstrate a strong nexus between price suppression and  
17 depression experienced by the U.S. industry in competition  
18 from subject imports.

19 This is the third investigation involving steel  
20 nails since petitions were filed on imports from China in  
21 2007 and imports from the UAE in 2011 with antidumping  
22 duties imposed in 2008 and 2012 respectively.

23 Slide 1 shows the transition to alternative  
24 sources of import supply in response to the AD orders.  
25 China's chair of the U.S. market peaked at 62 percent in

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1 2007 but has remained at 25 percent or below over the past  
2 three years.

3 As imports from China fell, UAE's share of the  
4 U.S. market increased by almost 17 percentage points from  
5 2007 to its peak in 2010, but in 2014, the UAE was almost  
6 completely absent from the U.S. market.

7 From 2010 to 2014, imports from subject  
8 countries increased their share of the U.S. market by over  
9 20 percentage points.

10 As shown in slide 2, from 2010 to 2014, the UAE  
11 lost 22 percentage points of market share and the five  
12 countries subject to this investigation gained 21  
13 percentage points of market share, almost a one-for-one  
14 displacement.

15 Slide 3 shows that the increase in the volume of  
16 imports from subject countries has more than replaced the  
17 decline of imports from the UAE on an absolute volume  
18 basis, based on changes from 2011 to 2014.

19 And I just want to note, in the opening  
20 Mr. Marshak made some reference to lingering effects of  
21 imports from the UAE and China into the current POI, and  
22 based on what we see has happened with imports from China  
23 and the UAE, I am not quite sure to what he is referring.

24 So what do these relationships mean? As shown  
25 in slide 4, the U.S. industry's preinjury market share of



1 29 percent in 2004 has never again been regained. There  
2 were brief periods of partial relief, as the orders were  
3 first imposed. The industry regained almost 4 percentage  
4 points of market share in 2009 after the AD order was  
5 imposed on imports from China in 2008, but lost almost 5  
6 percentage points from 2009 to 2011 as imports from the UAE  
7 surged.

8           The U.S. industry has regained some market share  
9 after the AD orders and imports from the UAE in 2011 but it  
10 stuck at about 21 percent of the market. As shown in slide  
11 5, these shares disguise the fact that in absolute terms,  
12 while U.S. apparent consumption increased by almost 90,000  
13 short tons over the POI, the U.S. industry shipments  
14 increased by only 19,000 short tons.

15           Subject to import volume increased by 75,000  
16 short tons over the same period.

17           The waves of increases in subject import volumes  
18 from different sources has resulted in declines in U.S.  
19 producers production, shipments, employment and  
20 profitability.

21           Slide 6 shows the U.S. industry's production and  
22 shipment levels in 2005 prior to the surge in imports from  
23 China, which peaked in 2007, and in 2010, when imports from  
24 the UAE peaked.

25           Over this period, production and shipments

1 declined.

2 U.S. production and shipments have increased  
3 since 2010. As I will explain, this should have been  
4 expected, given the significant increases in U.S. demand.

5 Slide 7 shows employment also declining from  
6 2005 to 2010 and with smaller increases from 2010 to 2014  
7 and well below 2005 and 2007 levels.

8 Slide 8 shows operating profits and profit  
9 margins, both of which fell from 2005 to 2010. There has  
10 been some increase in the absolute level of operating  
11 profits from 2010 to 2014, but the operating profit margin  
12 has remained flat at about 3 percent, at or below levels  
13 found to have been injurious by the Commission in prior  
14 investigations.

15 Turning now to market demand. Slide 9 shows  
16 that U.S. residential construction began to decline in 2007  
17 and remained weak through 2011. However, the strength of  
18 the sector increased significantly -- has increased  
19 significantly through 2011. And you can see a 40 percent  
20 increase in U.S. residential construction from 2011 to  
21 2014.

22 Slide 10 is from your U.S. apparent consumption  
23 data and Staff reports, and you can see that the trends in  
24 U.S. apparent consumption for steel nails follows similar  
25 trends. You can see the effects of the recession in 2008

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1 to 2010, but increases in U.S. demand is reflected in  
2 apparent consumption from 2011 to 2014.

3           What is significant from these relationships is  
4 that with the AD orders on imports from China and the UAE  
5 and increasing U.S. demand, U.S. industry should have  
6 expected to see greater improvements in its condition than  
7 what it has experienced.

8           I note that in their briefs, Respondents have  
9 looked only at trends from 2012 to 2014 to support their  
10 position that the U.S. industry is healthy and that there  
11 are no adverse causal effects.

12           While injury and causation are also evident from  
13 this three-year period or are evident from this three-year  
14 period, ignoring past years is a myopic way of looking at  
15 the market in that it ignores the context of the business  
16 cycle and the history of past investigations and Commission  
17 findings of injury in those past investigations.

18           In his expert report, Dr. Becker compares  
19 profitability for the U.S. nail industry with profit levels  
20 for U.S. primary metal manufacturers, to argue that the  
21 U.S. industry's profit margins are where they are to be  
22 expected.

23           I did the same, but I chose a sector more  
24 comparable to the nail industry, metal fabricators reported  
25 by U.S. census.

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1           As shown in slide 11, in 2004, prior to the  
2 surge in nail imports from China, the U.S. industry had a  
3 higher operating profit margin than did U.S. metal  
4 fabricators, and operating profit margins were similar in  
5 2005.

6           Both the U.S. nail industry and metal  
7 fabricators experienced declines in sales revenue and  
8 operating income in 2009 and 2010, reflecting the effects  
9 of the recession.

10           Since 2009, the patterns diverge. The metal  
11 fabricators increasing their profit margins but with the  
12 margins of the U.S. nail industry remaining flat.

13           In addition, Respondents take issue with the  
14 aggregated operating profit data reported in the Staff  
15 report and would have you exclude certain producers from  
16 the total in order to show stronger financial trends.

17           We believe this is inappropriate but will  
18 address in detail in our posthearing brief because of the  
19 proprietary nature of the individual company financial  
20 data.

21           Regarding the degree of substitutability between  
22 U.S.-origin nails and those of subject imports, the  
23 Commission has evaluated this issue in prior  
24 investigations.

25           While the countries in this investigation differ

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1 from those in the prior two investigations, your purchaser  
2 questionnaires demonstrate that the nature of competition  
3 and the relative importance of price has not changed.

4 As shown in slide 12, the percentage of  
5 purchasers reporting U.S. and subject imports to be always  
6 or frequently interchangeable is similar in this  
7 investigation as in the prior two investigations, at about  
8 90 percent of responding purchasers.

9 Respondents assert that there is attenuated  
10 competition between the U.S. industry and subject imports  
11 for a variety of reasons, including different customers, a  
12 different composition of nail types being sold and an  
13 unwillingness of U.S. producers to supply private label  
14 customers.

15 However, your purchaser questionnaires provide  
16 the most authoritative and comprehensive information on the  
17 nature of competition between U.S. producers and subject  
18 imports.

19 As shown in Exhibit 5 of our prehearing brief,  
20 over 70 percent by volume of purchasers responding to your  
21 questionnaire bought from both U.S. producers and from at  
22 least one subject country source.

23 Exhibit 4 of our prehearing brief derived from  
24 data in your Staff report shows significant overlap between  
25 U.S. producers and subject imports with respect to the

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1 types of nails being sold in the U.S. market.

2           The U.S. industry has experienced both depressed  
3 and suppressed prices during the POI. Your quarterly  
4 pricing tables in tables 5-3 to 5-14 of the Staff report  
5 show price declines for the U.S. industry averaging almost  
6 9 percent from 2012 to 2014 on a weighted average annual  
7 basis.

8           U.S. producers' prices generally increased in  
9 the first half of 2012, before the surge in subject imports  
10 began, but fell starting in the second half of 2012 as  
11 subject import volumes surged and underselling dominated.

12           The U.S. industry's prices also were suppressed,  
13 as shown in slide 13. The COGS to sales ratio increased  
14 during the POI. The U.S. industry's prices continued to be  
15 suppressed and have not been able to receive the full  
16 benefit of the AD orders on China or the UAE or of the  
17 benefits of increasing U.S. demand.

18           In their prehearing briefs, Respondents attempt  
19 to undermine validity of the pricing data in your  
20 prehearing report. For example, they argue that one  
21 importer excluded by your Staff should be included and an  
22 importer included by your Staff should be excluded.

23           We believe the Staff correctly compiled the  
24 pricing data and will address the details in our  
25 posthearing brief.

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1           They also argue that declining wire rod prices  
2 fully explain declining U.S. price levels but ignore the  
3 expected demand side effects on price.

4           Moreover, Respondents' revisionist compilation  
5 of under and overselling is at odds with the qualitative  
6 information submitted by purchasers, who overwhelmingly  
7 reported subject import prices for nails to be either lower  
8 or comparable to U.S. origin prices for nails.

9           As shown in slide 14, only 3 percent of  
10 purchasers reported U.S. origin nails to be lower-priced  
11 than subject imports.

12           I want to make a few comments on the  
13 underselling analysis in Dr. Becker's report. First, table  
14 16 in his report quantifies the volume of U.S. sales that  
15 undersell or oversell imports but excludes certain pricing  
16 products.

17           When all the nail pricing products are converted  
18 to a common short ton basis, a significantly higher share  
19 of U.S. volume is undersold by subject imports than is  
20 oversold. And I'll provide these detailed calculations in  
21 our posthearing brief.

22           Second, Dr. Becker makes the assertion that U.S.  
23 industry is harmed more from larger margins of underselling  
24 than lower margins. I don't see how this necessarily is  
25 the case.

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1           Even an underselling margin of say 2 percent can  
2 represent significant adverse effects if the subject  
3 imports are leading the price down and U.S. producers are  
4 following.

5           In fact, the dominance of lower margins of  
6 underselling rather than larger margins confirms the  
7 commodity nature of this product. Thank you.

8           MR. GORDON: Thank you, Mr. Klett. That  
9 concludes our affirmative testimony. We'll be happy to  
10 take any questions you may have.

11           CHAIRMAN BROADBENT: Thank you very much. We'll  
12 begin our questioning with Commissioner Schmidtlein.

13           COMMISSIONER SCHMIDTLEIN: All right, thank you.  
14 I'd like to thank the witnesses for being here today. I  
15 don't know -- if you did your homework, you would know that  
16 I was born and raised in Missouri and went to college in  
17 Missouri, and was just in Missouri about two weeks ago  
18 visiting my parents, but not Poplar Bluff, the northwestern  
19 part of the state.

20           So I want to start with some questions about  
21 some of the things we see in the Staff report.

22           So Mr. Gordon, you might be the best one to  
23 answer these questions. But if not, I'm happy to hear from  
24 any of the witnesses.

25           One of the things we see in the Staff report is



1 that there was a gain in market share for subject imports  
2 of 6.6 percent and that this corresponded to a loss of  
3 market share for nonsubject imports of the same amount.  
4 And so I was wondering if you could help us understand how  
5 we should consider that data and the fact that the U.S.  
6 industry remained stable during this time, their market  
7 share.

8 MR. GORDON: Certainly. I'll have some comments  
9 and Mr. Klett may actually have some as well.

10 It's a very similar situation to what the  
11 Commission -- what was before the Commission in the UAE  
12 case, where the UAE imports essentially replaced the volume  
13 of Chinese imports that left the market following  
14 imposition of the antidumping duty order. It's a different  
15 kind of injury.

16 Instead of those sales returning to the U.S.  
17 industry, as would have been anticipated by the imposition  
18 of the order, they were taken by other imports which  
19 entered the market, in this case from the five subject  
20 countries, which then proceeded to undersell, as the data  
21 show, to gain market share. Prices were moving downward  
22 across the period, and the domestic industry, as  
23 Mr. Villanueva testified, had to chase those prices down  
24 just to maintain its share.

25 You also see that across the period, even while

1 the market share for the domestic industry remained  
2 essentially stagnant, unit pricing dropped across the  
3 period by 17.9 percent, and that's in an environment of  
4 increasing demand.

5 And you saw the unit pricing declining, as well  
6 as the cost of goods to net sales ratio increasing, as  
7 Mr. Klett showed, was a classic cost price squeeze  
8 occurring.

9 COMMISSIONER SCHMIDTLEIN: But I guess are you  
10 suggesting that in the prior case, nonsubjects gained at  
11 the expense of the U.S. industry and in this case that's  
12 what we're seeing here? So does that mean there should  
13 have been more countries named in this case?

14 MR. GORDON: Well, not to --

15 COMMISSIONER SCHMIDTLEIN: We have to decide  
16 whether there's a volume impact from the subject imports;  
17 right?

18 MR. GORDON: Yes. And there certainly was. The  
19 subject imports took the volume -- took the market share  
20 left by the UAE imports as they -- as they left the market,  
21 as well as more.

22 In fact, when you evaluate sort of the  
23 nonsubject imports, note that the Commission Staff gathered  
24 data on pricing of product from China and found that in --  
25 I think it was 275 instances of Chinese product overselling

1 the subject imports, which is to say the subject imports  
2 were dramatically underselling both domestic and nonsubject  
3 imports and took market share from both the domestics as  
4 well as some nonsubject imports.

5 MR. KLETT: Commissioner Schmidtlein, this is  
6 Mr. Klett. If you look at the volume data, I think slide 5  
7 in my presentation shows that while apparent consumption  
8 increased by almost 90,000 tons, the U.S. industry's volume  
9 only increased by about 19,000 tons.

10 So that even though their market share remained  
11 stable, they didn't capture a big chunk of the increase in  
12 U.S. demand, most of which was captured by imports from  
13 subject countries.

14 So I think Respondents, they make the argument,  
15 and I know it's made in other cases, that when you see  
16 subject import market share going up and other import  
17 market share going down, that the imports of subject  
18 imports are at the expense of other imports, not the U.S.  
19 industry.

20 And I think in the context of this case, where  
21 you have prior cases of injury, you have to look at it a  
22 bit more broadly in the sense that the fact that the U.S.  
23 industry didn't gain share, they should have gained share,  
24 you would have expected them to have gained share when the  
25 antidumping duty order went on imports from the UAE, and

1 they didn't gain share because any of the benefits of the  
2 increase in apparent consumption went to subject countries,  
3 not the U.S. industry.

4 COMMISSIONER SCHMIDTLEIN: Okay. You mentioned  
5 in one part of your answer the unit prices falling, and I  
6 know you said the COGS ratio has gone up a bit. That was  
7 another one of my questions. The fact that raw material  
8 and the price of steel rod has gone down, wouldn't we  
9 expect prices to decline, to see a decline in price?

10 MR. KLETT: Commissioner Schmidtlein, this is  
11 Dan Klett again. I don't think you necessarily would. I  
12 mean, especially given the context of the industry  
13 operating at relatively low operating margins, I don't  
14 think you would necessarily see them unilaterally decide to  
15 follow their raw material costs down in terms of price,  
16 unless they had to.

17 And especially in the context of rising demand  
18 conditions. I mean, prices are set by supply and demand,  
19 raw materials are a supply factor. You know, with rising  
20 demand and low profit margins, I think you would have  
21 expected them to try to gain margins, not necessarily  
22 follow raw material costs down.

23 COMMISSIONER SCHMIDTLEIN: Mr. Gordon?

24 MR. GORDON: This is Adam Gordon. I would also  
25 add if you look at the graph of wire rod prices over the

1 period that's included in the Staff report, it's not a  
2 straight-line gradual decline. Wire rod pricing is  
3 notoriously variable, and while it was declining over the  
4 period, it did so in an uneven way.

5 So to -- any producer, whether it's Mid  
6 Continent's or anyone else, is going to be very reluctant  
7 to react terribly quickly on a repeated basis.

8 As you've heard, the efforts to raise prices in  
9 the market were unsuccessful, notwithstanding increasing  
10 demand and the order on the UAE imports.

11 COMMISSIONER SCHMIDTLEIN: Are there any  
12 products produced by the U.S. industry that does not  
13 compete, that do not compete against an imported product?  
14 I mean, I know there's claims about product range here.  
15 But in terms of what the U.S. industry produces, does it  
16 compete against imports across the board?

17 MR. GORDON: This is Adam Gordon. I'll start  
18 that answer and then hand it off on our industry witnesses,  
19 who are far better suited to this than I.

20 But let me note that I think it was during the  
21 UAE final investigation, Mr. Leffler, who is going to  
22 testify this afternoon, testified that Hitachi competes  
23 against all imports in all products in all parts of the  
24 market.

25 We can dig up that quote if you'd like. If you

1 want to check in the transcript. But that was very  
2 specifically testified to by him in the last --

3 COMMISSIONER SCHMIDTLEIN: I'm trying to get at  
4 is there any domestic product that only competes against  
5 other domestic product or doesn't have a comparable  
6 competitor, you know, producing that product?

7 MR. MILLER: James Miller, Tree Island Steel.  
8 There is nothing, no nail product we make that is not  
9 subject to competition, both domestically and from import.

10 MR. CRONIN: Peter Cronin with Heico Wire Group.  
11 I would agree with James's comment.

12 MR. VILLANUEVA: Fernando Villanueva from with  
13 Mid Continet. We compete with all products in all markets  
14 against domestic and imported product.

15 COMMISSIONER SCHMIDTLEIN: I have a couple  
16 minutes left here. So, you know, I'm also looking at  
17 there's arguments around the instances of overselling  
18 versus underselling, and instances versus volume.

19 So can you help me -- and I understand the  
20 volume was greater and the instances are roughly even when  
21 you look at the overall. So could you explain to me, and  
22 maybe this is from a practical standpoint, how is -- how  
23 was the price led down by imports, as you allege, when you  
24 see so many instances of overselling?

25 In other words, I know -- I have a sense of what

1 your answer is going to be, but it may be in practical  
2 terms, if you could explain to me how it is that a big  
3 volume of underpriced imports can then lead the price down  
4 across the market.

5 MR. KLETT: Commissioner Schmidtlein, this is  
6 Dan Klett. I mean, I think when you look at the individual  
7 pricing products and you look at the patterns, what you see  
8 is that in the first half of 2012, there were fairly low  
9 volumes of subject imports. And U.S. producers actually  
10 were able to increase their pricing, I think in the second  
11 quarter or third quarter of 2012.

12 And what you see starting in the second half is  
13 imports coming into the market in fairly large volumes.  
14 And generally -- generally underselling. And you see U.S.  
15 prices starting to fall for the various pricing products.  
16 I mean, I think pricing products 1 to 6 are the collated  
17 nails.

18 And while you -- also what you see is that  
19 when -- the most significant underselling is associated  
20 with fairly, fairly large volumes. So to get to your point  
21 about instances versus volume, I mean, if you have an  
22 instance of overselling but it's associated with a fairly  
23 small volume of imports, you know, you'd expect that to  
24 have less of an effect than an overselling, you know,  
25 associated with a large volume.

1           So you see your largest margins of underselling  
2 associated with the largest volumes of imports, and you  
3 see, you know, the overselling generally associated with  
4 fairly small volumes.

5           So I think from a practical commercial sense,  
6 you know, that needs to be taken into account.

7           COMMISSIONER SCHMIDTLEIN: Is that because -- I  
8 mean, was there some transparency to this market? I mean,  
9 are people talking, like how is that known through the  
10 market when you're looking at one instance?

11           MR. MILLER: James Miller, Tree Island Steel.  
12 Here's what happens in the marketplace. So we will be  
13 making an offer to a customer to supply them nails for a  
14 period of time. We'll be -- obviously there's other  
15 competitors doing the same thing. They will give us  
16 feedback occasionally on why we didn't get the contract to  
17 supply the nails.

18           The feedback generally is you've lost the bid to  
19 Prime Source, and the reason you lost the bid is you need  
20 to meet that price. So we would like to do business with  
21 you, here's the new price, and we have to say we can't  
22 produce, that's higher than our costs, so we say sorry, we  
23 can't accept the order.

24           So that's the way the price eventually goes  
25 down. We go back, see if we can shave a penny or two off



1 per pound, and sometimes we can.

2 MR. MARTIN: This is John Martin with Mar-Mac  
3 Wire. It is my understanding that in my narrow range of  
4 nail products, I'm the only domestic producer of the duplex  
5 nails. So if I understand your question, you can see from  
6 my statements how we're doing, and if I can raise prices, I  
7 certainly would. So it seems to me that the only  
8 competition I have is import.

9 COMMISSIONER SCHMIDTLEIN: Okay. Thank you. My  
10 time is up. Thank you, Chairman.

11 CHAIRMAN BROADBENT: Thank you. Mr. Gordon, I  
12 wanted to get back to what you said about the UAE case. I  
13 think I understood you to say that the subject imports took  
14 market share from Chinese imports that were vacating the  
15 market in the UAE case.

16 But the U.S. industry in that case, I think,  
17 lost 5 percentage points of market share. I don't think  
18 we've got that here, at least according to the data in the  
19 Staff report. As we look at it, it looks like the U.S.  
20 industries market share jumped from the worst years  
21 compared to the UAE case and is not really far off from the  
22 best year of the UAE case.

23 So I'm just trying to understand how you make  
24 your comparisons between this market share consistency and  
25 the loss in the first case.

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1           MR. GORDON:  It's the dynamic in play with the  
2 distributor shifting supply sources and replacing the  
3 sources of supply out of the UAE with the sources of supply  
4 from the countries that are currently before the  
5 Commission.

6           And we recognize, you know, in addition to  
7 taking the volume of the Chinese imports, the UAE imports  
8 took additional volume.

9           Here, as Mr. Klett has described, this is -- the  
10 UAE case occurred in the context of a dramatically  
11 declining market, with the effects of the recession.  In  
12 this case it's a different situation, with a significantly  
13 increasing market in which one would expect the domestic  
14 industry to participate more than it's been able to because  
15 of the imports coming in at the low prices at which they  
16 are offered.

17           So they have taken the market share that was  
18 vacated by the UAE imports and also participated much more  
19 greatly in the growth in the market than otherwise would  
20 have been the case had they not been dumping.

21           CHAIRMAN BROADBENT:  Okay.  Maybe Mr. Klett  
22 could help me here.  You note that the volume of apparent  
23 U.S. consumption increased by a greater absolute level than  
24 the domestic shipments.

25           Is it realistic to think that U.S. shipments

1 constituting about, I think, one fifth of the market would  
2 be able to take all or a majority of all of the additional  
3 consumption?

4 MR. KLETT: No, I don't think that's realistic.  
5 But I think they -- given that in terms of taking the total  
6 increase in market share. But they took such a small part  
7 of the market share, I think it was, you know, 19 out of  
8 90,000 tons of U.S. apparent consumption, they gained maybe  
9 19,000 short tons of that. And given their excess capacity  
10 and their capability, you know, even -- even if you  
11 wouldn't have expected them to take all of that, given  
12 other import sources in the market, I think you would have  
13 expected them to take -- take a lot more than, you know,  
14 the small percentage of that increase that they actually  
15 took, given their excess capacity and capabilities.

16 MR. VILLANUEVA: This is Fernando Villanueva  
17 from Mid Continent. I would like to add a comment  
18 regarding that point. I don't know if we can fill up the  
19 market, but what we know is that we welcome competition,  
20 fairly competition, to the imports. And imports have a  
21 place in our market, okay.

22 As far as they compete fairly, okay. Not as  
23 Mr. Miller just told us, below -- offering prices below our  
24 costs.

25 CHAIRMAN BROADBENT: Okay. Can someone tell me

1 what portion of Mid Continent's shipments are private label  
2 product?

3 MR. GORDON: Commissioner Broadbent, the exact  
4 number is proprietary and has been provided in our  
5 questionnaire response. And as Mr. Villanueva mentioned in  
6 his testimony, we have actually calculated out the exact  
7 tonnage in our prehearing brief. And I think it's very  
8 much a number worth noting, given its significant size. I  
9 don't know if Mr. Villanueva wants to comment further on  
10 that.

11 MR. VILLANUEVA: Yeah, this is Fernando  
12 Villanueva from Mid Continent. It's a huge amount. You  
13 will see it on our posthearing brief and the information  
14 that we sent to you. But some of the boxes that are here,  
15 without our label, they are made by us, okay. Thank you.

16 CHAIRMAN BROADBENT: Okay. Mr. Deacero,  
17 Respondents indicate, argue that duties on wire rod have  
18 significantly affected certain U.S. producers' decisions  
19 regarding where they produce steel nails with some firms  
20 offshoring U.S. production to limit the impact of the wire  
21 rod duties on their operations. Do you feel that this is a  
22 valid point? What share of wire rod used in U.S.  
23 production of certain steel nails is imported?

24 MR. VILLANUEVA: Can you repeat the question,  
25 please?

1                   CHAIRMAN BROADBENT: Sure. The Respondents are  
2 arguing that duties on wire rod have significantly affected  
3 U.S. producers' decisions regarding the production of steel  
4 nails. Some firms are offshoring their U.S. production to  
5 limit the impact of these duties on their operations. I  
6 think this was in the Oman Fasteners brief.

7                   Do you feel like this is a valid point? What's  
8 the relevance here and what share of wire rod used in U.S.  
9 production of certain steel nails is imported, would you  
10 say?

11                  MR. VILLANUEVA: Okay. First of all, the  
12 percentage, as far as I know, because I don't have the  
13 exact information, the percentage of wire rod that is used  
14 from imports in the U.S. is lower than 25 percent, okay.

15                  So basically, the wire rod that is coming to the  
16 U.S. is only 25 percent of the market, okay.

17                  About our usage, we -- we can detail more  
18 because it is proprietary information, okay, and it's part  
19 of our strategy, our global strategy, and we can detail  
20 more in our posthearing brief.

21                  MR. GORDON: Chairman Broadbent, if I may follow  
22 up, Adam Gordon from Picard Kentz.

23                  Two points. One is the -- think back to the  
24 question on wire rod, the discussion on wire rod pricing  
25 over the period. In fact, we didn't see it increasing.

1 Wire rod pricing was somewhat declining over the period.

2 CHAIRMAN BROADBENT: Right.

3 MR. GORDON: The discussion in the Respondents'  
4 brief concerning I think it was ITW, pulled out of their  
5 financial reporting on moving, you know, product overseas,  
6 is public knowledge that they are not covered by the China  
7 order because they were found to be fairly trading.

8 You know, there are a lot of reasons a producer  
9 may move, not the least of which may be because producing  
10 in the United States is not cost-effective in terms of  
11 being able to earn a reasonable return. That then begs the  
12 question of why is that, and the answer, I would submit, is  
13 because the market conditions in the United States market  
14 have been -- become so poor by virtue of the subject  
15 imports coming in and increasingly lower prices. It's all  
16 connected.

17 So -- I'll leave it at that.

18 MR. CRONIN: Peter Cronin, Heico Wire Group.  
19 Also wire rod selling prices are directly affected by iron  
20 ore and scrap prices. If you follow American metal market,  
21 the iron ore and scrap prices have been declining. So  
22 they're really -- I don't think that we've seen a huge  
23 effect on the duties.

24 CHAIRMAN BROADBENT: Okay. Let's see. This is  
25 sort of an industry question. Can collated nails be used

1 only in specific brands of the nail guns? Can Hitachi  
2 nails or Grip Rite nails be used only in Hitachi or Grip  
3 Rite guns? And has this always been the case?

4 MR. MILLER: Yes, the answer is yes. You can  
5 use -- if the angle of collation and the rod type, the  
6 steel type, is correct, and the specifications are correct,  
7 you can -- it's like a stapler. It's not like, for  
8 example, your coffee maker, my espresso won't fit in your  
9 Keurig. Basically it's like a staple. You don't know the  
10 staple brand, most users don't really care, they're  
11 interchangeable.

12 CHAIRMAN BROADBENT: In the ink cartridge  
13 example, you could probably use it, but it ends up being  
14 more of a hassle.

15 MR. MILLER: I'm sorry?

16 CHAIRMAN BROADBENT: I'm just wondering how  
17 seamless is this substitution.

18 MR. MILLER: As seamless as a staple. So you  
19 put the staples in your stapler, you don't look at the box  
20 for the brand because they're identical, no matter what  
21 brand, if it's the size of the stapler you have.

22 Nail guns, same thing. The only difference,  
23 some are paper-collated, some are plastic. But that would  
24 be the difference. It would fit in every gun that was  
25 designed for that particular --

1                   CHAIRMAN BROADBENT: How widespread is the  
2 practice of substituting?

3                   MR. MILLER: It's fairly widespread. The  
4 customers that are buying this aren't do-it-yourselfers at  
5 Home Depot. For the collated nails, they're basically  
6 construction, so they're big construction conditions. They  
7 have multiple -- multiple sets of workers, and they buy in  
8 bulk, and they decide what price they want -- they are  
9 going to pay, and they will just substitute one brand for  
10 another.

11                  MR. CRONIN: Peter Cronin with Heico Wire Group.  
12 I would add that when you look at the manufacture of these  
13 products, the tools or the guns that are used, 100 percent  
14 test the nail quality. So when you're manufacturing a nail  
15 for a Hitachi gun or for a Senco gun, in the manufacturing  
16 process, you make sure you meet the specs that that gun  
17 manufacturer has specified for his tool.

18                  Because if you don't, the tool won't operate  
19 properly.

20                  MR. MILLER: James Miller, Tree Island. I will  
21 just add when we manufacture private label for various  
22 companies, we put exactly the same nail in exactly the same  
23 box with a different label.

24                  CHAIRMAN BROADBENT: Okay. Good. Vice Chairman  
25 Pinkert.



1                   COMMISSIONER PINKERT: Thank you, Madam  
2 Chairman. And I join my colleagues in thanking you for  
3 being here today to help us understand this industry.

4                   Let's stay with the nail guns for a moment. I'm  
5 in particular interested in the Magnum nail gun. Is that  
6 also not for do-it-yourselfer types of customers?

7                   MR. VILLANUEVA: Fernando Villanueva from Mid  
8 Continent. It's the choice of the user, okay. The gun  
9 itself is the same, but our focus right now is more on the  
10 professional in the pallet industry, okay.

11                   So we sell those tools basically on the pallet  
12 industry and a little bit on the construction market. But  
13 it's basically the same.

14                   If you want to get a Magnum tool and use it in  
15 your home, you can use it as well.

16                   COMMISSIONER PINKERT: Now, just thinking about  
17 this from a marketing point of view, let's say I'm out  
18 there looking for a nail gun for a do-it-yourself kind of  
19 application. Would I have any reason to think that I could  
20 substitute non-Magnum nails for use in that gun, or would I  
21 just naturally assume that I would have to use the Magnum  
22 nails?

23                   MR. CRONIN: Well, depending on where you  
24 purchase the gun, you would be instructed that you could  
25 use any -- any collated nail that met the specs for the

1 nail gun. When you purchase the nail gun.

2 MR. GORDON: Adam Gordon from Picard Kentz. Let  
3 me also just hearken back to the testimony that Mr. Miller  
4 gave. If you look at the boxes of collated nails, for  
5 example, collated framing nails in the Grip Rite box, the  
6 box specifically identifies by name the multiple brands of  
7 nail guns in which those nails can be used. Not just a  
8 Grip Rite nail gun, but Senco, Bostitch, Hitachi, Dewalt.  
9 I mean, there are several on there.

10 The same is true on the boxes of Hitachi nails  
11 that are on the display table. There's a specific  
12 statement on each box which says can be used in most  
13 roundheaded nailers. So it's very clearly advertised.

14 And as Mr. Miller said, these companies would  
15 not want to either limit their customers for their nails to  
16 only the ones who own their nail guns or the customers for  
17 their nail guns to only ones who are willing to use Hitachi  
18 nails or might have access to Hitachi nails. They want to  
19 sell the most of both products to the most people to make  
20 it as easy for them to use with whatever nails they choose  
21 to put in them that work.

22 MR. VILLANUEVA: Fernando Villanueva. If we can  
23 add also that the do-it-yourself market is the smallest  
24 market. In my estimate, and I don't know if the other  
25 experts opinion, but it's less than 5 percent, okay.

1           So if we are -- if we are focusing on the  
2 expert, the construction expert, and the pallet and crate  
3 manufacturing, they know which tool fits which nail, so  
4 it's -- it is a common sense for them, okay. So they use  
5 whatever they choice to use, either brand of nails with a  
6 different brand of tools, okay.

7           MR. GORDON: Adam Gordon again for Picard Kentz.  
8 Vice Chairman Pinkert, let me offer what might be a  
9 practical layman's observation, that if you or any of the  
10 commissioners or people out here own a nail gun that they  
11 may have purchased at Home Depot, it's probably a  
12 Porter-Cable or a RYOBI, it's not one of the professional  
13 brand of guns that are advertised on those boxes, which  
14 kind of illustrates the difference there, as Mr. Villanueva  
15 was commenting on, in terms of the size of those markets.

16           COMMISSIONER PINKERT: Thank you. Moving from  
17 the nail gun to the bigger economic picture. I note that  
18 the period of time prior to the great recession was a  
19 period in which there was explosive growth in construction  
20 in the United States.

21           And so I'm wondering, Mr. Klett, is it fair to  
22 benchmark the current performance of the industry against  
23 what was happening, say, in 2005, when the conditions in  
24 the construction market might have been abnormal at that  
25 time?

1           MR. KLETT: I think that's a fair observation --  
2 I'm sorry. Commissioner Pinkert, I think that's a fair  
3 observation. But even if you benchmark the performance of  
4 the industry currently to even periods subsequent to the --  
5 or to periods after the peak in housing demand, you still  
6 see the industry performing well below as to be expected.

7           And I think that chart 11 in my presentation or  
8 slide 11 in my presentation to a certain extent represents  
9 that.

10           I mean, you see the fabricated metal products.  
11 And this, by the way, is from the census quarterly  
12 financial reports.

13           And for fabricated metal products, you do see,  
14 you know, in 2008, sales peaking. And, in fact, you see,  
15 even with the decline in demand, you see even in 2014, you  
16 know, actually being close to 2008 levels and operating  
17 profits actually exceeding 2008 levels.

18           But when you look at the U.S. industry, I mean,  
19 not only did they -- you know, they haven't attained the  
20 sales levels in 2008 that -- or in 2014 that they attained  
21 in 2007, 2006.

22           But they're still well below, you know, levels  
23 of comparable years.

24           So I think regardless of what reference point  
25 you use, the industry is operating well below where you

1 would expect to see them, given the current increase in  
2 demand.

3                   COMMISSIONER PINKERT: Thank you. Now, staying  
4 with you, Mr. Klett, I know that you made the point that if  
5 you look at the market shares over time, what you see is  
6 when an order goes on a particular subject country, then  
7 the market share of that country goes down. But then  
8 another country may be -- the next subject country gains  
9 that market share.

10                   But my question to you is, is there any reason  
11 to think that if an order goes on in this proceeding, that,  
12 in fact, the market share would go back to the Chinese?

13                   In other words, they continue to play a  
14 significant role in this market. And can't they just pick  
15 up where they left off?

16                   MR. KLETT: Commissioner Pinkert, this is Dan  
17 Klett. I mean, I think you actually have some real-world  
18 data that can answer that question, and that is that when  
19 you -- at least with respect to China, when you saw the  
20 order go on imports from the UAE, you didn't see an  
21 increase in imports from China. Basically, China's market  
22 share remained flat at about 25 percent of the market. And  
23 that represents imports from China that weren't subject --  
24 or not found to be unfairly traded.

25                   So if an order were to come on in this case, I

1 don't think you would expect to see, based on that past  
2 experience, an increase in imports from China.

3           You know, there is the issue of whether you  
4 might see increase in imports from other countries, and you  
5 may. We just don't know.

6           But I think in terms of current injury, I think  
7 it's fairly clear that when the order went on imports from  
8 the UAE, that basically, the industry was not able to gain  
9 a good chunk of the demand increase that you would have  
10 expected.

11           MR. GORDON: Vice Chairman Pinkert, Adam Gordon  
12 from Picard Kentz. If I may comment as well. There is  
13 real world evidence on the fact that the subject imports  
14 for example if put under order, those volumes would not  
15 simply go to China or perhaps back to the UAE.

16           Ms. Zinman, who is scheduled to testify this  
17 afternoon, in the UAE final hearing provided some very  
18 direct testimony on this point in response to a question  
19 from Commissioner Johanson, to the effect that it's not  
20 the -- it's not the size of the margin that matters but  
21 it's the uncertainty of the unknown duty risk.

22           If you refer to pages 193 to 195 of that  
23 transcript, there's an extended discussion in which she  
24 says, "so not to have that risk hanging over our head, this  
25 is with respect to shifting source of supply from China to

1 the UAE. "So not to have that risk hanging over our head,  
2 we looked to change the sources of supply, not because of  
3 the duty rate. Because the duty rate at that time came in  
4 at whatever it was, 20 percent or 19 percent or whatever.  
5 That could have been factored into a marketplace if we knew  
6 that was what the final rate was going to be. But it  
7 wasn't. And exactly the fear that I had then came to pass  
8 as the POR 2 results came out about two weeks ago when the  
9 preliminary rate literally doubled, I mean, the final rate  
10 literally doubled from the preliminary rate.

11 "If the business had continued, there was a huge  
12 amount of money that now would have been owed  
13 retroactively."

14 COMMISSIONER PINKERT: Thank you. Thank you,  
15 Madam Chairman.

16 Commissioner Williamson.

17 COMMISSIONER WILLIAMSON: Thank you. And I do  
18 want to express my appreciation to all the witnesses for  
19 their testimony.

20 Mr. Villanueva, the Respondents have attached to  
21 their brief press articles from December 2014, indicating  
22 that Mid Continent's plans to invest, I guess, 5 million to  
23 expand its facilities and hire additional 91 workers.

24 I know you talked about the need to make  
25 investments in order to keep the company competitive, but I

1 was -- what are these current -- the status of the plans to  
2 expand and why would the company expand capacity given the  
3 current available capacity? In other words, I'm  
4 distinguishing between the investments sort of to stay  
5 competitive versus expansion of capacity.

6 MR. VILLANUEVA: Okay. Yeah. I mean, we are --  
7 we are in this moment, well -- this is Fernando Villanueva  
8 from Mid Continent.

9 Basically, we are doing this investment, first  
10 of all, with a lot of effort, okay, and a lot of concern  
11 about the market. Because --

12 COMMISSIONER WILLIAMSON: It is a bet.

13 MR. VILLANUEVA: Yes. But we need to keep on  
14 doing investments. And these investments, some of them are  
15 expanding operations, such as bringing the machinery out of  
16 Mexico and bring it to Poplar Bluff. Why? Because it  
17 makes more business sense to have the machines here in the  
18 U.S. closer to our customers.

19 But at the same time, the -- the different  
20 actions that we are making in this expansion plan means  
21 upgrading machinery, okay, mechanically, electrically, so  
22 they can run more productive, less downtime.

23 And because of the uncertainty of the market, we  
24 haven't hired more personnel, so our full-time personnel  
25 has been working for overtime, sometimes specifically in



1 the peak months, you can imagine working in Missouri,  
2 southeast Missouri, more than 100 degrees Fahrenheit, with  
3 the humidity and everything --

4 COMMISSIONER WILLIAMSON: I grew up in St. Louis  
5 and it was bad, but I imagine farther south it was worse.

6 MR. VILLANUEVA: Yes. So 50 hours. Even though  
7 our employee, they finish with enough money in their  
8 pockets, they don't have time, and they are tired to enjoy  
9 the money they got with their loved ones. And that's why  
10 we are making these investments, to not use overtime,  
11 reduce the overtime, and we are expanding, hiring new  
12 employees.

13 I don't know if with this I answered your  
14 question.

15 COMMISSIONER WILLIAMSON: I think -- so it's not  
16 just a matter of adding capacity to sell more volume. It's  
17 to make a more efficient --

18 MR. VILLANUEVA: Reduce our costs, and at the  
19 same time we are bringing machinery that will expand our  
20 operations here in the U.S. but right now, that same  
21 volume, we are bringing it from Mexico and it is sold by  
22 our company.

23 COMMISSIONER WILLIAMSON: Okay. Out of  
24 curiosity, I don't know, why did Mid Continent -- why is  
25 Poplar Bluff a good place to make nails? I've never been

1 there, so I --

2 MR. VILLANUEVA: Never, okay. Well, I think  
3 that question should be answered by David Libla, the  
4 founder. So David Libla was born there. Not in Poplar  
5 Bluff but in Greenville, very near Poplar Bluff, okay.

6 And I think that is the reason why.

7 And he developed this expertise with the people,  
8 so we have a very talented group of people working in  
9 Poplar Bluff.

10 And I think at the end, that is what is our  
11 ultimate advantage in the market, our people, our  
12 experience. And now that experience is at Poplar Bluff.

13 COMMISSIONER WILLIAMSON: Thank you for those  
14 answers.

15 MR. PRATT: Mr. Williamson, this is Chris Pratt,  
16 Mid Continent Nail. Also to expand on what Fernando said,  
17 it being David Libla's home area, but it's also centralized  
18 in the Midwest of the United States, gives us a broader  
19 area for shipping to our customers and customers within the  
20 U.S., rather than being in the southern region and  
21 incurring more freight and things of that nature to ship to  
22 the East Coast, the West Coast, upper Midwest, things of  
23 that nature.

24 COMMISSIONER WILLIAMSON: Does 55 go near there?

25 MR. VILLANUEVA: 55 --

1           MR. PRATT: Yes, Highway 55 is about 60 miles  
2 east of Poplar Bluff.

3           COMMISSIONER WILLIAMSON: Okay, thanks. This is  
4 for everybody. The initial reported operating profits --  
5 reported operating profits despite operating at less than  
6 50 percent capacity utilization. So I was wondering, what  
7 is the optimal or target utilization rate for this  
8 industry?

9           MR. PRATT: This is Chris Pratt, Mid Continent  
10 Nail. I don't know that we could quote an optimal for the  
11 industry. We know what we would like to be at, and we can  
12 address that in our posthearing brief.

13           COMMISSIONER WILLIAMSON: Okay. Thank you. If  
14 any others want to add something in posthearing.

15           Mr. Cronin, please explain how Davis's operating  
16 profit producing nails factored into its decision to shut  
17 down -- you mentioned that you shut down one of your  
18 factories. And I was wondering how did your -- you might  
19 have to do this posthearing.

20           MR. CRONIN: Well, I -- Peter Cronin, Heico Wire  
21 Group, Davis Wire.

22           In reference to our Pueblo plant, we had  
23 numerous pieces of equipment and product lines other than  
24 the nail. And the nail facility there, when we -- when we  
25 went to shut down the plant and move all the equipment, we

1 took a look at the lack of profit in the nail department  
2 and the fact that we would have to invest some money to  
3 upgrade the equipment, and the uncertainty of the market.  
4 And we chose to shut down the nail department and we sold  
5 off the equipment. And it was a financial -- prudent  
6 financial decision.

7 MR. GORDON: Adam Gordon. Let me just point  
8 back to Mr. Cronin's testimony concerning the operations in  
9 Pueblo where he testified concerning the fact that they --  
10 they had basically retreated from the market and were only  
11 producing when they had profitable orders to make. And  
12 when they didn't have profitable orders, they would idle  
13 the line and reassign the workers to other tasks.

14 COMMISSIONER WILLIAMSON: Okay. Thank you. I  
15 think that helps. Thank you.

16 The Respondents make arguments on page 7 and 8  
17 of their brief, using BPI information, by the way,  
18 concerning the reasons for ITW's decision where to produce  
19 nails they sell in the United States.

20 Please respond to these arguments in your  
21 posthearing briefs. So this is all -- this is for  
22 posthearing.

23 MR. GORDON: We will be happy to do so.

24 COMMISSIONER WILLIAMSON: Okay. Thank you. And  
25 this may also have to be posthearing, but owe man

1 Respondents also on page 14 to 16 of their brief question  
2 some of the employment data provided by Mid Continent's.  
3 So I was wondering if you want to either respond to that  
4 now or posthearing.

5 MR. GORDON: Adam Gordon from Picard Kentz.  
6 We -- we note that a lot of that discussion was bracketed,  
7 so we are constrained in addressing it. But we will be  
8 happy to do so.

9 Let me just comment, though, that the  
10 information provided in Mid Continent's questionnaire  
11 responses is certified to be complete and accurate, and it  
12 is.

13 COMMISSIONER WILLIAMSON: Okay. Thank you.

14 MR. GORDON: Commissioner Williamson, I'm sorry,  
15 if I may follow up.

16 COMMISSIONER WILLIAMSON: Sure.

17 MR. GORDON: Looking at the pages 14 through 16,  
18 I can discuss publicly some of the -- some of the nature of  
19 the information. The footnotes 35, 36 and 37 all cite to  
20 news articles.

21 So what you're -- what's being relied on there  
22 are news articles concerning that may have included  
23 information on employment that may be different from what  
24 the company actually experienced during the period.

25 Understand, this is not a primary source, it's a

1 secondary source of the information.

2 COMMISSIONER WILLIAMSON: Okay, good. Thank you  
3 for that clarification. Okay. In your brief, you argued  
4 that there are often commercial disadvantages to producer  
5 who makes nails under another, you know, firm's brand,  
6 including extra packaging costs and longer lead times.

7 So the question in general, do private label  
8 products generate lower returns than other products?

9 Mr. Miller?

10 MR. MILLER: James Miller, Tree Island Steel.  
11 That would depend on the duration of the contract. For  
12 example, when someone approaches us to do a private label  
13 for them, we take a look at the duration of the contract,  
14 when it's going to cost us for dies to do the boxes, and if  
15 it's a long-term contract, then it makes good sense and it  
16 makes practical sense, the returns are adequate.

17 If suddenly they say we just want you to produce  
18 boxes for a couple of months and they're not going to pay a  
19 higher price to do that, that's where we would say no.

20 So it would depend on both the -- both the  
21 customers, the duration of the contract and the amount of  
22 work setting up requires.

23 MR. VILLANUEVA: This is Fernando Villanueva.  
24 Yes. Just adding up what Mr. Miller said. When we do some  
25 private labeling, we do a relationship with our own

1 customer, and we are trying to do a middle term and  
2 long-term relationship. Why? Because it takes a lot to  
3 develop the box correctly, labeling, everything. And  
4 that's why we don't -- we don't want sometimes, because it  
5 doesn't make economic sense, to sell a guy who is going to  
6 buy a private label from us one month and the next month he  
7 will decide to change that production from us to another  
8 guy. Okay.

9 COMMISSIONER WILLIAMSON: Okay. Anyone want to  
10 characterize what folks who want private label -- are they  
11 usually looking for these, shall we say, one night stands  
12 or do they also want long-term relationships?

13 MR. MILLER: James Miller, Tree Island Steel.  
14 So a couple things with private label. If you have a  
15 private label for your product and you have another  
16 manufacturer do that for you, what you're really looking  
17 for is the ability to switch manufacturers.

18 So, for example, you're making my nails for me,  
19 I can switch to -- I can switch to Peter's company and it's  
20 invisible to the customer.

21 It also enhances their own brand. So if Hitachi  
22 has a gun, they have Hitachi nails. Could make a nice  
23 relationship with that. So that's the logic behind private  
24 labels.

25 COMMISSIONER WILLIAMSON: Thank you. Anyone

1 else?

2 MR. VILLANUEVA: All of our private label  
3 customers, they buy from us years and years and years,  
4 okay. So our experience is that our private label  
5 customers, they are very loyal customers to us, they  
6 appreciate what Mid Continent's has to offer. We offer  
7 them service, we offer them a better lead time, we offer  
8 them reaction to the market. And they appreciate that.

9 COMMISSIONER WILLIAMSON: Don't come to us  
10 unless you're committed, is that what you're saying?

11 MR. VILLANUEVA: Exactly. Well, yes.

12 COMMISSIONER WILLIAMSON: My time is expiring,  
13 so I think I've carried this analogy.

14 Mr. Cronin?

15 MR. CRONIN: Peter Cronin, Heico Wire Group. I  
16 think to reiterate what my colleagues are saying, it's a  
17 business decision, and each private label opportunity  
18 stands on its own, and you need to look at the volume  
19 opportunity, the length of time, who you're dealing with,  
20 whether you have a strong relationship with them, and then  
21 you make a prudent business decision.

22 COMMISSIONER WILLIAMSON: Okay. Thank you for  
23 those answers, and I apologize, but I got carried away  
24 here.

25 CHAIRMAN BROADBENT: Commissioner Johanson.



1                   COMMISSIONER JOHANSON: Thank you, Commissioner  
2 Broadbent. And I would also like to thank all of the  
3 witnesses for appearing here today and their counsel as  
4 well.

5                   I'm going to follow up a bit on the issue of  
6 labeling and branding, as Mr. Williamson has already asked  
7 a few questions. I have some for you as well.

8                   The Respondents argue that the industry would  
9 have been healthier in the United States but for the  
10 decisions of certain domestic producers to increase their  
11 brand name market share by increasing imports rather than  
12 by producing more nails in the United States.

13                   This is in the Taiwan Respondents' brief at page  
14 35.

15                   How do you all respond to this?

16                   MR. GORDON: This is Adam Gordon from Picard  
17 Kentz. Pardon me, Commissioner, did you say page 35?

18                   COMMISSIONER JOHANSON: Yes, of the Taiwan  
19 brief.

20                   MR. GORDON: I would begin our answer by  
21 suggesting that it's important to understand the party or  
22 parties at issue in that conversation. I'm a little  
23 concerned, I don't know where the proprietary boundaries  
24 are around this.

25                   And to suggest that -- as we discussed a little

1 earlier, I think with Chairman Broadbent, the reasons given  
2 by parties for moving sourcing overseas, especially when it  
3 comes to a company who actually has U.S. production, it  
4 also needs to be understood in the context of other effects  
5 on the company and the company's performance as a whole  
6 during the period.

7 We will fully address this in our posthearing  
8 brief.

9 COMMISSIONER JOHANSON: I understand that.  
10 Actually, I assumed that the answer would touch on  
11 proprietary issues, but I just wanted to raise it, since  
12 this is an argument that the Taiwanese present.

13 And this is also referring back to the Taiwanese  
14 brief, and this is in the Taiwanese Exhibit Number 1 of  
15 their brief.

16 Table 2 of Dr. Becker's report in that brief  
17 shows that the average operating profit margin for certain  
18 steel nails is higher than for other U.S. Steel sectors  
19 overall.

20 Do you all have a response to this?

21 MR. KLETT: Commissioner Johanson, this is Dan  
22 Klett with Capital Trade.

23 With regard to that table, table 2, we don't  
24 think that's a proper reference point. I mean, it's  
25 primary metal producers, which is fairly broad, number one.

1           Number two, Dr. Becker didn't even include all  
2 producers, he excluded some producers with a certain R&D to  
3 sales ratio above a certain percentage, I think maybe it  
4 was 5 percent.

5           Number three, that table was really a graphic.  
6 I'm not -- it was hard to reverse engineer what actually --  
7 what are the numbers behind those -- those graphics. I  
8 guess I suppose I could, but I would have liked to have  
9 actually seen the data behind the graphic.

10           And the last point is that we did a similar  
11 analysis in terms of looking at a sector, and we looked at  
12 primary metal producers, or I'm sorry, we looked at metal  
13 fabricators.

14           And nails is a metal fabrication type operation.  
15 And if you were to look at a reference industry to compare  
16 to nails, we think U.S. metal fabricators is a better  
17 reference point than primary metal producers.

18           COMMISSIONER JOHANSON: You know, if there's any  
19 way you could look into that in your posthearing brief, I'd  
20 appreciate it.

21           MR. KLETT: Sure, I will address that in more  
22 detail in our posthearing brief.

23           COMMISSIONER JOHANSON: That is another --  
24 fabricated products, I assume, would have -- would cost  
25 more anyway, just due to further production. Is that the

1 point?

2 MR. KLETT: Well, I think both in terms of  
3 revenue and costs, it's just a more comparable sector  
4 for -- as nails as compared to primary metals. I mean,  
5 primary metals you have blast furnaces and very high  
6 capital cost. It's just a different animal.

7 COMMISSIONER JOHANSON: All right, thank you. I  
8 appreciate your response. And this question follows up on  
9 that one, my prior one, to some extent. According to the  
10 Staff report, raw materials account for a substantial  
11 portion of the final cost of steel nails and steel nails  
12 are predominantly manufactured from steel wire.

13 As shown in figure 5-1 of the Staff report,  
14 prices for steel wire rod have decreased from 2012 to 2015.

15 To what extent could wire rod price declines  
16 explain any declines in nail prices during the period of  
17 investigation?

18 MR. KLETT: Commissioner Johanson, this is Dan  
19 Klett again, and maybe some of the industry witnesses want  
20 to chime in in terms of their own experience.

21 But, you know, raw material costs, I mean, costs  
22 obviously can affect -- can affect price. But on the other  
23 hand, I don't think that a producer would necessarily  
24 unilaterally reduce its price as its raw material costs  
25 went down, unless it had to, especially if it's operating

1 at relatively low margins, it would, I think, attempt to  
2 keep price high and increase those margins especially in  
3 the context of increasing demand.

4 So I don't -- I don't necessarily think you'd  
5 expect -- necessarily expect to see a lock-step decrease in  
6 price as raw material prices went down.

7 MR. MILLER: We're a little bit like the airline  
8 industry, in terms of you saw oil drop dramatically. Have  
9 you noticed a change in your ticket price. No.

10 And the reason is we had suffered so much from  
11 compressed margins as a result of China that we saw it  
12 again under the UAE, so we were hoping for a little bit of  
13 a reprieve and the ability to make some -- an adequate  
14 return. So we didn't drive the prices lower ourselves. We  
15 have been trying to increase prices, hoping that the  
16 increased demand for nails will have the natural  
17 consequence be rising prices. So no direct relationship.

18 COMMISSIONER JOHANSON: All right. Thanks for  
19 your responses. I was informed by my colleague  
20 Commissioner Broadbent already asked that question. I  
21 stepped out when the questions began as commissioners often  
22 do. I apologize for being redundant, but I did learn from  
23 your response, I appreciate it.

24 Respondents contend that as a supply condition,  
25 we should think of the domestic industry as operating in

1 three segments, national brand name producers who use  
2 domestic production supplements their import, Mid  
3 Continent, which is the Petitioner here, and all other  
4 producers. In their view, dramatic differences exist in  
5 the operations and business plans of these three segments.

6 Does the industry have three segments, as the  
7 Respondents allege?

8 MR. GORDON: This is Adam Gordon from Picard,  
9 Kentz & Rowe. The answer is no. It is one industry,  
10 should be viewed as such, and evaluated as such.

11 As we've heard in testimony this morning, some  
12 of the producers here today, who in absolute terms are  
13 currently very small, historically have been  
14 extraordinarily large. In fact, bigger than Mid  
15 Continent's is today. And they have retained significant  
16 amounts of capacity that they would like to bring back  
17 online.

18 The Respondents' arguments are simply an attempt  
19 to divide and conquer. So you need to look at the industry  
20 as a whole. And even when you evaluate the experience and  
21 the performance of some of the very highly niched producers  
22 that are in the industry, I think it bears a question of,  
23 you know, would they want to sell more or wider variety of  
24 products if the market conditions permitted it?

25 Producers in this industry and in other

1 industries, they respond to import pressure in different  
2 ways. Some retreat into niche areas where they can  
3 survive. Some choose, like Mid Continent's, to essentially  
4 double down and continue to invest and compete  
5 head-to-head, and in this case as you see and have seen  
6 before, take it on the chin.

7           So I don't think there's any basis for trying to  
8 segment the industry into different chunks.

9           COMMISSIONER JOHANSON: Thank you for your  
10 response, Mr. Gordon.

11           Can you please give us your opinions on this?  
12 Do you disagree with Respondents' claim that although users  
13 of nail guns can use nails of a different brand than the  
14 nail gun itself, they overwhelmingly tend not to?

15           MR. PRATT: Chris Pratt, Mid Continent Nail.  
16 The nail of choice for a gun, for any particular gun, is  
17 primarily personal choice. As long as the nail meets the  
18 ASTM specification and is functional in the tool, the  
19 manufacturer of the nail doesn't make a difference.

20           So it's more of a personal use preference.

21           COMMISSIONER JOHANSON: I wonder how common that  
22 is. Maybe I shouldn't bring personal examples here. But I  
23 was buying coolant yesterday for my car. I have a  
24 Volkswagen, and Volkswagen always says you should really  
25 use our product. But I went to the auto parts store and

1 they didn't have that, they had an approved product but it  
2 wasn't Volkswagen. So I bought it but still haven't put it  
3 in my car because I feel a little weary because the last  
4 thing I want to do is ruin my engine.

5 CHAIRMAN BROADBENT: You can put it in my car if  
6 you want. It's parked next to yours.

7 COMMISSIONER JOHANSON: My car is probably  
8 older.

9 But is that the case? I assume that many  
10 purchasers would think well, I want to be safe here, I  
11 should just use the recommended brand?

12 MR. CRONIN: This is Peter Cronin with Heico  
13 Wire Group. I think the proof is in the shipments and  
14 sales of what we'll call a generic product that meets the  
15 spec of the nail gun manufacturer. And I think the fact  
16 that all of us in the industry make the nails for these  
17 different guns proves that they're very acceptable.

18 And as Fernando mentioned, a lot of the guns --  
19 the tools that are used by the professional contractors,  
20 they're very savvy, and they know that these nails will  
21 work satisfactorily in the guns. So they don't have a  
22 concern.

23 MR. GORDON: This is Adam Gordon. I know the  
24 red light is on but if I may follow up with the analogy  
25 very briefly.



1           I think it highlights part of what we have been  
2 talking about here. For a consumer like myself or you to  
3 go to Auto Zone and pick something up is a lot different  
4 than what a mechanic, a professional ASE certified mechanic  
5 operating out of a shop, a private shop, would reach for  
6 and use based on his knowledge.

7           Plenty of times your BMW car, you take it in for  
8 an oil change, you're not going to get BMW oil. You will  
9 get modal or some other brand that actually might perform  
10 better. That's based on what the professionals know. They  
11 have savvy enough, as Mr. Cronin said, to evaluate the  
12 choices and know what will work.

13           COMMISSIONER JOHANSON: That makes sense, and  
14 that's why I'm worried to bring in personal examples. It  
15 was just yesterday, but anyway, thank you for your  
16 responses.

17           CHAIRMAN BROADBENT: Commissioner Schmidtlein.

18           COMMISSIONER SCHMIDTLEIN: Just to follow up on  
19 the line of questions that I had in the first round on how  
20 prices are set in this market. And I know you were  
21 explaining the conversations that you all had with a  
22 potential buyer and that they are receiving quotes that are  
23 lower. What I would like to understand is how does that  
24 information get disseminated? In other words, are you all  
25 bidding, if you will, on the same jobs everywhere, and so

1 that's how the information gets disseminated?

2           Then my second question is do prices of one type  
3 of nail affect other types of nails? So in other words, if  
4 you have a sale at a large volume that's gone to imports at  
5 a lower price, is that going to affect prices of other  
6 types of nails across the board?

7           MR. MILLER: To answer the first question, we're  
8 not bidding on jobs specifically. You're bidding on  
9 long-term -- longer term contracts or, for example, with  
10 the big box retailer or more likely a company that sells to  
11 contractors.

12           And so the salesperson from our company will ask  
13 the procurement person from that company did I get the bid.  
14 And sometimes you get feedback and oftentimes we actually  
15 say -- they come back to us and say can you match the price  
16 that Prime Source gave us. That's how -- that's how we get  
17 feedback.

18           It's not always as clean as that. And other  
19 times we'll go back into the store or the retailer or  
20 distributor and find out whose product is on the shelf.  
21 And then we'll know how we lost it from that perspective.

22           Now, from the perspective of the second  
23 question, which was --

24           COMMISSIONER SCHMIDTLEIN: Well, does the price  
25 of one type of nail affect other types of nails? So if the

1 price of collated nails is dropping because of imports, is  
2 that affecting --

3 MR. MILLER: The loose bulk nails.

4 COMMISSIONER SCHMIDTLEIN: Yeah, yeah.

5 MR. MILLER: No. There are different buyers for  
6 each of those product segments. But for example, the  
7 imports really do -- are impacted also the bulk nails as  
8 well. But it's usually the foreign imports from the  
9 subject countries that are the price setters in the  
10 industry.

11 COMMISSIONER SCHMIDTLEIN: And so how are those  
12 affected, since they're different buyers?

13 MR. MILLER: Because the subject countries do  
14 product --

15 COMMISSIONER SCHMIDTLEIN: They are producing  
16 all of it.

17 MR. MILLER: They are producing all of it.

18 COMMISSIONER SCHMIDTLEIN: So they are competing  
19 in all of that.

20 MR. MARTIN: This is John Martin with Mar-Mac.  
21 You asked how we knew about the pricing. There are also  
22 reverse auctions, and you may do a reverse auction on one  
23 day. If you don't get the business, you know the next day  
24 that you didn't get it at the price you bid.

25 COMMISSIONER SCHMIDTLEIN: How prevalent is

1 that, the reverse auction? In terms of how sales are made?

2 MR. MARTIN: I could not give you a number. We  
3 actively participate in reverse auctions.

4 MR. CRONIN: Peter Cronin with Heico Wire Group.  
5 Fortunately, they're not that prevalent.

6 COMMISSIONER SCHMIDTLEIN: Okay.

7 MR. CRONIN: It's a pretty transparent way to do  
8 business, and it -- it's a strategy to drive the price  
9 down. Typically, in our industry, when you know -- when  
10 you find out that you didn't get the order, you know  
11 there's a myriad of reasons, either your delivery, you  
12 don't have a good enough relationship with the customer, or  
13 the price.

14 And your job as a manufacturer and your sales  
15 team is to determine why you lost the order and then you  
16 need to look at your next quote and make a decision.

17 COMMISSIONER SCHMIDTLEIN: So speaking of lost  
18 orders, why do you think so few of the lost sale lost  
19 revenue allegations were verified?

20 MR. KLETT: Commissioner Schmidtlein, this is  
21 Dan Klett. I think there's a number of points. One is  
22 that there were very large number of the allegations where  
23 there were no responses. However, we were -- there were --  
24 some of those purchasers that did not respond to the  
25 allegations actually submitted purchaser questionnaires.

1           So we went through our brief and kind of looked  
2 at information in the purchaser questionnaires to try to  
3 make some inference as to whether you could consider that  
4 to be a loss -- confirmed lost sale or not. In many cases,  
5 I think you could inferentially conclude it would have been  
6 a confirmed lost sale or lost revenue.

7           Secondly, I think it's table 5-22 where even  
8 though certain purchasers didn't respond to the specific  
9 allegation, they actually more generally said yes, we  
10 reduced our prices in response to imports or switched. I  
11 think it's that table. I'll have to go back and  
12 double-check. It's toward the end of the pricing section.

13           Another point is that when you look at the  
14 actual text for some of the denials, we don't think it  
15 really was a denied lost sale allegation. And I'll give  
16 you two examples.

17           One is some purchasers or one purchaser denied  
18 the allegation because they said we switched from China to  
19 subject imports. And that's kind of our point, that the  
20 industry hasn't benefited from orders on China because they  
21 went to subject countries rather than U.S. producers.

22           And the second point is that some of the  
23 allegations were denied because they said, well, we bought  
24 China origin or it was China origin, not U.S. origin that  
25 was displaced.

1           But when you go and actually look at the product  
2 codes associated with that product that they said was  
3 Chinese from this particular producer, it actually looks  
4 like it was a U.S. origin product, you know, on their Web  
5 site, they had product codes and they -- it gave the  
6 country of origin for the product codes.

7           So we kind of went through those -- those issues  
8 in our brief as to why the ratio of deny to confirm is not  
9 exactly as it's portrayed, just by counting up the -- what  
10 people said.

11           COMMISSIONER SCHMIDTLEIN: Okay, thank you. I  
12 wanted to follow up on an argument that the Respondents are  
13 making, and you mentioned, Mr. Miller, the sales to the big  
14 box stores.

15           So this morning we heard in opening the argument  
16 with regard to that the U.S. industry can't compete because  
17 they don't sustain a national distribution center or they  
18 can't meet quick demand with a full range of product  
19 including hand driven nails.

20           And so I'd like to hear -- I assume you disagree  
21 with that, but if you do, how do you respond to that?

22           MR. MILLER: First of all, we're American  
23 manufacturers, we're manufacturing nails. We aren't  
24 distributors that were involved in supply chain. So that's  
25 the primary difference.

1           So for example, Prime Source has distribution  
2 centers because they distribute nails and a myriad of other  
3 products as well. It's their primary business. Their  
4 primary business is not manufacturing, though they have  
5 this little Dallas company they started up.

6           That's the primary difference.

7           In our case, for example, we do Lowe's in  
8 Canada, and we do have the ability and our industry has the  
9 intellectual ability, capabilities, to do distribution in  
10 big box stores.

11           We also do distribution -- deliver the products,  
12 certain products, to other large distributors and two-step  
13 distributors of nails and other products.

14           MR. CRONIN: Peter Cronin with Heico Wire Group.  
15 The big box market and volume is relatively small in  
16 comparison to the total market for nails in the U.S., I  
17 might add that comment.

18           COMMISSIONER SCHMIDTLEIN: Okay. That's  
19 helpful.

20           MR. GORDON: This is Adam Gordon. Following on  
21 Mr. Cronin's comment, in our posthearing brief, we will  
22 provide a calculation of what share our parent's domestic  
23 consumption is attributable to shipments by -- what are  
24 colloquially referred to as the big box stores here,  
25 Lowe's, Home Depots and Menards.

1           But further to that point, one group that hasn't  
2 yet been identified this morning is the Specialty Tool and  
3 Fasteners Distributors Association, sort of the specialty  
4 group for nail producers, as well as fasteners and nails,  
5 as well as all other kinds of specialty tools and  
6 fasteners.

7           We have here the member director from 2014, and  
8 in the directory for distributors, there are over 900 STFDA  
9 distributors, many of whom have multiple locations. That's  
10 in addition to whoever population of lumber yards and other  
11 sorts of specialty distributors, say for example servicing  
12 the concrete building products industry for Mr. Martin,  
13 that would buy and resell nails.

14           So as we will show through the calculations  
15 based on apparent domestic consumption, it is a -- it is a  
16 bit of a canard to have -- to sort of like try to create  
17 the image that the big box stores are the market and that's  
18 simply not true.

19           It may be a very important market for Prime  
20 Source but it's not the market for these products. And  
21 Prime Source competes both in the big box stores but also  
22 in other segments of the market as well.

23           COMMISSIONER SCHMIDTLEIN: All right. I think  
24 that -- well, my time is almost up anyway, but I thank you  
25 very much. I have no further questions.



1           CHAIRMAN BROADBENT: Okay. I had some -- we're  
2 going to have to do I think a lot of study on the pricing  
3 issue here as we work our way through the material.

4           This question is a little vague just because I'm  
5 not quite sure of the BPI involved. So if you don't  
6 understand me, I can repeat it.

7           Mr. Gordon, you advocate that the Commission  
8 should not consider pricing data provided by a firm that  
9 you also consider to be the dominant source of subject  
10 imports, as well as the price leader.

11           Does this make sense? Shouldn't the  
12 Commission -- Commission's understanding of this firm's  
13 pricing data be integral to any assessment of whether  
14 subject imports are causing adverse price effects?

15           MR. GORDON: Chairman Broadbent, it does make  
16 sense when you look at the multiple reasons that have been  
17 identified for excluding the data. The Staff excluded the  
18 data for one reason. In our prehearing brief, we've  
19 identified multiple other reasons why the data are  
20 aberrational and should not be incorporated and relied  
21 upon, some of which are actually very concrete in terms of  
22 the pricing reported versus the pricing observed in other  
23 settings.

24           And I would limit my comments in this forum to  
25 those and firstly point you to our prehearing brief where

1 we discuss this at length and we'd be happy to elaborate  
2 further on any of those points in our posthearing brief.

3 CHAIRMAN BROADBENT: Okay. It appears that we  
4 have a lot of sales prices being made at different levels  
5 of trade in this market. Firms make sales to related  
6 distributors, unrelated distributors and to a variety of  
7 end users, including pallet makers, lumber yards,  
8 contractors and retailers.

9 In order for us to draw accurate price  
10 comparisons, how should the Commission consider differences  
11 in prices for each of these types of purchases?

12 MR. KLETT: Commissioner Broadbent, this is Dan  
13 Klett. I mean, you collected the data, as you do normally,  
14 by looking at sales from U.S. producers and sales from  
15 importers. And I think that's an accurate way of looking  
16 at the price comparisons.

17 In terms of the different market segments and  
18 different types of products, I mean, one thing you have  
19 that I think is very compelling, where you do control for a  
20 lot of the points you made, are your purchaser  
21 questionnaires.

22 And although it's qualitative, you know, when a  
23 purchaser reports who was lower priced and who was higher  
24 priced, you know, it's to the same customer, the same level  
25 of trade, presumably, they're comparing the same type of

1 nails when they check that box.

2           And the data there are very compelling. I mean,  
3 only -- of all the purchasers that reported data, only --  
4 or answered that question, only 3 percent said that U.S.  
5 producers were lower priced.

6           So I think that tells you something about  
7 relative pricing controlling for all the factors that you  
8 mentioned. But -- and I think your pricing data,  
9 especially -- I mean, Respondents made the point that  
10 because you have a lot of observations where the prices are  
11 very close, in other words, imports, maybe the margin of  
12 underselling was fairly, just a little bit below or you had  
13 margin of overselling where imports were just a little  
14 above, I mean, I think implicitly that tells you your own  
15 pricing data are fairly reliable.

16           I mean, it's when you see margins of  
17 underselling that are 50 percent that makes you wonder  
18 whether you're really comparing prices at the same level of  
19 trade.

20           Because in a commodity market, you know,  
21 somebody is underselling or overselling by 50 percent, they  
22 wouldn't be in the market very long. So I think actually,  
23 the fairly small margin of underselling and overselling or  
24 even comparably priced products tells you that your own  
25 pricing data are, to a certain extent, controlled for the

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1 factors that you mentioned.

2 CHAIRMAN BROADBENT: But -- I mean, the pricing  
3 data is summarized, I think it's in table 5-16 of the  
4 prehearing Staff report, really shows only a few instances  
5 of more underselling than overselling.

6 Isn't this pretty difficult for you in terms of  
7 trying to attribute declining prices of U.S. producers to  
8 the imports?

9 MR. KLETT: I'm sorry, Commissioner Broadbent,  
10 this is Dan Klett. When you look at the volumes associated  
11 with the underselling and the overselling, the percentages  
12 are quite a bit different.

13 I mean, I think I can in a public forum say it's  
14 more closer to 80 percent of import volume underselling and  
15 20 percent overselling.

16 So that's one point.

17 The other point is when you -- when you actually  
18 look at each of the individual pricing products and you  
19 look at the patterns, in other words, what was happening  
20 with U.S. producers' prices and what was happening with  
21 import prices and when and the volumes associated with the  
22 import pricing, I think that also tells you something  
23 about -- about who was driving the price down.

24 So while I agree that, you know, the instances  
25 were only 50/50, I think those other two facts support a

1 finding of adverse price effects due to imports.

2 CHAIRMAN BROADBENT: Okay. Our pricing  
3 comparisons include U.S. importer sales to major  
4 distributors, but then the distributors go on to sell  
5 directly to the end users.

6 To what extent do you expect that subject import  
7 prices could be skewed lower as a result of this inclusion?

8 MR. KLETT: I don't -- I don't think they are.  
9 I mean, I think you're comparing prices at comparable  
10 levels of distribution. I mean, U.S. producers are selling  
11 to distributors and importers are selling to distributors.  
12 And so I don't think there's a level of trade distortion  
13 associated with how the pricing data were collected or  
14 reported.

15 MR. GORDON: This is Adam Gordon from Picard  
16 Kentz. On that point, you know, the Respondents, the  
17 Taiwanese Respondents' brief, Exhibit 4, provides a very  
18 nice summary table showing U.S. producers and all the  
19 customers to which they sell in common with some of the  
20 large distributors. And there is -- I think I can publicly  
21 say, there's half a dozen U.S. producers are selling to,  
22 for example, to the same big box stores that have been  
23 identified as sort of one part of the market.

24 There is public information that U.S. producers  
25 are selling to -- in all -- at all levels of trade here.

1           For example, in the Staff conference,  
2 Mr. Leffler testified that specialty fastener in Arkansas  
3 private labels for Hitachi. So you have U.S. producers  
4 competing for sales to Hitachi. Then there are sales --  
5 there is competition for sales by Hitachi and also by U.S.  
6 producers in different parts of the market.

7           CHAIRMAN BROADBENT: Okay. Mr. Villanueva, I  
8 want to go back to something that you said earlier today,  
9 as I understood it. You said that the industry was not  
10 injured in 2005. At that time, the U.S. market share was  
11 23 percent compared to 21 percent today. The industry's  
12 capacity utilization was 40 percent compared to, I think,  
13 41 or 42 percent today.

14           Should we understand that the industry's current  
15 market share and capacity utilization is not representative  
16 of injury, if it's similar to what was happening in 2005?

17           MR. VILLANUEVA: Could you repeat the question  
18 just regarding the numbers of 2005 against the numbers we  
19 have today?

20           CHAIRMAN BROADBENT: Sure, yeah, sorry about  
21 that. You said that the industry was not injured in 2005.  
22 At that time U.S. market share was 23 percent compared to  
23 21 percent today. The industry's capacity utilization was  
24 40 percent, compared to I think it's 41 percent today.

25           So it seems very close to when it wasn't

1 injured.

2 MR. VILLANUEVA: Well, our injury -- or the main  
3 reason we are injured, because our profits are really,  
4 really low.

5 If you see the market share, perhaps 4 points  
6 doesn't mean too much. But for the U.S. industry, it is --  
7 it is a lot.

8 When we struggle and when we felt --

9 CHAIRMAN BROADBENT: It's 2 percent, right, not  
10 4 percent?

11 MR. VILLANUEVA: I'm sorry, 2 percent. Even  
12 with 2 percent, if you -- if you compared that to U.S.  
13 tons, it is a huge amount for any producer here.

14 If you analyze the prices, when the flooding of  
15 the Chinese imports started after 2005, those were the  
16 first injuries that we received to the market, okay. And  
17 that's why we are saying and we are stating that the market  
18 has been injured since 2005 when China entered the market  
19 and then the UAE and then the subject countries now under  
20 investigation.

21 MR. KLETT: Commissioner Broadbent, this is Dan  
22 Klett. I mean, if you look at slide 4 of my presentation,  
23 I mean, U.S. producers actually lost market share from 2004  
24 to 2005, and I'll have to go back and look at the Chinese  
25 share, but I think part of that was China was actually

1 increasing over that period.

2 And also, when you look at slide 8, and this  
3 goes to Mr. Villanueva's point on profitability, you know,  
4 the 2005 operating profits were much higher than in any  
5 subsequent year, including during the current POI.

6 CHAIRMAN BROADBENT: Okay. Vice Chairman  
7 Pinkert.

8 COMMISSIONER PINKERT: Thank you, Madam  
9 Chairman.

10 If I understood your testimony correctly,  
11 Mr. Klett, you were estimating that about 80 percent of the  
12 import volume in our pricing comparisons was underselling.

13 Do you have a similar -- or do you have an  
14 estimate for the percentage of domestic industry sales that  
15 were undersold in our pricing data?

16 MR. KLETT: Yes. It's -- I'll have to go back  
17 and double-check. I think it's -- I think it's something  
18 like 65 percent of U.S. producer shipments were undersold  
19 versus oversold, but I'll have to go back and check.

20 It's not as high as 80 percent, but a higher  
21 percentage of U.S. production was being undersold than  
22 being oversold. And part of the -- part of the difference  
23 between some of my calculations and Dr. Becker's is that  
24 some of the pricing data were collected on 1000 nails basis  
25 and some on a short tons basis. So we converted everything



1 to a short tons basis, just so we could aggregate all the  
2 information as well as compare it to other data you collect  
3 on a short ton basis.

4 And there are standard industry metrics for, you  
5 know a thousand nails of the specification weigh a certain  
6 amount. So you can fairly easily convert all of that to a  
7 short ton basis and do the aggregate calculation.

8 But I'll -- we'll do that in our posthearing  
9 brief.

10 COMMISSIONER PINKERT: Thank you.

11 Mr. Gordon, is there any precedent for the  
12 Commission taking into account differences in level of  
13 trade in analyzing the pricing comparisons?

14 MR. GORDON: I'll look into that, we'll -- we'll  
15 address that in our posthearing brief.

16 COMMISSIONER PINKERT: Thank you. Now, as you  
17 know, our Staff presented a financial operating profit  
18 margin alternative in footnote 1 to table VI-2 that deletes  
19 data from new entrants and a company exiting the market.  
20 Should we rely on this alternative profit calculation?

21 MR. GORDON: Vice Chairman Pinkert, it's our  
22 position that the Commission should take the industry as a  
23 whole and that considering including new entrants,  
24 companies that are exiting, large company, highly, smaller  
25 producers, it's the only accurate way to get a picture of

1 the industry as a whole, which is consistent with the  
2 statutory definition for defining domestic industry.

3           Along those lines, let me say a company who has  
4 been identified as a new entrant, Fusion, is not. That was  
5 a company, based on public information, Hahn systems  
6 essentially acquired all of the assets of a preexisting  
7 producer that we had not known about, called ECS Fastening,  
8 in 2013, I think it was.

9           So they're not necessarily -- they were a going  
10 concern at the time they were acquired.

11           COMMISSIONER PINKERT: Thank you. And perhaps  
12 this is better for the posthearing, but what do you make of  
13 the Oman Respondents' argument that its increased imports  
14 over the period of investigation were not harmful to the  
15 domestic industry because the domestic industry does not  
16 compete against those imports?

17           MR. GORDON: We'll address it further in our  
18 posthearing brief, but let me note this. As I said a few  
19 minutes ago, there is direct competition, you know, for  
20 sales to -- in that -- at the same level.

21           I guess I don't want to cross any proprietary  
22 lines, but we'll get into that in further detail.

23           COMMISSIONER PINKERT: Thank you.

24           Thank you, Madam Chairman.

25           CHAIRMAN BROADBENT: Commissioner Williamson.

1                   COMMISSIONER WILLIAMSON: Thank you. Just one  
2 question. In responding to lost sales and revenue  
3 allegations, several purchasers indicated that the alleged  
4 domestic product at issue was actually nails imported by a  
5 domestic producer from a nonsubject country.

6                   In your brief you assert that in some cases  
7 these purchasers appear to have been mistaken and the  
8 product actually was domestic.

9                   Do you agree that at least some of the  
10 allegations involve no product that was made in the U.S.?

11                  MR. KLETT: Commissioner Williamson, this is Dan  
12 Klett. We went and looked at the country of origin with  
13 some of those products, and I'll go back and double-check,  
14 but I think some of them actually may have been nonsubject  
15 rather than U.S.

16                  But we did identify some that were identified as  
17 nonsubject that, based on the product code and the  
18 company's Web site did appear to be U.S. But there may  
19 have been some that also were nonsubject.

20                  COMMISSIONER WILLIAMSON: So you will clarify  
21 that in posthearing?

22                  MR. KLETT: We will.

23                  COMMISSIONER WILLIAMSON: Thank you. And  
24 actually with -- Mr. Gordon, anything else? Okay, fine.  
25 With that I have no further questions and I want to thank

1 the panel for their answers.

2 CHAIRMAN BROADBENT: Mr. Johanson?

3 COMMISSIONER JOHANSON: Thank you, Commissioner  
4 Broadbent.

5 What is your response to the Respondents'  
6 contention that a number of domestic producers do not have  
7 the resources, for example, the size, product diversity and  
8 national distribution system required to sell significant  
9 quantities of nails to the mass manufacturer market? And  
10 this is pointed out at page 32 of the Taiwan brief.

11 And what is the evidence of direct competition  
12 between the domestic like product and subject imports when  
13 it comes to mass merchandisers?

14 MR. GORDON: This is Adam Gordon from Picard  
15 Kentz. Let me start by addressing the second part of that  
16 question. On the product display table before us, there  
17 are a number of products produced by domestic manufacturers  
18 that were purchased last Saturday at Lowe's in Chantilly,  
19 Virginia. They are labeled, several of the 1- and 5-pound  
20 boxes of nails from maze are made in Peru, Illinois.

21 You have product produced by ITW Paslode, which  
22 is marked made in the United States.

23 This is consistent with what we have  
24 demonstrated in the past with respect to products sold at  
25 Home Depot, where they're carrying domestically made

1 products in addition to product from the subject countries.

2 COMMISSIONER JOHANSON: Thank you for your  
3 response.

4 MR. GORDON: I don't know if our panelists have  
5 anything to say about national distribution on that point.

6 MR. MILLER: James Miller for Tree Island.  
7 We're capable of doing national distribution, and we don't  
8 do it extensively in the United States but we have  
9 expertise to do it in Canada. And we work with other  
10 distributors and third-party logistics. It's basic  
11 competence within our industry. It's not -- it's incorrect  
12 to say we are incapable of it.

13 COMMISSIONER JOHANSON: Along those lines,  
14 Mr. Miller, and anyone else who would like to comment, to  
15 what extent do you agree or disagree with Respondents'  
16 argument that sales to mass retailers are not based on  
17 price but rather on customer support and delivery and  
18 product range?

19 MR. MILLER: Our observation in the industry, it  
20 is based on price.

21 MR. VILLANUEVA: Yeah, we have the same  
22 information. Basically, the big buyers of nails, they do  
23 bidding every two, three months, and they compare us  
24 against the imports. So basically, it's price.

25 MR. CRONIN: Peter Cronin of Heico Wire Group.

1 I concur with my two associates.

2 COMMISSIONER JOHANSON: All right. Thanks for  
3 your responses.

4 This question is kind of down in the weeds, but  
5 I guess that's why we're here. In your view, what caused a  
6 price of product 12 bright new shank 30 to 33 degree paper  
7 strip collated nails to increase, while other prices are  
8 decreasing in the United States?

9 MR. KLETT: Commissioner Johanson, this is Dan  
10 Klett. Product 12 is a paper strip. It's a really small  
11 volume product. I think the paper strip were products were  
12 those that were not collected in the preliminary and they  
13 were recommended by Respondents as pricing products for the  
14 final phase.

15 But I'm just trying to find the table in my  
16 little Staff report here.

17 But you can see that the -- I'm sorry, you can  
18 see that the volumes are relatively low compared to other  
19 pricing products. But in terms of why they went up, I'd  
20 have to look into that more closely for the posthearing. I  
21 don't have an explanation here this morning.

22 COMMISSIONER JOHANSON: All right. Thanks for  
23 your responses, and that concludes my questions. Thank you  
24 all for appearing here today.

25 CHAIRMAN BROADBENT: If commissioners have no

1 further questions, does the Staff have any questions?

2 MR. MC CLURE: Thank you, Madam Chairman, Jim  
3 McClure, Office of Investigations. We have no questions.  
4 I would like to thank everybody who came in from out of  
5 town for taking the time to be here, and in particular for  
6 the folks from Poplar Bluff, like Commissioners Schmidlein  
7 and Williamson, I too am a native Missourian and, indeed,  
8 have visited Poplar Bluff as a fully paid speeding ticket  
9 from 1965 will attest.

10 (Laughter.)

11 MR. MC CLURE: Thank you.

12 CHAIRMAN BROADBENT: Okay. Do Respondents have  
13 any questions for this panel?

14 MR. MARSHAK: No questions, your Honor.

15 CHAIRMAN BROADBENT: Seeing none, thank you. In  
16 that case, I think it's time for our lunch break, and we  
17 will resume here at 1:00. The hearing room is not secure,  
18 so please don't leave confidential business information  
19 out. And I want to thank all the witnesses for coming  
20 today and for bringing all the visual aids.

21 (Whereupon, at 12:06 p.m., the hearing was  
22 recessed, to be reconvened at 1:00 p.m. this same day.)

23

24

25

1                                   AFTERNOON SESSION                   (1:03 p.m.)

2                   CHAIRMAN BROADBENT: Mr. Secretary, are there  
3 any preliminary matters for the afternoon session?

4                   MR. BISHOP: Madam Chairman, I would note that  
5 the panel in opposition to the imposition of antidumping  
6 and countervailing duty orders have been seated. All  
7 witnesses have been sworn.

8                   CHAIRMAN BROADBENT: Thank you, Mr. Secretary.

9                   I want to welcome the panel to the ITC this  
10 afternoon. I would like to again remind you to speak  
11 clearly into the microphone and state your name for the  
12 record for the benefit of the court reporter. You may  
13 begin when you're ready.

14                  MR. SCHUTZMAN: Max Schutzman, Grunfield  
15 Desiderio. Thank you, Madam Chairman, members of the  
16 Commission, we appreciate the opportunity to appear before  
17 the Commission with Respondents' positions. We will get  
18 right to it.

19                  Our first witness on the panel will be Jennifer  
20 Bressler. She is from the Home Depot, one of our nation's  
21 largest retail suppliers of steel nails.

22                  Ms. Bressler will explain to you the criteria  
23 the company relies upon in selecting its nail supplier and  
24 why the Home Depot does not and cannot purchase nails from  
25 Petitioner Mid Continent.

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1 Ms. Bressler.

2 STATEMENT OF JENNIFER A. BRESSLER

3 MS. BRESSLER: Thank you.

4 Thank you, Madam Chairman. Good afternoon,  
5 commissioners.

6 I really appreciate the opportunity to be here  
7 today. My name is Jennifer Bressler. I am the  
8 merchandising vice president for hardware at the Home  
9 Depot. I've had this position for the last 18 months of my  
10 17-year tenure at the Home Depot.

11 I'm here today on behalf of the Home Depot's  
12 customers. At Home Depot, we believe the best way to serve  
13 our customers is to offer them a selection of quality  
14 products, provide value and also innovation.

15 We also offer our suppliers an equal opportunity  
16 to compete for the Home Depot's customers' business.

17 My purpose in being here today is not to choose  
18 sides, but to offer the Commission Home Depot's unique  
19 expertise and experience in the U.S. market for steel  
20 nails, the products that are the subject of this  
21 investigation.

22 Home Depot has approximately 2000 retail stores  
23 nationwide, and we are one of the largest retailers of  
24 nails in the United States. We represent approximately  
25 one-third of the U.S. market for hand drive nails and one

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1 quarter of the market for collated nails. We serve a wide  
2 variety of customers, from homeowners, do it yourself,  
3 do-it-yourselfers with projects and both large and small,  
4 to our professional contractors or builders, which we would  
5 call pros.

6           Of course, we always look for the best value,  
7 quality and localized assortment for our customers. To  
8 serve that very customer base, the Home Depot must carry  
9 literally hundreds of products or what we would call SKUs.  
10 To do that effectively, we simply must consider other  
11 factors than just price.

12           So now you must be thinking, it's just nails;  
13 right? What could be more important than price? But the  
14 answer is really quite a lot.

15           A major consideration in our sourcing decisions  
16 for nails is whether a supplier can provide a broad range  
17 of quality localized products. One-stop sourcing is  
18 generally more efficient for us, much like one-stop  
19 shopping is for our customers. Our main supplier of nails  
20 supplies us with over 400 SKUs, all meeting local code  
21 standards, including both collated and hand-driven nails,  
22 all of them meeting Home Depot's standards for quality and  
23 reliability.

24           Another key factor Home Depot considers when  
25 sourcing nails is the supplier's ability and reliability to

1 supply the volumes we require and provide in-store service  
2 to ensure the shelves are stocked, cleaned and orderly and  
3 backup inventory is readily available for times when  
4 disasters create a sudden, unexpected need for customers in  
5 affected areas.

6           With inventory in 2000 stores across the country  
7 to manage, it takes a dedicated product expert to do this.

8           The ability of a supplier to provide these  
9 support services is therefore very important to our  
10 customers and also our associates on the sales floor,  
11 therefore helping making our sourcing decisions.

12           Also, the Home Depot prides itself in having  
13 substantial penetration in the professional market or our  
14 pro customer. The localized product assortment needed to  
15 serve this pro customer varies by location and local  
16 building codes.

17           Think of the difference between what you would  
18 need in Naperville, Illinois, versus Naples, Florida.

19           Thus, another consideration for us is whether a  
20 supplier has the ability and product experts in the field  
21 to track those locality requirements and ensure that each  
22 Home Depot has in stock the products the local  
23 professionals need and can train our associates on which  
24 products are best for the specific applications and meet  
25 code requirements and locality.

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1           Suppliers with these capabilities are essential,  
2 essential to our success in this market.

3           In contrast, Petitioner's Web site indicates  
4 that they sell only a very limited number of products,  
5 primarily pallet nails. Such a limited product line would  
6 put any supplier at a significant competitive disadvantage  
7 in the retail market, even if their prices were lower.

8           In addition to this limited assortment, there is  
9 no evidence of a field service team to support the need for  
10 a localized assortment, training or customer service.

11           The fact that we could find no indication the  
12 Petitioner has attempted to supply Home Depot suggests they  
13 understand their limitations.

14           In short, anyone who tells you that our  
15 purchasing decisions are just about the lowest price is  
16 misinformed. We look for a supplier that offers a broad  
17 product mix of quality products that they can reliably  
18 supply in the quantities that we need at a good price,  
19 together with the support services we need.

20           We consider all of those factors because they  
21 are essential to our ability to serve our customers well  
22 and earn their business, our customers' business.

23           We therefore urge the Commission to consider  
24 these factors in evaluating whether the Petitioners'  
25 complaints about import competition are valid. If this

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1 case results in the imposition of duties, our customers,  
2 homeowners and contractors alike, will have to pay more for  
3 the nails that they need without getting any additional  
4 value.

5 We do not want to see that happen, but we  
6 certainly don't want to see it happen due to the false  
7 impression that purchasing decisions are made all about  
8 price. Therefore, I hope my testimony today has been  
9 helpful, and on behalf of the customers, I thank you again  
10 for the opportunity to be here today.

11 And I'd be pleased to answer any questions that  
12 you guys would have. Thank you.

13 MR. SCHUTZMAN: Thank you, Ms. Bressler.  
14 Respondents' next witness will be Mona Zinman. Mona is the  
15 former co-CEO of Prime Source building products, the  
16 largest U.S. distributor of steel nails, servicing  
17 thousands of U.S. customers. Ms. Zinman has testified  
18 before this Commission on several prior occasions, and  
19 because of her many years of experience in the nails  
20 business, offers a unique perspective on the industry and  
21 the U.S. market.

22 Ms. Zinman.

23 STATEMENT OF MONA ZINMAN

24 MS. ZINMAN: Good afternoon. My name is Mona  
25 Zinman. Until about five months ago, I was president of

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1 Itochu Building Products, which in 2014 imported over \$200  
2 million of nails from 17 countries. I was also co-CEO of  
3 the titanicly evil Prime Source Building Products which  
4 distributes and sells all the nails imported by IBP,  
5 together with many other building products to over 15,000  
6 customers through 35 distribution centers located in 28  
7 states.

8           This relationship between the two companies, IBP  
9 and Prime Source, becomes important when later in my  
10 testimony, I explain how we compete in the United States  
11 with domestic producers.

12           As of December 31, 2014, after 47 years of  
13 thinking about and talking about some aspect of nails every  
14 single day, I retired. So why am I here? The answer is  
15 because the last part of my job isn't done. We, and I mean  
16 all of us here today, haven't yet been able to hear "no  
17 injury from this commission." So when both Prime Source  
18 and Itochu's vendors in Taiwan asked me to testify on their  
19 behalf, I couldn't refuse.

20           I'd like to say the third time would be the  
21 charm, but I've blown past three times as this is my fifth  
22 visit to the Commission in Washington, D.C., in the past  
23 eight years. I've appeared in June 2007, April 2011, March  
24 2012, June 2014, and now again, May 2015.

25           Each time I testified, I hoped that my visit

1 would be my last, but each time the Commission disagreed.

2           So why should the Commission reach a different  
3 decision in 2015 than it did the last four times I was  
4 here. Eight years, through the best of times to the worst  
5 of times and back again to the recovered days of today, the  
6 domestic industry has done nothing to change what continues  
7 to be the market reality.

8           I reread my testimony from 2007 and again in  
9 2011 and again in 2012, and I quote verbatim from my  
10 testimony of April 21, 2011.

11           "I sincerely believe that if Mid Continent and  
12 other American nail manufacturers had devoted the same time  
13 and energy to improving customer relations, investing in  
14 R&D and quality control and developing a strong  
15 distribution system as they had in filing petitions with  
16 the government to curtail competition, they would have had  
17 a much larger presence in the market than they have today.  
18 Just as every single petition which American mills have  
19 filed in the past, and there have been many, the petition  
20 which the industry led by Mid Continent filed in 2007 did  
21 not result in a significant increase in domestic producer  
22 share of the U.S. market. It did not result in Prime  
23 Source deciding to source nails from Mid Continent or other  
24 mills in the United States. And if a dumping duty order is  
25 placed on nails, I will repeat today what I stated to the

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1 Commission last April, and I quote, I can tell you  
2 categorically with 100 percent certainty that it will not  
3 result in even one penny of additional business from us to  
4 Mid Continent or any other U.S. nail producer."

5 I was correct in 2007, I was correct in 2011,  
6 and I was correct in 2012. And the same result will be as  
7 true today as it was in each and every case that was filed.

8 If a dumping duty order is placed on nails from  
9 Korea, Malaysia, Oman, Taiwan and Vietnam, it will not  
10 result in even one penny of additional business from Prime  
11 Source to Mid Continent or any other U.S. nail producer.

12 From my perspective, having worked in the  
13 industry since I was 15 years old, if the past is the  
14 prologue, as Mr. Gordon has asserted in this catchy phrase,  
15 and it is clear that a remedy has not worked in the past  
16 and will not work in the future, shouldn't relief be  
17 denied?

18 If a dumping order will not help a domestic  
19 industry, then the order should not be issued. Isn't that  
20 the whole point of this?

21 But even if you do not consider the probable  
22 impact on a Petitioner if relief is granted, you  
23 nevertheless should reach a negative determination this  
24 time. Why?

25 First, the domestic industry is stronger today

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1 in 2015 than it has been any time in the past decade. Mid  
2 Continent has always been the leader in the pallet nails  
3 segment of the nail industry. It dominates this market, a  
4 market in which Prime Source has a minimal presence.

5           There is no reason why Mid Continent cannot  
6 continue to dominate pallet nail sales long into the  
7 future, especially since it is now owned by Deacero, a \$2  
8 billion Mexican conglomerate with over 7000 worldwide  
9 employees, who can supply Mid Continent with wire and wire  
10 rod and enhance Mid Continent's competitive advantage.

11           The only barrier to Mid Continent's increasing  
12 its production in the United States is Deacero's strategy  
13 to increase their exports of nails to the United States  
14 from its Mexican facility.

15           And I draw your attention to the box on the  
16 table. If you look closely at the Mid Con Magnum brand  
17 box, you can see those tiny little letters "made in Mexico"  
18 on the label. It's hard to notice, because the box is  
19 draped in the American flag. But those are Mexican made  
20 Mid Con nails.

21           The second box are Mexican -- excuse me, are Mid  
22 Con nails made in Taiwan. Look at the bottom of the box.  
23 These are the exact same nails Mid Con also produces in  
24 Poplar Bluff.

25           It's hard to blame imports from Taiwan or other

1 countries subject to the investigation for Deacero's  
2 decision to put Mexico first.

3 Other members of the U.S. industry, for example  
4 maze, with its double hot dip zinc coated storm guard  
5 nails, also should be performing very well. And none of  
6 the offshore mills from whom we buy nails can compete with  
7 the Maze brand.

8 In fact, Prime Source buys nails from maze to  
9 fill out our line, and Prime Source has been a maze  
10 customer for more than 20 years.

11 Second, Prime Source competes directly with  
12 three members of the domestic industry, Stanley, Senco and  
13 ITW, who together with Prime Source and Hitachi sell  
14 collated nails for use in nail guns under their brand  
15 names.

16 We sell guns and nails under our Grip Rite  
17 brand.

18 Mid Con continues to try to succeed in this  
19 market segment, but it has not had the same success it has  
20 in selling pallet nails. And the reason has nothing to do  
21 with price.

22 In the collated construction market brand,  
23 despite the answers to the questions earlier this morning,  
24 brand trumps price.

25 Many customers will only buy nails with the same

1 brand as their guns. Others will buy Paslode, Hitachi,  
2 Stanley and Grip Rite, regardless of price.

3 And we talked about briefly this morning about  
4 the labels on the boxes, and Mr. Gordon made the point that  
5 all the brands are listed, Hitachi, Paslode, Grip Rite,  
6 that the tools will work in those guns.

7 There is no Magnum listed on the label. They  
8 are such a little presence or nonexistent that it's not  
9 even put on the label as a generic substitute.

10 A third reason why Mid Continent is not entitled  
11 to relief is because its inability to be a viable nail  
12 supplier to Prime Source's major market, the retail chain  
13 store segment cannot possibly be blamed on dumped imports.

14 Our nationwide distribution system allows us to  
15 provide just in time delivery of literally thousands of  
16 different SKUs to those thousand of retail stores. We even  
17 have 120 full-time merchandiser employees whose sole  
18 responsibilities are visiting every Home Depot store to  
19 make sure our displays are fully stocked and properly  
20 arranged at all times.

21 We are proud of our ability to service these  
22 national mass merchandisers. We expend an incredible  
23 amount of time and resources to become the dominant vendor  
24 in this critical market segment.

25 Our success is based on hard work and a huge

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1 investment in inventory and people.

2           When the majority of nails were produced in the  
3 United States many years ago, nails were sold out of paper  
4 bags and not in 1-pound and 5-pound cardboard boxes and in  
5 plastic multipack containers.

6           Mid Continent and other domestic manufacturers  
7 spent their time and money petitioning the government for  
8 relief, while we developed a distribution system designed  
9 to service the future. The clock cannot be turned back, no  
10 matter how many petitions are filed.

11           I'd now like to circle back to the relationship  
12 between the two companies for whom I've worked for more  
13 than 25 years, Itochu Building Products and Prime Source.

14           IBP and Prime Source are sister companies. IBP  
15 purchased nails and other products from vendors around the  
16 world, acted as importer of record and internally resold  
17 those goods to Prime Source at a small markup for its  
18 services of being the importer of record and facilitating  
19 the import transaction.

20           It is Prime Source that then sells these nails  
21 from its 35 warehouses to our 15,000 customers throughout  
22 the United States.

23           We set up the companies to interact in this  
24 manner because of internal financing factors. But in  
25 reality, they are one company, with a combined audited

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1 financial statement which eliminates the internal sales  
2 transaction between the two companies.

3 In fact, the name of IBP has recently been  
4 changed to Prime Source Building Products International, to  
5 make the connection between the two companies clearer and  
6 eliminate any doubt that the two companies operate as one.

7 Regardless of the internal structure, we compete  
8 in the United States against ITW, Stanley, Hitachi and in  
9 certain markets Mid Continent based on Prime Source's sales  
10 to its customers. It is the Prime Source resale price  
11 which Mid Continent is alleging has resulted in lost sales  
12 and lost revenue on its sales, and it is the Prime Source  
13 resale prices which the Commission should examine in its  
14 analysis.

15 Prime Source's success has never been based on  
16 selling nails in the United States at the lowest price. We  
17 are not a nonprofit charitable organization.

18 Price is not the determining factor in our sales  
19 to our customers throughout the United States. It is  
20 quality. It is range of product. It is backup local  
21 inventory. It is 100 percent fill rates. It is customer  
22 service. It is being a supplier who combines delivery of  
23 their nails with many other products.

24 It's an incentive trip that is provided to  
25 customers for increasing purchases.

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1                   We live by the tag line that defines us. Global  
2 reach with hometown service.

3                   Finally, I ask that you realize that our  
4 customers do not specify the country of origin of nails  
5 when we deliver to fill an order. Our shipping containers  
6 and retail boxes are properly marked as to country of  
7 origin, but we are selling Grip Rite quality products.  
8 It's no different than if you buy an iPhone and the  
9 components are made in Taiwan or Malaysia or anywhere else.  
10 You are buying an Apple product.

11                   Our customers are buying a Grip Rite product,  
12 and we charge the identical price for all identical  
13 products, regardless of whether our Grip Rite nails are  
14 made in China, Taiwan, the United States or any combination  
15 of countries.

16                   In other words, the fact that a sale has been  
17 lost to Prime Source does not mean that a sale has been  
18 lost to nails subject to this case. For this reason, any  
19 increase in Prime Source market share cannot be  
20 attributable to allegedly unfairly priced nails.

21                   In closing, I thank the Commission and the Staff  
22 for your courtesy over the past eight years. I will not  
23 miss all those importer, purchaser and domestic producer  
24 questionnaires, but I have enjoyed talking to and  
25 exchanging e-mails with your Staff.

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1 Thank you, Fred.

2 And answering your questions.

3 I now hope that you will carefully consider the  
4 evidence in deciding whether additional duty on nails  
5 imported from Korea, Malaysia, Taiwan, Oman and Vietnam  
6 will really return production or jobs to the United States.  
7 History says that this will not happen.

8 When you take this fact into account, together  
9 with the evidence that domestic nail mills are better off  
10 now than they have been at any time in the recent past, and  
11 that any harm to domestic production has not resulted from  
12 decisions by prudent members of this industry to source  
13 product offshore, I believe that you should reach a  
14 negative determination.

15 I thank you for listening to my testimony, and  
16 I'm available for questions.

17 MR. SCHUTZMAN: Thank you, Ms. Zinman.

18 The third witness on Respondents' panel is Joe  
19 Leffler, a vice president of Hitachi Power Tools with over  
20 20 years of experience in nails and nail power tool  
21 industry. Mr. Leffler will discuss the importance of  
22 branding and product range in this industry and why Mid  
23 Continent has not been successful competing with Hitachi  
24 and other premium brands of nails and nail power tools.

25 Mr. Leffler.

1 STATEMENT OF AARON JOSEPH LEFFLER

2 MR. LEFFLER: My name is Joe Leffler, and I'm  
3 the vice president of sales and marketing at Hitachi Power  
4 Tools USA.

5 First, I want to thank the panel or the  
6 commissioners for the opportunity and time today. This is  
7 my third trip to one of the hearings, and I appreciate the  
8 opportunity to sit in front of you and discuss this case.  
9 It's a little bit different, I was just here a few weeks  
10 ago with my son on an 8th grade field trip, so a little bit  
11 different to be on this side, other than getting  
12 sightseeing in the city. So thank you for your time.

13 I've been in the nail and power tool business in  
14 the U.S. for over 23 years. I started as a service  
15 technician at Duo-Fast, which is now Illinois Tool Works.

16 Since 1994, I've served at virtually every level  
17 at Hitachi. I want to highlight a few of the filing -- I  
18 want to highlight the following for the Commission today.

19 First, the U.S. industry -- the U.S. industry  
20 here is not interested in seriously selling us nails.  
21 Second, the U.S. industry has its own brand strategy that  
22 competes with ours. Third, individual members of the U.S.  
23 industry do not supply the full range of nails out of one  
24 spot that Hitachi needs. Fourth, my interaction with  
25 customers, Mid Continent offers the lowest price brand and

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1 frequently leads price downward.

2           The U.S. industry generally is not interested in  
3 selling nails to Hitachi. Over the last eight years, only  
4 one of the domestic suppliers has ever worked seriously  
5 with Hitachi.

6           We work with this supplier, but no other U.S.  
7 supplier, including Mid Continent, has ever made a genuine  
8 attempt to sell us. We are the largest customer for  
9 Specialty Tool and Fastener, which is a U.S. producer.  
10 Again, we are the largest customer. They built a  
11 relationship, they come in, they do all the things that are  
12 required to sell a company, any company. They do the sales  
13 process, they build the relationship. We're their largest  
14 customer.

15           At the preliminary Staff meeting, I said U.S.  
16 producers have not tried to approach Hitachi, with the  
17 exception of Specialty. Well, about one month after that,  
18 Tree Island came and met with us in Atlanta.

19           In discussing a potential relationship, they  
20 offered to supply a quantity of nails that is less than one  
21 day usage for what Hitachi would use. This was for plastic  
22 strip collated nails.

23           If our suppliers provided that quantity to us,  
24 we would need hundreds of suppliers. That would not be  
25 feasible for Hitachi. We cannot seriously entertain an

1 offer as this because we need far, far greater volume.

2 We were told this supplier had a maximum  
3 capacity of roughly 40 to 50 truckloads per month, which  
4 would not be enough to meet Hitachi's demand.

5 In sum, they contacted us with a proposition  
6 they knew was not feasible for us. There was no real  
7 attempt at follow-up, and there was no relationship  
8 building with Hitachi.

9 Why is this? The answer is brands. The U.S.  
10 companies have their own brands. They have built in  
11 competition with the Hitachi brand. I noticed that the  
12 Commissioner Staff report listed Stanley, Senco and ITW as  
13 large U.S. producers. These companies market Bostitch,  
14 Senco and Paslode brands respectively. I also see that  
15 Prime Source is represented here today. It has its own  
16 brand, Grip Rite.

17 These four brands, plus Hitachi, are the five  
18 brands that dominate sales of nail guns and nails for those  
19 guns.

20 In Hitachi's experience, sales of nails  
21 typically follow sales of branded nail guns. If Hitachi  
22 wins against other brands for sales of nail guns, we expect  
23 to win significantly greater portions of sales for the  
24 nails that go in those guns.

25 Mid Continent offers the Magnum nail brand, but

1 Magnum is, at best, a second tier brand that accounts for a  
2 minuscule portion of the market. Although the five  
3 dominant brands compete head to head with Mid Continent,  
4 the Magnum brand is a weaker competitor in contrast to  
5 Hitachi, Bostitch, Paslode, Grip Rite and Senco.

6 This is especially true of the nail guns that  
7 you see on residential construction job sites.

8 The four other dominant brands, plus Mid  
9 Continent, don't sell to us because they have their own  
10 brands of nails and nail guns that compete with ours.  
11 Further, like Hitachi, the other four dominant brands make  
12 quality nail guns and nails for those guns. They are  
13 formidable competitors.

14 Hitachi carefully designs its nails for optimal  
15 use in the Hitachi nail gun. We have specifications for  
16 our nails that go above and beyond and rigorous quality  
17 control to ensure those specifications are met by all of  
18 our nail suppliers.

19 Nothing is worse for the Hitachi brand than to  
20 have our nail guns jam or misfire or to simply have an  
21 Hitachi nail not function properly. Product consistency by  
22 our nail suppliers are critical.

23 Another important consideration is product  
24 range. The issue is not whether all U.S. producers taken  
25 together represent the full range of products. The issue

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1 is whether an individual U.S. producer loses sales because  
2 they do not produce a sufficient range.

3 And the answer is yes, they do lose sales.

4 Hitachi and other large U.S. producers want to  
5 avoid extra cost of having to maintain an unnecessarily  
6 large number of source nails. While the domestic industry  
7 has a whole may produce a wide range of products  
8 individually, domestic producers by themselves do not  
9 support the range that Hitachi and other large purchasers  
10 need, in fact, most do not even produce a large range of  
11 nails.

12 This means that certain customers will not look  
13 to these domestic producers for supply. Our import  
14 suppliers are companies, unlike the U.S. producers, they do  
15 make -- do not make a wide range of nail types that we  
16 require. That's the reason we purchase our fasteners in  
17 the manner we do today.

18 Finally, Mid Continent is a price leader. I  
19 noticed in the public Staff report that customers were  
20 twice as likely to identify Mid Continent as a price leader  
21 than Hitachi. That does not surprise me. Mid Continent  
22 offers the lowest price for nails in the market often, and  
23 it is the leader of taking prices down.

24 I hear this consistently from my customer base.  
25 But note that Hitachi has more customers than Mid

1     Continent, so if Mid Continent is named as a price leader  
2     more often than Hitachi, twice as much, this means that  
3     compared to Hitachi, a significantly larger share of Mid  
4     Continent's customers identify it as a price leader.

5             And finally, I also hope that the Commission  
6     will understand it should not compare the price Hitachi  
7     pays for its nails with Mid Continent's price. This would  
8     not be fair.

9             To ensure a fair comparison, the Commission  
10    should compare Mid Continent's price to its customers to  
11    the price charged by the five dominant brands in the  
12    market. That is the price level at which we compete.

13            I also wanted to clear up three points of --  
14    that were brought up earlier today. First, Jim Miller with  
15    Hall Steel made a statement that is completely untrue, and  
16    it's -- I've been at Hitachi for over 20 years. We  
17    absolutely did not -- we didn't even buy nails from China  
18    at that point in time, the nails that he was referencing.  
19    We did not tell them they had to match a price out of  
20    China.

21            As a matter of fact, they came to our office and  
22    decided not to do business with us and went direct to all  
23    of our customers. They knew where we shipped, they knew  
24    what our prices were, and they went direct to our  
25    customers. So point number one.

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1           Point number two, there is a U.S. producer,  
2 Specialty Fastener. They work with us, we work with them,  
3 we're their largest customer in the U.S. We don't do it  
4 based on price.

5           And finally, Adam Gordon brought up STAFDA,  
6 Distributor Association, Specialty Tool & Fastener  
7 Distributor Association, which is the essence of Hitachi.  
8 That's our heritage, that's where we've come from.

9           We're the number one brand when it comes to the  
10 Hispanic Pro, which is a big part of the industry. Hitachi  
11 is absolutely number one. They all love our tools, they  
12 buy them because of the quality, durability, and all that  
13 goes into it.

14           Within that group of the Specialty Tool and  
15 Fastener Distributor Associations, the premium members that  
16 hit the wood to wood, which is residential and multifamily  
17 construction. Those customers that are within the STAFDA  
18 group, they formed a membership Sphere 1. They're still  
19 affiliated with STAFDA, but they formed a buying group  
20 called Sphere 1.

21           Hitachi competes against Milwaukee, Makita,  
22 Senco, Bostitch, Stanley, all of the other big brands that  
23 you hear.

24           We have for the third year in a row, we have won  
25 the number one brand as an overall single brand in

1 comparison from a sales perspective, we've won number one  
2 brand.

3 Brand is a very, very big deal. The  
4 Commission -- Mr. Johanson, you referenced earlier today  
5 the analogy, I believe, about your Volkswagen. It's a --  
6 it's very true. It's not just does the nail work in the  
7 gun. There's a lot more that goes into it.

8 And yes, there are a lot of big users in the  
9 pallet industry that really may not care, which is where  
10 their expertise in market share is. And in that industry,  
11 they compete directly with the distributors.

12 We are not a distributor. We resell the product  
13 to our customers. In some cases, our customers compete  
14 directly with them.

15 So when you look at the brand and all that goes  
16 into the brand to build up on the residential construction  
17 job site, brand is very, very important. Matching the  
18 product together is very, very important.

19 They referenced why Hitachi puts other brands on  
20 the box. You know, we would love for other -- other  
21 customers using other tools to get a chance to come to  
22 Hitachi. We want that chance, because we know once they  
23 experience all the quality controls and all the things that  
24 Hitachi does, that they are going to make a switch to our  
25 brand of tools as well, or vice versa.

1           You know, we really believe that that's the  
2 reason why we choose to buy where we buy, and we welcome  
3 the U.S. industry to call on us and build a relationship  
4 and sell us, because the one that has, we're their largest  
5 customer.

6           I thank you for your time today. I appreciate  
7 the opportunity to sit in front of you and give our side of  
8 the story. Thank you.

9           MR. SCHUTZMAN: Thank you, Mr. Leffler.

10           Next on Respondents' panel, we have Ken Ippoliti  
11 back here. Mr. Ippoliti is the national sales manager of  
12 BMD USA, a company that sells a wide range of building  
13 materials, including collated and bulk nails in the United  
14 States, many to private label purchasers.

15           Among other important topics, he will explain to  
16 you his experiences trying to get U.S. producers to sell  
17 private label nails to BMD.

18           Mr. Ippoliti.

19                           STATEMENT OF KEN IPPOLITI

20           MR. IPPOLITI: Commission, thank you for the  
21 opportunity and good afternoon. My name is Ken Ippoliti,  
22 I'm the director of national sales at BMD USA. I have over  
23 15 years experience in the industry at all levels of the  
24 business.

25           BMD is an American-owned company that opened its



1 doors in 1953. It's a 100 percent employee-owned. It's an  
2 ESOP. We have about 220 employees with eight locations  
3 around the United States.

4 BMD sells a wide variety of building materials,  
5 and these building materials within these categories also  
6 include our branded product for collated fasteners, which  
7 is Master Fasteners, and then Quick Build for our hand  
8 drive nails.

9 We are also one of the leading providers of  
10 collated nails to the largest branded products -- largest  
11 brand names within the industry and have done that for  
12 years. That's through our private labeling offering.

13 We manufacture those customers' unique  
14 specifications, and we deliver their product with their  
15 brand on the box.

16 My intention today is to show how the domestic  
17 manufacturers' claims of injury due to imported fasteners  
18 is false and how Mid Continent has wrongly wielded the  
19 antidumping law.

20 All that I'll speak about today has been the  
21 reality since last June, with the preliminary hearing here,  
22 and years prior to that, too.

23 The Petitioners testified last year that given  
24 the opportunity, they would manufacture the full product  
25 list that is within the scope of this case, a lot of which

1 they said was piled in front of you earlier today.

2 I contacted two of the three U.S. manufacturers  
3 after last June's hearing. Same two of the three that I  
4 spoke with did testify before you, along with one domestic  
5 manufacturer and none were interested in expanding product  
6 offering. And this is in direct contradiction of what they  
7 said last June and today.

8 In June of last year, these same Petitioners  
9 testified that they would be willing to provide private  
10 label manufacturing, given the opportunity. I contacted  
11 two of the three that stated such and discovered that this  
12 was not the case. My brand was not an option for them.  
13 Again, in direct contribution of today's testimony.

14 And I will say that those conversations were  
15 pretty short. There was -- there was no discussion on  
16 price, volume. It just was not an option.

17 My company spent a great deal of time and money  
18 developing our brands. Also, as mentioned earlier, a  
19 significant part of our business is private label business,  
20 and so not only do our nail providers, the manufacturers  
21 that we utilize, need to be able to use our brand but also  
22 several other brands.

23 The one -- also, the one domestic -- I will say  
24 the one domestic manufacturer that was willing to entertain  
25 the idea doing my private label business, they didn't have

1 the volume or they didn't have the product mix to make that  
2 even a realistic option.

3           The domestic industry doesn't have the  
4 capabilities to supply our brands nor the brands of our  
5 private label customers, nor are they willing to invest the  
6 time and money to be capable of such, and for the small  
7 number of products that they do manufacture, we would be  
8 forced to distribute their product, which just is not an  
9 option.

10           When I say "distribute their product," it would  
11 be distributing their brand.

12           In short, any company with a full line of  
13 fasteners with proprietary specifications is required to  
14 use offshore manufacturers so as to have a complete line  
15 that our customers require. Those customers not only the  
16 largest brands within the industry but also to specialty  
17 tools and fastener distributors that have been spoken about  
18 today.

19           There is no viable source currently interested  
20 in doing such in the United States, no matter what their  
21 testimony is here.

22           On the subject of market share, the Commission  
23 heard my testimony last June that we have lost market share  
24 to Mid Continent over the past three to four years. I want  
25 to edit that. That's still true today, and even after last

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1 June's hearing, we continue to lose market share, but only  
2 in the small number of categories in which we compete with  
3 them on. And those are the two in which they manufacture.

4           There are dozens, it's hard to put a number to  
5 it. I wish I could take the time to tell you all the  
6 things that were missing from that table earlier today, but  
7 it would be a very long testimony. Part of the problem is  
8 it would take just as long to tell them what they're  
9 missing too.

10           As far as the price, Mid Continent continues to  
11 be the low price leader in the industry. Prior to the  
12 antidumping case against China in 2008, Mid Continent was a  
13 nonfactor, outside of the bulk pallet nail industry.

14           Attempts to buy market share would occur from  
15 time to time but would only last for a few months.

16           After receiving the antidumping duty against  
17 China in 2008, the plaintiff went to market with extremely  
18 low pricing and have sustained such.

19           When I asked the Mid Continent employee how they  
20 can afford to sell at such low prices, the response was,  
21 "we found new efficiency within our manufacturing process."  
22 These below market prices have continued today.

23           In June of last year and today, this Commission  
24 has heard from a number of companies that are testifying  
25 that Mid Continent is driving the pricing down and they're

1 low price leader. Since June of last year, this hasn't  
2 changed.

3 The only thing that I have seen that has changed  
4 since June of last year is the means by which Mid Continent  
5 has gone to market. They have used two other companies as  
6 distributors of their products, Boise and Blue Linx.

7 When obtaining feedback from customers on  
8 quotes, there has been dozens of occasions in which these  
9 two distributors have had the lowest price. The price was  
10 even lower than Mid Continent.

11 Yet when the product was delivered, it was Mid  
12 Continent product. Therefore, I argue that this change in  
13 distribution is only a tool that provides Mid Continent  
14 with plausible deniability of being a low price leader that  
15 they truly are.

16 I encourage that the Commission obtain all  
17 rebate and discount agreements made with customers by  
18 Deacero and Mid Continent so as to see through the smoke  
19 and mirrors that are being used to portray the victim role  
20 that Mid Continent is playing.

21 In summary, I have to stress to the ITC that  
22 this case is simply a misuse of the antidumping procedure  
23 by Mid Continent and their mother company, Deacero. This  
24 company is responsible for the suit of nine countries in  
25 total now, all of which are being accused of bringing

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1 financial injury to their company.

2           However, since the initial antidumping case  
3 against China, their business and company has grown with  
4 plans of expanding. They spoke earlier in regards to their  
5 expansion plans. It's public record within The American  
6 Republic, which is a small newspaper out of Poplar Bluff.

7           And I was planning on listing all the different  
8 things which they are planning to expand, but that was  
9 already spoken to.

10           But the point that I would like to make to those  
11 expansion plans, it's only within bulk nails and collated  
12 nails. It does not include -- collated gun nails. It does  
13 not include a lot of the other products that are within the  
14 scope of this suit.

15           And so their expansion still does not include  
16 all the products we would need to have one branded product  
17 to cover what other customers need.

18           All the facts don't draw a picture of the  
19 company as being financially injured, nor has there been  
20 any efforts to expand their product offering needed to  
21 service our industry.

22           I am in support of protecting jobs in America, I  
23 support fair and free trade as well as good competition  
24 within the market, yet competition is based upon service,  
25 quality, delivery, relationships and a competitive price,

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1 not an inappropriate use of government regulations to  
2 unfairly control a given market.

3 My only hope is that the ITC will see this for  
4 what it is, an abuse of the system and a waste of time,  
5 money and the taxpayers' money.

6 I would like to thank you for the opportunity to  
7 speak with you, and I look forward to any questions you may  
8 have.

9 MR. SCHUTZMAN: Thank you, Mr. Ippoliti.  
10 Respondents' final witness will be their economist, Brian  
11 Becker, president of Precision Economics here in  
12 Washington, who has a PhD in economics from the Wharton  
13 School University of Pennsylvania. Dr. Becker, who has  
14 reviewed all questionnaire responses and the Staff report  
15 and conducted independent research, will offer his  
16 observations, analysis and conclusions of the data and the  
17 state of the industry.

18 Dr. Becker.

19 DR. BECKER: Commission and staff, thank you for  
20 allowing me to address you today. My name is Brian Becker,  
21 and I am the founder and president of Precision Economics,  
22 LLC. I have been employed as a consulting economist for 23  
23 years since earning my PhD. I have provided testimony in a  
24 variety of matters, including here and at the ITC and --  
25 here at the ITC and at the Canadian International Trade

1 Tribunal.

2 I will be referring both to this public document  
3 and the APO version of my report in this testimony. I will  
4 not refer to APO data, but I will cross-reference tables in  
5 that report that will be helpful to view during my  
6 testimony.

7 I will also refer to some of Mr. Klett's tables  
8 from this morning.

9 The main conclusions from my analysis in this  
10 case are the following. The domestic industry has been  
11 healthy during the time of subject imports entering this  
12 market. Domestic and subject imports do not generally  
13 directly compete in the same product niches. The domestic  
14 industry is not generally undersold by subject imports, and  
15 significant declines in raw material or wire rod pricing  
16 has led to lower unit prices for the domestic industry  
17 without having a depressing effect on profit.

18 The starting point for my analyses was to assess  
19 the industry's performance, that is profitability.

20 As seen on the board in my Exhibit 1, the  
21 responding domestic industry's operating margins generally  
22 increased from 2012 to 2014. In fact, the operating  
23 margins in 2013 and 2014 were more than double the levels  
24 seen in 2012.

25 In total, operating margins averaged



1 approximately 2.8 percent during this time. That is about  
2 \$18.7 million of operating profit.

3 This profitability level reflects the entire  
4 responding domestic industry, but some of this industry  
5 would typically be excluded from an economic comparative  
6 analysis.

7 First, not all responding entities actually  
8 support this petition. Second, some entities largely  
9 report nonarm's-length transfer prices as their revenue or  
10 cost in a way to make their financial results unusable.

11 For example, it is standard practice for the IRS  
12 and all major tax authorities around the world to exclude  
13 such information from their own economic analysis.

14 Third, some entities may not be operating  
15 throughout approximate entire period. In fact, the ITC has  
16 described the remaining industry based on these types of  
17 factors which I show in table 2 of my APO report, compared  
18 to companies in similar industries in the United States.

19 On this point, I was careful to compare this  
20 industry to only its own SIC code, as the ITC has been very  
21 careful to specifically define the like product at issue.

22 Petitioner earlier compared this industry to a  
23 different SIC code, fabricated metal products. That  
24 industry is quite different. For example, its  
25 manufacturing costs are much lower than in this industry.

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1           This period of increased subject imports did not  
2 correspond with lower profits or lower market shares for  
3 the domestic industry. Rather, the increase in subject  
4 imports coincided with stable domestic market shares, as  
5 seen in my Exhibit 2 on the board. Thank you.

6           Exhibit 2 makes it clear that the increased  
7 level of subject imports took market share away not from  
8 the domestic industry but rather from nonsubject imports.

9           This was particularly the case for the UAE, and  
10 to a lesser extent, China. That is total imports remained  
11 the same throughout the POI.

12           Exhibit 3 on the board shows the relationship  
13 between subject import market share and domestic industry  
14 health. U.S. profitability generally increased during this  
15 time period when subject imports were increasing.

16           I next focus on competition between subject  
17 imports and the domestic market. A deep dive into this  
18 issue requires one to consider the different types of  
19 products that make up this industry. That is, the  
20 industry's dynamics are quite different, depending on  
21 whether the U.S. production generally involves the same or  
22 different products from subject imports.

23           My APO report tables 4A through 4C address this  
24 with the APO data in this case.

25           The largest section of my report focused on the

1 questionnaire data comparing domestic and subject import  
2 prices. My report summarizes how often the domestic  
3 industry competes with subject imports at all and how often  
4 subject imports undersold the domestic industry in my  
5 tables 14A through 14D, as well as 15.

6           These tables also distinguish low underselling  
7 and overselling margins that would be expected in  
8 competitive industries, as opposed to particularly large  
9 underselling or overselling margins.

10           I make those calculations because unlike  
11 Petitioner, we believe that a de minimis underselling  
12 margin is far less harmful than a large underselling  
13 margin.

14           I also attempted to account for volume in this  
15 analysis, that is, a U.S. industry producing 20 million  
16 nails of a certain type in a certain quarter could  
17 potentially face far more damages than a U.S. industry  
18 producing 20 nails of a different type during a different  
19 quarter.

20           Weighting each the same or based on the subject  
21 import volume would not account for this dynamic.

22           Thus, I made several iterations of these  
23 calculations of whether high volume quarters and products  
24 would tend to face more over or underselling for the  
25 domestic industry in my tables 13 and table 16 from my APO

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1 report.

2           These are, in fact, the actual data where  
3 Mr. Klett previously estimated that 65 percent of U.S.  
4 product was undersold.

5           You can check the actual data from my tables in  
6 13 and 16.

7           The final component of my report included an  
8 analysis of the impact of wire rod raw material pricing. I  
9 looked at wire rod prices as wire rods are the primary raw  
10 material used in the production of steel nails.

11           As seen earlier, the domestic industry was  
12 consistently profitable over the period of issue. However,  
13 the sources of the industry's profits shifted over the POI.  
14 In particular, it earned profit in the early periods with  
15 relatively high prices offsetting relatively high raw  
16 material or wire rod costs.

17           By contrast, in 2014, it was able to charge  
18 lower prices to earn the same or even higher profit margins  
19 because its raw material costs had declined.

20           That is, its prices or sales remained at a  
21 similar ratio to both its overall manufacturing cost and  
22 its raw material costs, as seen in Exhibit 4 on the board,  
23 please. Thank you.

24           I note that the vertical axis in this chart  
25 begins at zero percent, so as not to unnaturally magnify or

1 contract the visual impact of the year-by-year differences.

2 The earlier presentation from Petitioner, by  
3 contrast, began its axis at 75 percent, which magnified the  
4 minor year-by-year changes in that graph.

5 I also addressed this issue with more detailed  
6 APO product and quarterly data in tables 11C and 11D from  
7 my report. In other words, price depression is arguably  
8 less a function of import prices than it is a function of a  
9 raw material or wire rod cost, and more generally, price  
10 depression has not led to a depressing effect on profit.

11 Thank you.

12 MR. SCHUTZMAN: Thank you, Dr. Becker.

13 That concludes Respondents' presentation. Madam  
14 Chairman, we welcome your questions. In addition, by the  
15 way, to the five witnesses we've had speak to you, we also  
16 have available for questioning Steve Karaga. Steve is the  
17 president of Oman Fasteners. He has significant experience  
18 in this industry, very knowledgeable and is available for  
19 your questions as well. Thank you.

20 CHAIRMAN BROADBENT: Okay. Thank you. I want  
21 to thank the panel for taking time out of their business to  
22 be with us today. I wanted to talk a little bit about  
23 price effects to start out here. And I'll ask maybe the  
24 same question that I asked the Petitioners this morning.

25 It appears like that we have sales prices being

1 made at many different levels of trade in the market.  
2 Firms make sales to related distributors, unrelated  
3 distributors, and to a variety of end users, including  
4 pallet makers, lumber yards and contractors and retailers.

5 In order for us to draw accurate price  
6 comparisons, how should the Commission consider differences  
7 in prices for each of these types of purchases?

8 MR. CHRISTY: This is David Christy with Perkins  
9 Coie, we represent Oman Fasteners. We think it's crucial  
10 that the prices be compared at the proper level of trade.  
11 Getting into that, what is the proper level of trade for  
12 specific sales requires delving into data that's under the  
13 APO, so we wouldn't go into that in any detail.

14 Certainly we've detailed it in the prehearing  
15 submissions. I think both of the prehearing submissions  
16 you have, and we'll be glad to elucidate further in the  
17 posthearing brief.

18 MR. MARSHAK: Just like to make one more point.  
19 Petitioner has concentrated on the harm that's inflicted on  
20 the industry by Prime Source, primarily Prime Source and  
21 Hitachi. So we believe for the proper price comparisons,  
22 you have to include prices charged by Prime Source and  
23 Hitachi to their customers, compared to prices charged by  
24 ITW and prices charged by Stanley and prices charged by Mid  
25 Continent to all of their customers.

1                   And I believe Mr. Klett agreed this morning, you  
2     have the mix in there. You compare starting at the proper  
3     level, when the mix of customers is included, you're going  
4     to end up with a valid comparison, as long as you have  
5     Prime Source and Hitachi at the starting point.

6                   CHAIRMAN BROADBENT: Okay.

7                   MR. IPPOLITI: I have one more, I'm sorry. I  
8     would encourage the Commission make sure when comparing  
9     pricing, with the Mid Continent pricing to exclude the  
10    pricing of their sales to end users. Hitachi, BMD and the  
11    Prime Source is not -- we do not sell at the end user level  
12    to, for example, the pallet manufacturers, while Mid  
13    Continent does sell to the end user, as well as to other  
14    distributors.

15                  CHAIRMAN BROADBENT: Okay. This is related to  
16    lost sales and revenue allegations. How do you respond to  
17    confirmed lost sales and revenue allegations as well as to  
18    the statement on page 5-90 of the Staff report that  
19    purchasers reported the U.S. producers -- reported that  
20    U.S. producers had reduced their prices in order to compete  
21    with the prices of subject imports in 2012?

22                  MR. MARSHAK: This is Ned Marshak. I think that  
23    the first thing you do, you look at the -- what the  
24    Commission found regarding specific allegations. What  
25    Petitioner did, they just, you know, included numerous,

1 numerous, numerous allegations.

2           When you look at the data coming back, there was  
3 10 times more -- or many, many more allegations where the  
4 purchaser said absolutely not than where the purchaser  
5 said, you know, we agree. So you look at that data first.

6           And then when you look at the purchasers  
7 questionnaire responses, it's more of soft data than the  
8 hard data you get when you look at the actual allegation  
9 and the actual response. I think you look at those first.

10           CHAIRMAN BROADBENT: Okay.

11           MR. LEFFLER: This is Joe Leffler with Hitachi  
12 Power Tools. I'd like to respond to that as well.

13           In the purchasers questionnaire that the ITC  
14 received back, there was reference as Mid Continent being  
15 the price leader twice as much as Hitachi. And I  
16 referenced it in my statement.

17           As well, I deal with a lot of the same customers  
18 that they deal with, constantly our customers are coming to  
19 us saying here is where Mid Continent is at, can you guys  
20 compete.

21           We have brand, we have sales guys, and in a lot  
22 of cases, we're losing business to them. So in a lot of  
23 cases, customers prefer to pay for the Hitachi brand  
24 because they have our nail guns, they have our sales guys.  
25 We ship them out of our warehouse, and a lot of cases, a



1 lot of other benefits that go along with it.

2           So there's some information within the reports  
3 that you've compiled that show specifically Hitachi  
4 referenced comparably to Mid Continent, they are twice as  
5 likely to lead on price than they would be. Thank you.

6           MS. ZINMAN: Can I also comment on the pricing?

7           Also, I think it was alleged that Prime Source  
8 has been -- is a price leader. And actually, I would agree  
9 with that statement. We are a leader in the market, but we  
10 are a responsible leader.

11           And I think the market looks to us to -- for  
12 where pricing should be based on particularly factors  
13 like -- such as wire rod, which there was several questions  
14 asked about wire rod and how it pertains to the price of  
15 product or what the price should be.

16           And we've done numerous studies on that  
17 correlation. And, in fact, we track wire rod pricing every  
18 single week. I mean, we have charts of wire rod pricing  
19 that probably goes back 10 years, wire rod being the major  
20 component of what makes a nail.

21           And the way that wire rod goes, that certainly  
22 impacts the pricing that we would pay -- what we do pay for  
23 nails.

24           And the other points I wanted to talk about, I  
25 just wanted to mention on lost sales, is that we don't

1 publish our price list. Our prices are proprietary. So a  
2 customer is going to always -- a customer -- when they buy  
3 any product, they're going to tell you, your price is high,  
4 whether the price is high or it isn't high, they're going  
5 to do that as a negotiating tactic.

6 But they don't have any actual real data. They  
7 don't have any price lists from us, because we don't  
8 publish price lists. Our price lists are proprietary,  
9 confidential, they're not uniform, there are different  
10 customers and different prices.

11 So the veracity of that statement, you know,  
12 chasing Prime Source's low prices, you need to meet that  
13 price, that's a typical tactic of what a buyer will tell  
14 you, I think in any industry, and doesn't necessarily mean  
15 that the prices -- our prices are low.

16 MR. MARSHAK: Just make one more point. As an  
17 exhibit, we for the 12 pricing products, we compared Prime  
18 Source prices with Mid Continent's prices. These are the  
19 two so-called -- and they are the price leaders. But when  
20 you compare the prices, we believe you'll see what type of  
21 leadership you have from Prime Source compared to the  
22 leadership from Mid Continent.

23 CHAIRMAN BROADBENT: Okay. So you're saying  
24 that there is no price suppression because U.S. producers  
25 prices moved in tandem with raw materials.

1 MS. ZINMAN: I can't speak to what Mid Con does  
2 or how they make their pricing decisions. I think they  
3 actually said that, well, when wire rod prices go down, we  
4 don't necessarily adjust the prices down.

5 I'm only talking for on the Prime Source side of  
6 what I know, which is that our price, certainly the  
7 purchase price and the sale price, is influenced by the  
8 cost of the goods, which is in large part, the majority  
9 part, tied to the cost of wire rod, which is the main  
10 component to making a nail. A bright nail that has no  
11 other features or benefits, it could be easily 60 percent  
12 of the cost of the product is the cost of wire rod.

13 CHAIRMAN BROADBENT: Okay. And then but  
14 shouldn't we think that changes in demand also would have  
15 an effect on price, considering that the effect on prices  
16 sort of -- prices should be going up as the housing sector  
17 and the overall economy recover; right?

18 MS. ZINMAN: Sure. There are other -- it's not  
19 100 percent only wire rod. If there's a shortage of  
20 product or the market -- just generally demand is lower,  
21 then prices move in the -- you know, up and down based tied  
22 to some of those factors as well. Yes.

23 CHAIRMAN BROADBENT: Okay. But I guess we knew  
24 that demand was increasing during this period, and still  
25 prices weren't able to rise.

1 MS. ZINMAN: Well, again, because of -- if the  
2 cost of the raw material goes down, many of the buyers in  
3 the market, you know, wire rod costs are published. You  
4 know, it's a -- it's not a secret.

5 So a lot of the buyers are sophisticated and  
6 they know that your costs are going down, our price should  
7 come down, because wire rod has come down, whether the  
8 market is -- you know, the sales are up or not.

9 CHAIRMAN BROADBENT: Okay.

10 MR. LEFFLER: Joe Leffler with Hitachi Power  
11 Tools. I wanted to just add a comment.

12 I heard a lot this morning talk going all the  
13 way back to 2005, and the U.S. recovery that has taken  
14 place.

15 Just take this note. In July of 2005 was the  
16 peak of the housing market, roughly 2.2 million housing  
17 starts between residential and multifamily and depending on  
18 what data you use today, it's at 1 million.

19 So yes, it has recovered from '08/09 timeframe,  
20 but keep that perspective. In 2005, there was a tremendous  
21 amount of opportunity for everyone in the business. So  
22 today it's still 60 percent away from the peak. So that's  
23 very relative to the conversation we're having right now.  
24 Thank you.

25 CHAIRMAN BROADBENT: Okay. Vice Chairman

1 Pinkert.

2 COMMISSIONER PINKERT: Thank you, Madam  
3 Chairman. And I thank all of you for being here. And I  
4 remember Ms. Zinman testifying in the past. I appreciate  
5 your coming back even in retirement to testify before us.

6 I'm having a little trouble deciding whether  
7 there is a factual conflict or contradiction between what  
8 the earlier panel was testifying to and what this panel is  
9 testifying to in regard to the relationship between the  
10 nails and the nail guns.

11 It seems that the earlier panel emphasized that,  
12 well, it's a matter of customer preference, the customer is  
13 typically a professional who would know that he or she  
14 could use different brands of nails in the nail guns.

15 And it seems that this panel is emphasizing  
16 that, well, the fact is that there's a strong correlation  
17 between the brand of the nail gun and the brand of the nail  
18 that the customer puts into it.

19 And so is that just a difference of emphasis, or  
20 is there actually a difference in testimony here that -- a  
21 contradiction that we need to resolve?

22 MR. LEFFLER: I'd like to speak for that. I've  
23 worked for Hitachi for over 20 years, and prior to that I  
24 worked for Duo-Fast, now owned by Illinois Tool Works. And  
25 what I did was I actually serviced tools on the job site,

1 my start into the industry, I fixed the tools.

2 So I can tell you they're not a manufacturer of  
3 nail guns. For them to make that statement is a very broad  
4 statement.

5 We are and we have manufactured and we're a  
6 leader in the industry with innovation, and we're  
7 constantly improving. And as someone who has grown up in  
8 this business, servicing tools, selling dealers and selling  
9 ultimately into the home center channel as well, it's a big  
10 deal. It's a big deal in a variety of ways.

11 From a consumer perspective, it's confidence, I  
12 know that those nails match that nail gun. Then when you  
13 get into the professional aspect of it, there truly is a  
14 difference in what we spec out from Hitachi, when we -- our  
15 driver blades, how it matches up exactly.

16 Yes, a lot of people can make nails that are fit  
17 a variety of guns. It doesn't mean that those nails will  
18 all work the exact same way in every single tool.

19 And if you were to poll a large group of end  
20 users, you will have some guys that are okay with that,  
21 they're okay with servicing their guns, you know, five  
22 times a month versus servicing them, you know, a couple  
23 times a year.

24 So does it work? Yes, it can work. But if you  
25 really want to match the tools together, which is a big

1 deal for Hitachi, and a big deal for Paslode and a big deal  
2 for Senco and a big deal for Bostitch, we wouldn't be in  
3 business, in this business, if it wasn't for that.

4 So yes, I believe there is a difference.

5 MR. CHRISTY: Also, if I could add -- David  
6 Christy of Perkins Coie. I believe it was Mr. Miller of  
7 Tree Island who addressed this at some length earlier this  
8 morning.

9 But if you'll know -- I think the transcript  
10 will show when it comes out that at the end of his  
11 comments, he couldn't help but concede that some users are  
12 loyal to a brand.

13 Now, we're saying it's more than some. But at  
14 the very least, it's some. Thank you.

15 MR. IPPOLITI: This is Ken Ippoliti from BMD.

16 Mr. Miller also stated that like a staple, you  
17 don't know what brand you have when you put that in your  
18 stapler, doesn't really matter.

19 In regards to staples, there's a lot of  
20 variations with staples. We sell a lot of industrial  
21 staples, and light wire staples that have all different  
22 crown, the very top it has different crown widths. And the  
23 tools that those go into are very specific.

24 Many times customers will order the wrong staple  
25 based upon not knowing that they're using a certain gun.

1           We also are one of the largest -- or the largest  
2 companies in providing private label for branded product.  
3 When we do that, we don't -- we don't have our own gun  
4 line. They're not in the gun nail -- or the gun industry.  
5 We only deal with the fasteners.

6           So when we sell to a customer that's ordering a  
7 direct container of product, we always have to ask them  
8 what is the specific tools that are being used, so as to  
9 not provide them with a container of product that won't fit  
10 their customers' tools.

11           That is standard procedure. We have to do that,  
12 in order to avoid the cost of having a whole container come  
13 back to our warehouse because it doesn't work within the  
14 tools that that customer is using.

15           Also, for some of the biggest brands in the  
16 industry, we looked at -- we received specification sheets  
17 for all their products. And our mills build based upon  
18 those specification sheets.

19           Now, there are some minor differences, and they  
20 do -- some of them will run through a variety of tools.  
21 However, the brands are known for things like having a  
22 checkered head or a larger head, which the customers have  
23 grown to like or that specific applications require.

24           For example, in siding, a lot of customers like  
25 to have a checkered head because it retains the paint



1 better. Okay. So if any nail can be used, and if I ship a  
2 plain headed nail to that customer, I'm going to get a  
3 return.

4 So there's major differences between the  
5 different tools and applications.

6 MS. ZINMAN: I think also one thing to consider  
7 is that at least for Prime Source, we have spent millions  
8 and millions of dollars promoting the brand. So if we  
9 didn't believe -- if we didn't drink the Kool-Aid on the  
10 brand being important, we wouldn't have put our money where  
11 this testimony is.

12 But we have done -- we have spent a million  
13 dollars on commercial, a TV commercial, to promote our  
14 brand showing during one of the ESPN games. We have gone  
15 to shows. We have tents. We have giveaways, over and  
16 over, the constant drum beat is promote the brand.

17 We track it internally, report Grip Rite sales.

18 So for our business model, the brand is  
19 critically important and a source of continued focus.

20 Now, maybe for Mid Con, whose business is  
21 driven, you know, by the pallet nail business, where a lot  
22 of the product is used to actually produce a pallet where  
23 you open up the carton, you dump the nails into a machine,  
24 you throw the carton away, maybe for them in that market  
25 segment, brand doesn't matter. What's the difference what

1 it says on the box? It's just going to be -- they're not  
2 selling that. They're selling does this nail, you know,  
3 work in this industrial application.

4 But for us, brand is critical and a source of  
5 considerable expenditure to promote.

6 COMMISSIONER PINKERT: Now, Ms. Bressler,  
7 speaking for your customers, how important is matching the  
8 brand of the nail gun to the brand of the nail?

9 MS. BRESSLER: Thank you, Commissioner Pinkert.  
10 So I was kindly waiting for the conversation to come around  
11 the table.

12 I would say for specific customers in specific  
13 applications, brand is specifically important. And that  
14 would be -- I think Mr. Leffler advised, you know, for his  
15 category where he is a heavy pro penetrated category with  
16 roofers and siding nailers, that's very heavily pro  
17 penetrated.

18 And we mentioned earlier the Hispanic  
19 population, very loyal to their brands. That's where  
20 Hitachi plays very deeply. They are very dedicated to the  
21 Hitachi brand.

22 In some cases, you know, I think we mentioned  
23 back there that the staples kind of go very broad across  
24 the, you know, atmosphere, and it's not so much particular  
25 as to what brand you're using, and you kind of get a little

1 array of assortment out there. We see that in the aisles  
2 as well.

3 We do have some customers that have to stick  
4 with a Porter Cable branded, but then we also have a very  
5 great following to the Grip Rite brand.

6 At the end of the day, I guess what I would  
7 advise is what's very important to our customers is value.  
8 So where they're getting more for their money, they're  
9 getting the product that makes them get their jobs done  
10 faster and easier, is what they're -- they're very  
11 interested in.

12 So we were talking about the checkered head,  
13 someone had mentioned a checkered head, right, which is  
14 something, an ease of job for them to get the job done  
15 quicker. Also a larger head.

16 Those kinds of things are important to the pro  
17 and also the do-it-yourselfer. So where we can add value,  
18 whoever is adding that value is what's going to get the  
19 purchase in the aisle.

20 Innovation. If you've got a nail that does  
21 something quicker, faster, easier, that's what -- that's  
22 what the customer wants. Whether it's a pro or a  
23 do-it-yourselfer, that's what they want. Anything that  
24 gets the job done faster, because time is money to the  
25 customers; right? They want to get in, they want to get

1 out, and they want to get back to living their life; right?

2 And that's what's important to them.

3 So depending on what the job is and what they're  
4 doing, I think, is where brand kind of plays and who the  
5 customer is is where it kind of plays.

6 I know that was kind of a broad answer, but --

7 COMMISSIONER PINKERT: I appreciate it.

8 I want to ask both sides, both panels for the  
9 posthearing, to provide any data you have about the  
10 customer need to match the brand of the gun with the brand  
11 of the nail. There's got to be some data out there or  
12 internally that you could provide, and I think that would  
13 be helpful.

14 Thank you.

15 MR. KARAGA: Excuse me, Vice Chairman Pinkert.  
16 My name is Steve Karaga, from Oman Fasteners. When you  
17 asked the question about the importance of brand and  
18 matching the fastener to the tool -- I think it's more  
19 important to understand what it's like from the  
20 distributor's perspective.

21 Just a little bit of background on brands. I've  
22 been in this business for more than 25 years in the U.S.  
23 fastening and fastener industry, starting in 1989 with  
24 Senco. And I can tell you that certain collation types are  
25 dominated by certain brands. Hitachi is the dominant

1 producer with a market share in excess of 40 percent in a  
2 20 degree plastic strip nailer segment.

3 Dominant producer for paper tape coalition is  
4 ITW Paslode. They absolutely dominate the market. And  
5 they developed that collation type.

6 The dominant producer in wire coil nails would  
7 be between Stanley, Bostitch and Max, another Japanese  
8 manufacturer.

9 So now we come to the question of, you know,  
10 does -- do these other generic nail manufacturers that are  
11 not associated with those brands, do they run through the  
12 tools. And I can tell you that the answer is largely yes.

13 But, you know, from the end user's perspective,  
14 what's in front of him at distribution. If even -- if even  
15 only 25 percent of users prefer to have a branded product  
16 that runs through their tool to give them confidence, then  
17 should the distributor be somehow bound to carry or  
18 expected to carry multiple brands of 33 degree paper tape  
19 strip nails, or should he carry Paslode?

20 I can tell you that most of them do carry  
21 Paslode, and then they supplement their business with some  
22 generic product that they can buy potentially at lower  
23 costs, generic products like Magnum fasteners. And they  
24 use those with the -- with their highest -- highest-volume  
25 end users, that are most price sensitive. When you're

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1 selling a generic product, that's all you have to sell, is  
2 on price.

3 COMMISSIONER PINKERT: I'm going to have to stop  
4 you right there. Thank you very much for supplementing  
5 that.

6 CHAIRMAN BROADBENT: Commissioner Williamson.

7 COMMISSIONER WILLIAMSON: I too want to express  
8 my appreciation to the panel for coming today, and those  
9 who have come many times.

10 Ms. Zinman, I was wondering if you could discuss  
11 the role of the domestic producer Progressive as regards  
12 Prime Source's participation in the U.S. market.

13 MS. ZINMAN: Progressive was originally founded  
14 as a joint venture between Prime Source and Dubai Wire.  
15 Unfortunately, the founder of Dubai Wire unexpectedly  
16 passed away.

17 COMMISSIONER WILLIAMSON: I believe we heard  
18 that earlier, yes.

19 MS. ZINMAN: And Prime Source took over the  
20 manufacture -- I mean the total ownership of PSW.

21 So right now the factory has one captive  
22 customer, which is Prime Source. So it acts strictly as a  
23 manufacturing facility for Prime Source. It does not go to  
24 market on its own at all.

25 COMMISSIONER WILLIAMSON: And do they kind of

1 specialize in particular products? I mean, do you limit  
2 what they produce?

3 MS. ZINMAN: Right now they're -- they make a  
4 small list of products in hand drive nails and a limited  
5 number of SKUs of plastic strip collated nails.

6 So it's a limited -- it's a limited range of  
7 products right now.

8 COMMISSIONER WILLIAMSON: Okay. How many  
9 different roughly, say, separate manufacturers or  
10 manufacturing facilities -- because you don't own a lot of  
11 manufacturing facilities?

12 MS. ZINMAN: No, that's the only one.

13 COMMISSIONER WILLIAMSON: So roughly how many  
14 different manufacturing facilities around the world might  
15 you be sourcing from to supply the U.S. market?

16 MS. ZINMAN: Of total nails?

17 COMMISSIONER WILLIAMSON: Yes.

18 MS. ZINMAN: Probably maybe -- could be 75.

19 COMMISSIONER WILLIAMSON: Okay. I was just  
20 wondering.

21 And Mr. Leffler, can you sort of say for Hitachi  
22 how many different sources of --

23 MR. LEFFLER: This is Joe Leffler with Hitachi  
24 Power Tools. And we probably source from, and this is  
25 rough --

1           COMMISSIONER WILLIAMSON: Rough, I'm not asking  
2 for precise.

3           MR. LEFFLER: -- maybe six or seven.

4           COMMISSIONER WILLIAMSON: You said six or seven  
5 or 86?

6           MR. LEFFLER: Six or seven suppliers around the  
7 world.

8           COMMISSIONER WILLIAMSON: Okay. And you state  
9 that you do source from a U.S. firm. Is it called  
10 Specialty Tool? I didn't get the name.

11          MR. LEFFLER: Specialty Fasteners.

12          COMMISSIONER WILLIAMSON: Specialty Fasteners.  
13 Are they a manufacturer or domestic producer or what?

14          MR. LEFFLER: They're a manufacturer of a  
15 variety of different products that we -- that we -- we  
16 generally source from them. As Mr. Karaga mentioned  
17 earlier, we probably have upwards of 40 percent market  
18 share on the 20 degree nailer that's primarily used  
19 throughout the U.S. And so we do a large volume of 20  
20 degree plastic collated nails.

21                 And we source from six or seven roughly  
22 suppliers around the world, and one of those is Specialty,  
23 because they have built a relationship with us, they have  
24 continually come and invested time in our business.

25                 And we don't always order correctly. So there's



1 a -- there's definitely a genuine need for us to have  
2 somebody domestically that can support our business in a  
3 just-in-time-type environment. So that's why we do what we  
4 do.

5 COMMISSIONER WILLIAMSON: Thank you.

6 I was curious, and I think staying with you,  
7 Mr. Leffler, you had mentioned a number of times that Mid  
8 Continent is a price leader, and yet you all have  
9 complained that they -- that they're basically a palletized  
10 nail producer, or at least that they have limited  
11 production.

12 So I'm wondering how are they a price leader for  
13 such a diverse number of products, when they are -- when  
14 they produce -- their production is limited in terms of  
15 variety of product?

16 MR. LEFFLER: It's a great question. And in  
17 your questionnaires, as a matter of fact in the briefs that  
18 I read, the actual response from when you sent the  
19 questionnaires out referenced that they were twice as  
20 likely to lead on price than we were.

21 So it's straight from those questionnaires  
22 that's documented.

23 But as far as I see, we dominate with that  
24 nailer, like I said. And the big categories that they  
25 participate in, on the wire coil side of the business,

1 that's pallet nails, that's bulk nails, that's the shops  
2 that they, as BMD had referenced, they sell those typically  
3 direct, which would mean if I had a distributor that I was  
4 competing with the business versus Mid Continent and that  
5 distributor was trying to get that pallet business, that  
6 distributor wouldn't likely want to buy from Mid Continent  
7 because they would compete -- he would be buying from a  
8 supplier that he would be competing with to get that pallet  
9 business.

10           So on that side, that's the reason I believe  
11 that they get a lot of pressure on price.

12           On the side of the collated 20 degree plastic,  
13 which is a big category for them, where we -- where we  
14 are -- it's very difficult, I think, for them to compete  
15 with us is we have that branded tool that the Hispanic  
16 contractor, which is the volume guy, is seeking out. He is  
17 seeking that tool out.

18           So in order to beat Hitachi, it would be like an  
19 analogy, when you go into CVS to buy -- say you're going to  
20 buy some sort -- say you're going to buy Nicorette and you  
21 want to buy the generic brand. You don't pay the same  
22 price for the Nicorette brand that you pay for the generic.  
23 You expect some sort of a discount.

24           And I think as Mona referenced earlier,  
25 customers try to -- try to push all of us down on price.

1 And of course, if they can buy Hitachi at X, they would  
2 have an expectation, since Hitachi is the preferred brand  
3 or the high brand, they would have an expectation that if  
4 they were going to buy something else, they would get a  
5 discount.

6 And I think that's probably why they have to  
7 lead with price more often than not.

8 COMMISSIONER WILLIAMSON: But if they're not  
9 competing on a large number of the products, I don't  
10 understand the price leadership role unless you're saying  
11 the palletized nail sets the price for everything else.

12 MR. LEFFLER: Well, I would say that the  
13 categories that they do manufacture that we compete on,  
14 which is -- plastic is a big part of that, that would be  
15 the category where they would lead on price.

16 COMMISSIONER WILLIAMSON: Okay. Ms. Zinman, did  
17 you want to add something to that?

18 MS. ZINMAN: Yes. Also the way that it works is  
19 let's say you have a category of, let's say, plastic strip  
20 nails. And if you were going to stock -- or a company was  
21 going to buy the entire line, which many of them -- a lot  
22 of them do, and we stock, there would be 100 items on that  
23 list.

24 Mid Continent will make, say, 10 of them, high  
25 volume, and those items they will price low, the ones that

1 they make.

2                   So what happens is that the whole line gets  
3 pulled down.

4                   And I think there was a question actually from  
5 one of the other commissioners who asked about does the  
6 price of one nail impact the price of another nail. Well,  
7 it does, because you're taking the big volume, e.g.,  
8 production nails, you're pricing those low, and now the  
9 other 80 that you don't make, they come down along with it.  
10 So that's why how the prices get -- for the whole thing can  
11 be pulled down even for nails that they actually don't even  
12 make.

13                   COMMISSIONER WILLIAMSON: You're saying  
14 basically -- there's been an argument about the competition  
15 here that's been thrown out.

16                   MR. LEFFLER: Can I make one more comment on it?  
17 You know, I think it's important to note, because, you  
18 know, obviously your initial response, then you get some  
19 time to reflect on it.

20                   When we're referencing the supply of product, we  
21 hear the U.S. industry as a whole and all the products that  
22 you saw up there earlier.

23                   As Mona just referenced, when you get down to  
24 the professional volume categories that we're all competing  
25 head to head on, there's a handful of paper tape, wire

1 coil, plastic strip, which are the dominant collation  
2 types.

3           And then within those categories, you have a  
4 nail that you frame your house with, which you -- you know,  
5 you've got your studs in your walls that you nail into, and  
6 that's the dominant nail. Then you've got a nail that you  
7 put into the deck, which are the boards that go on your  
8 floor.

9           So if you're extremely competitive on those two  
10 nails, you're going to put pressure on the suppliers to  
11 have to compete on that, and you're really talking six  
12 nails or so that can create a lot of pressure, as Mona just  
13 referenced, on all of the other categories.

14           COMMISSIONER WILLIAMSON: Okay. Thank you.  
15 Thank you for those answers.

16           Mr. Ippoliti, I was -- you mentioned, I guess,  
17 dealing with the U.S. producers and their not being  
18 interested in providing a private brand for you.

19           This morning they stressed the terms, and I kind  
20 of jokingly talked about, you know -- and they talked about  
21 long-term relationships and I said is it a one-night stand  
22 or what.

23           So I guess the question for you, were you  
24 offering them a long-term relationship?

25           MR. IPPOLITI: Yes, we were, yeah. BMD is a

1 very conservative company, and being an employee-owned  
2 ESOP, it's a boy scout company, that's what I call it.

3           And so with all the antidumping that's taken  
4 place over the years, the company -- the board of directors  
5 decided that we need to look for all sources possible  
6 outside of countries that could be sued for antidumping.

7           So after the hearing last year, I was chartered  
8 with the responsibility of contacting all domestic sources  
9 or sources that would allow us to avoid this type of  
10 action.

11           And so it was with that intention that I reached  
12 out to the domestic manufacturers in an attempt to have a  
13 long-term relationship in which we could have our branded  
14 product that we spent so much time developing be made in a  
15 country in which we wouldn't have to deal with this type of  
16 action.

17           COMMISSIONER WILLIAMSON: Okay. Any sort of  
18 documentation you could have on that, and I'll ask the  
19 Petitioners also to supply maybe their version.

20           MR. IPPOLITI: Absolutely. I can provide that  
21 in posthearing brief.

22           COMMISSIONER WILLIAMSON: Thank you very much  
23 for the answers to those questions.

24           MR. CHRISTY: If I could provide a comment on  
25 that. When listening to the testimony this morning, I kept

1 thinking for an industry that says they're in trouble, they  
2 certainly sound very picky when it comes to who their  
3 customers will be for private labeling.

4 One of the themes is -- I think one of the  
5 witnesses from Mid Continent said it flat out. Well, if  
6 they come to us and ask for it, well, we can agree to  
7 terms. So there's not this sense of going out into the  
8 market and aggressively trying to sell and create these  
9 relationships with regard to private labeling.

10 COMMISSIONER WILLIAMSON: Thank you,  
11 Mr. Christy. I won't comment on relationships anymore.  
12 Thank you.

13 CHAIRMAN BROADBENT: Commissioner Johanson.

14 COMMISSIONER JOHANSON: Thank you, Chairman  
15 Broadbent.

16 I'd like to thank all of you for appearing here  
17 today. Especially for Ms. Zinman. Thanks for coming out  
18 of retirement to help us better understand the situation in  
19 this investigation.

20 Cumulated subject import volume is up 37.3  
21 percent during the period of investigation and the market  
22 share is up 6.6 -- 6 percentage points to 41.2 percent in  
23 2014.

24 I appreciate the Respondents dispute injury and  
25 causation, but isn't the increase in the volume of subject

1 to imports significant on this record?

2 MR. MARSHAK: This is Ned Marshak. There is --  
3 yes, we increased our market share from 2012 to 2014. The  
4 absolute quantity increased because the market grew.

5 But if you look at Commission decisions, time  
6 and time again, the fact that you have a very large share  
7 of the market and the fact that your market share may have  
8 increased doesn't mean it's, quote, you know, significant  
9 under the law, if there's no other factors that are  
10 involved, that somehow harms domestic industry.

11 In this case you have to look at what's going on  
12 with the domestic industry also. They maintain the market  
13 share, their profitability increased. You know, we believe  
14 that they are a strong, stable industry that's going to be  
15 here a long time.

16 We increased our market share just because a lot  
17 of the nails that were -- the nails that were coming in  
18 from other countries are now made in our country. Some  
19 production in other countries may have -- may have gone  
20 down, so our share increases. But that doesn't impact the  
21 domestic industry, which is doing very well as profits go  
22 up at the same time as imports go up.

23 So significant absolutely, but not significant  
24 legally.

25 COMMISSIONER JOHANSON: Thanks, Mr. Marshak.



1           In following along that same line, Respondents  
2 have argued that the domestic industry performed well  
3 during the period of investigation and indeed improved  
4 based upon a number of production and financial indicia.

5           But isn't it fair to ask whether the domestic  
6 industry should have performed materially better during the  
7 period of investigation, given an increase in domestic  
8 consumption of over 15 percent, declining raw material  
9 costs and a new antidumping order on the United Arab  
10 Emirates to accompany that -- a previous order on China?

11           MR. MARSHAK: A lot of this would probably get  
12 into confidential information. There is -- there is a  
13 reason why the domestic industry didn't perform better. In  
14 our opinion, it's because there are members of domestic  
15 industry that made decisions that are in the best interests  
16 of those multinational companies as to where to source  
17 nails.

18           So if you look at the individual members of the  
19 domestic industry, there's a group of pure domestic  
20 producers or domestic companies who really rely on domestic  
21 production who do very well.

22           But then there are companies who compete with  
23 Hitachi, who compete with Prime Source, who are  
24 multinational companies, and they made decisions which we  
25 believe have nothing to do with imports coming in from our

1 five countries to source their nails elsewhere.

2 And you'll see that overall, these companies,  
3 you know, did well. We believe their bottom line is  
4 probably pretty good on a global scale. But it's because  
5 of their internal decisions that there's less production  
6 than you may have expected in the United States. But that  
7 gets into the confidential record and business decisions of  
8 other companies, the other multinational, big brand name  
9 companies.

10 DR. BECKER: May I add to that? Brian Becker.

11 One thing we talked about is the growth in the  
12 apparent consumption. I think we have to consider the  
13 volume, but temper it against the fact that prices follow  
14 wire rod prices.

15 So you'd mentioned, Commissioner, that the  
16 growth was 15 percent. From a revenue perspective, which  
17 is how these companies actually make money, growth only was  
18 2 percent.

19 If you look at my table 6 of my report, and that  
20 is not an APO number, growth was only 2 percent because,  
21 while volume did increase because wire rod prices went down  
22 so much, prices were able to go down quite a bit.

23 From a total growth perspective, really the  
24 market did not grow from 12 to 14. I think that's an  
25 important thing from an injury perspective, because you

1 can't really take home volume. You can only take home  
2 dollars. And dollars only increase by 2 percent.

3 COMMISSIONER JOHANSON: Thanks. So to what do  
4 you attribute the price declines in the U.S. market during  
5 the period of investigation?

6 DR. BECKER: Well, I've made a table, and I  
7 think it's very consistent throughout this period and  
8 earlier periods, that if your main cost of production,  
9 which is more than half your cost, goes down significantly,  
10 you're able to lower your price.

11 If I as a consulting company all of a sudden had  
12 all my employees say, oh, Dr. Becker, tomorrow we're happy  
13 to work for half the price or half our salaries, tomorrow I  
14 would definitely lower my rates to my -- to my clients, and  
15 I make less revenue, I'd probably still make as much  
16 profit, that's the exact same thing that happened to this  
17 industry.

18 They didn't have employees that said they would  
19 work for less, but they had raw materials that said you  
20 could source me for much less. That's really what happened  
21 in this industry.

22 COMMISSIONER JOHANSON: How about energy costs?  
23 Does that factor into this?

24 DR. BECKER: It would. I haven't -- I haven't  
25 quantified those numbers, but certainly it would, yes.

1           COMMISSIONER JOHANSON: I don't recall that  
2 being in the record so maybe it's not significant. I  
3 always have to ask that question.

4           DR. BECKER: I don't know --

5           COMMISSIONER JOHANSON: It's just something I  
6 do.

7           DR. BECKER: I'm only going to give you facts  
8 and I prefer not to speculate.

9           COMMISSIONER JOHANSON: Okay, certainly. I  
10 understand.

11           Petitioners point out that the U.S. industry has  
12 not come close to regaining the almost 29 percent market  
13 share of the U.S. market that it had in 2004. How relevant  
14 is this to our injury analysis?

15           MR. MARSHAK: Ned Marshak again. We don't think  
16 it's relevant at all. What happened in 2004 is a century  
17 ago as far as what's happening in the U.S. economy. And,  
18 you know, any injury that was caused by the Chinese coming  
19 in and capturing a very large share of the market is not  
20 the fault of the five countries that we're talking about  
21 right now.

22           If you look at the comparisons, in the last  
23 three years during our period of investigation, the  
24 industry is doing a lot better than it did during the  
25 period of investigation that was involved in the Chinese

1 case, in the UAE case, and we believe this is what you have  
2 to look at, because it's injury from these five countries  
3 and not a lingering impact of potential injury from China.

4 We had to take the industry as we found it in  
5 2012. Remember, when Petitioner came in in 2011, they had,  
6 I think, either one of the commissioners or at the Staff  
7 conference, it was asked, well, what about Taiwan? Do you  
8 have a problem with Taiwan?

9 And they said absolutely not. There was no  
10 problem with the five countries here. And if you -- Taiwan  
11 is probably a good example. Taiwan was exporting as much  
12 merchandise in 2004 and 2005, 2006 that's exported to the  
13 United States right now, and they didn't have a problem  
14 with it then.

15 So you have to look at the industry in this  
16 period to see if the injury is because of our five  
17 countries and not because of something that happened in  
18 2004.

19 COMMISSIONER JOHANSON: Could you all discuss  
20 the role of nonsubject imports in the U.S. market.

21 MR. MARSHAK: Again, nonsubject -- look, there's  
22 a tremendous amount of nonsubject imports. Nonsubject  
23 imports now are coming primarily from two countries. You  
24 have nonsubject imports coming from Mexico, and we think,  
25 you know, that Mid Continent is a much stronger company now

1 than it was three years ago, because all of a sudden, you  
2 have these Mexican exports coming in, and it's part of the  
3 Magnum brand.

4           So the Magnum brand is much stronger because  
5 they have their import, their nonsubject imports, coming in  
6 from Mexico and they're selling them as Magnum nails.

7           Then you have your -- a lot of, of course,  
8 nonsubject imports from China. China -- again, I'll just  
9 go with what we know in the market. There are two major  
10 companies, the branded companies who are exporting a lot  
11 from China right now. One is Stanley, because Stanley has  
12 been the mandatory Respondent in all of the Department of  
13 Commerce proceedings, so they're the largest exporter of  
14 subject merchandise from China.

15           And then we know, because of what's going on in  
16 the market and also because they were excluded in the  
17 original investigation, that ITW and the Paslode brand is  
18 also most likely a very significant quantity of nails  
19 coming in from China, the Paslode nails.

20           So, you know, this is also competition that's  
21 going on in the United States. We don't think we're  
22 bringing the prices down. And again, you look at the  
23 pricing analysis that Mr. -- Dr. Becker gave that we  
24 attached to our brief, we took at the price comparisons,  
25 and we think it's the United States prices that are lower

1 in the areas where there's really competition, compared to  
2 the Prime Source prices to its customers or the Paslode  
3 prices to its customers or Hitachi prices to its customers.

4 MR. TOWNSEND: Commissioner, if I could, Dave  
5 Townsend with Perkins Coie. If I could just add to that  
6 with respect to China. As was just stated, Stanley and ITW  
7 both are part of the U.S. industry, and they also both, you  
8 know, have supply from China.

9 And so we would -- you know, we can't go into it  
10 in the public forum, but we would ask that the Commission  
11 look very carefully at what those two companies are doing  
12 in the marketplace both with respect to their U.S.  
13 production and their non-U.S. imports.

14 COMMISSIONER JOHANSON: All right. Thanks for  
15 your responses. My time has expired.

16 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

17 COMMISSIONER SCHMIDTLEIN: Thank you.

18 I'd also like to thank the afternoon panel for  
19 being here today.

20 I obviously was not here during the prior two  
21 cases, the UAE case and the China case. But I've heard  
22 your testimony this afternoon about the importance of brand  
23 loyalty and the fact that the domestic industry is  
24 allegedly not able to provide the full range of products  
25 that other -- that you're able to provide to buyers.

1           And so my question is, is this different from  
2 what the conditions of competition were in the UAE case or  
3 the Chinese case?

4           So in other words, in 2009, 2010, 2011, 2012,  
5 was brand loyalty not important back then? And is it your  
6 position that back then, the domestic industry could  
7 provide the full range of products, but that's also  
8 changed? Or were those conditions essentially the same in  
9 those cases where the Commission went affirmative?

10           MS. ZINMAN: Honestly, it's the same.

11           COMMISSIONER SCHMIDTLEIN: It's the same, okay.

12           So is it your position that the Commission got  
13 it wrong back then in not taking that into account?

14           MS. ZINMAN: Are you actually quoting from how I  
15 started my original statement draft which I was forced to  
16 remove under pressure?

17           (Laughter.)

18           MS. ZINMAN: So yes, that is our position, the  
19 commission got it wrong.

20           COMMISSIONER SCHMIDTLEIN: Just to put a fine  
21 point on it, here. Yes, all right.

22           MS. ZINMAN: You weren't there.

23           COMMISSIONER SCHMIDTLEIN: Okay, yeah.

24           MR. MARSHAK: As the lawyer, we're accepting the  
25 fact that the Commission got it right, as far as injury, so



1 we're going to accept they were right about China, they  
2 were right about the UAE.

3 But we think conditions have changed, even  
4 though branding was important then, the conditions that  
5 have changed with Mid Continent and Deacero have become,  
6 one, become much stronger. The conditions that have  
7 changed is during this three-year period, the market share  
8 has stayed the same, the profitability has gone up.

9 The conditions that have changed is that you  
10 have certain domestic manufacturers who are more domestic  
11 before, are now more importers than they were before, and  
12 that had nothing to do with us.

13 So there are certain conditions that have  
14 changed that we believe make a negative determination the  
15 better choice in this particular case.

16 COMMISSIONER SCHMIDTLEIN: So the fact that, in  
17 your words, that they have become less domestic in their  
18 importing so that is -- it's your argument that that's  
19 causing the injury?

20 MR. MARSHAK: We don't believe there's injury.  
21 But we said --

22 COMMISSIONER SCHMIDTLEIN: How is that relevant?  
23 Spell it out for me.

24 MR. MARSHAK: When you look at the domestic  
25 industry, we know you have to look at the domestic industry

1 as a whole. But we're also -- and a lot of your decisions  
2 before, you look at what's happening, you know, below that  
3 whole to individual companies.

4 As a whole, we think it's doing okay. But when  
5 you look at individually as to what the trends are, you're  
6 going to see one of the reasons that the so-called, you  
7 know, domestic industry isn't doing better is that certain  
8 members of the domestic industry have made business  
9 decisions, which we believe have nothing to do with subject  
10 imports, to be -- to have a lesser presence in the United  
11 States than they may have had in the past.

12 COMMISSIONER SCHMIDTLEIN: Okay. So it's a  
13 causation argument.

14 MR. MARSHAK: Yeah.

15 COMMISSIONER SCHMIDTLEIN: Okay. All right.  
16 Another question I had for either Mr. Leffler or Ms. Zinman  
17 is on this allegation that the U.S. companies are the price  
18 leaders, right, and I know this was touched upon a few  
19 minutes ago.

20 When I look at the Staff report, and I'm looking  
21 at table it, page 2, II-37. This is the survey, the  
22 purchasers questionnaire, the tabulation of those answers,  
23 right. And when you look at price and the question of  
24 comparing the United States to each of the subject  
25 countries, in every single instance, you only have, you

1 know, for Korea -- this is all public, right. Korea, two  
2 purchasers indicated the U.S. was superior price, 18 said  
3 inferior.

4 Malaysia, 15 said inferior, zero said superior,  
5 right. And you can look at the numbers, right. 13 said  
6 inferior for Oman, one said superior.

7 So my question is, how can you claim that the  
8 U.S. companies are the price leaders when you've got the  
9 purchaser submitting surveys where at least half of them  
10 are saying that U.S. is inferior and the other half is  
11 saying comparable? And a couple are saying superior?

12 DR. BECKER: Maybe I'll just start with this and  
13 let them -- I'll at least hit the data.

14 What you're referring to is estimates or  
15 opinions as to what the prices are. And I think if you  
16 look at table 5-16 on page 5-35, those are the actual  
17 prices.

18 So I think if we're going to discuss the facts,  
19 it's probably better to focus on the actual prices, which  
20 are certainly much more even there than what Respondents  
21 might think the prices might be under some circumstances.

22 And then once you look at these prices and you  
23 focus on actually the quarters where the U.S. actually made  
24 large production, there I have some APO tables that show  
25 how much underselling or overselling the U.S. was focused

1 on.

2 But I think if we're -- I think it's probably  
3 easier to focus on the actual prices than if someone thinks  
4 the prices are different than the actual prices, that's  
5 nice. But I think the actual prices are probably more  
6 telling.

7 COMMISSIONER SCHMIDTLEIN: That's a nice segue,  
8 actually. I was going to ask about this overselling versus  
9 underselling. And I appreciate you following up on the  
10 point you just made in the posthearing brief with an  
11 explanation of the table that you have.

12 When you look at the overselling versus  
13 underselling, and I know I asked about this earlier this  
14 morning, you have a fairly even split between the  
15 instances; right? But obviously, the total volume is a  
16 different story, where you have 14. -- what was it, 14.3  
17 million tons undersold versus 1.7 million tons oversold?

18 So how should I consider that, especially in  
19 light of your testimony, Ms. Zinman, that -- that there is  
20 price effects across segments; right?

21 So you testified a few minutes ago that you have  
22 a price list. If Mid Continent has 10 products on that  
23 price list of 100, and they're underpriced or low-priced,  
24 that's going to bring down the whole list.

25 So I'm looking at underselling here, where the

1 volume of undersell -- undersold product, you know, 14  
2 million tons versus 1.7, should I conclude that the 14  
3 million is going to bring down the price of all of the  
4 products, given the disparity?

5 DR. BECKER: Well, the 14 million is certainly  
6 going to bring down the prices where it competes. But that  
7 14 million is the volume of the subject import.

8 So if in a particular quarter you have 13  
9 million of subject imports and 1 for the domestic market,  
10 then effectively it's a quarter or product where the  
11 domestic market isn't competing, that particular  
12 calculation is recording that number as 13 million.

13 The injury isn't to the subject imports. It's  
14 not the volume of the subject imports. It's the volume of  
15 the domestic industry that's potentially being harmed.

16 So you should be focusing on the domestic  
17 industry's volume. So these tables don't tell you that  
18 story. The table -- the table in the Staff report on page  
19 5-36 does not tell that story. That only tells the story  
20 of how much subject import is coming Des Moines in a  
21 quarter.

22 But once again, if a subject import is a lot and  
23 it's competing against essentially none of the U.S.  
24 industry, that shouldn't be weighted as a big number,  
25 because the U.S. industry can't really be injured if it's

1 not competing.

2 COMMISSIONER SCHMIDTLEIN: If it's not  
3 competing, it's not going to be counted as -- because  
4 there's not a margin.

5 DR. BECKER: The U.S. has -- the point is as  
6 long as the U.S. industry is in there. But on the other  
7 hand, if you have an incidence where the U.S. industry has  
8 20 million and the subject industry has 5 million or  
9 something like that, and there's an underselling margin,  
10 that's where the U.S. industry can really get hit, when  
11 they're -- so the thing is mthe point I'm getting at is,  
12 you want to focus the volume analysis on the volume of the  
13 U.S. industry that's being injured eventually.

14 COMMISSIONER SCHMIDTLEIN: If we see in the  
15 pricing tables where the volume comes down after some  
16 volume of imported product, should I assume that there's a  
17 price effect there? It's undersold.

18 In other words, so Ms. Zinman's point, if the 10  
19 products were bringing down all 100, then why wouldn't I  
20 assume when looking at a pricing table and I see an  
21 imported product being under sold, right, and at that  
22 point, the price starts to drop after that point in time,  
23 is that a cause -- a causal relationship?

24 DR. BECKER: That's not picked up in this  
25 particular table, but that type of analysis would be more

1 relevant, that if you're seeing a pattern of prices going  
2 down and that's leading to a lag effect of other prices  
3 going down, then yes. But I think that's not what this  
4 table shows. This table shows in that same quarter, if  
5 there is a large amount of subject imports, regardless of  
6 how much the U.S. industry is involved in that product, you  
7 count all the subject imports.

8 COMMISSIONER SCHMIDTLEIN: Right.

9 DR. BECKER: I think that's the issue. The  
10 point is the 14 and 1 aren't really relevant.

11 COMMISSIONER SCHMIDTLEIN: You're looking at the  
12 summary table when you say "this table".

13 DR. BECKER: I'm looking at the 5- -- 5-17.

14 COMMISSIONER SCHMIDTLEIN: Thank you.

15 MR. MARSHAK: One more point. We hope that in  
16 the final Staff report, there's going to be a significant  
17 change in these pricing product analyses, because it  
18 doesn't change as to what do you to potentially two  
19 companies, but at least for one company.

20 COMMISSIONER SCHMIDTLEIN: All right. Thank you  
21 very much.

22 CHAIRMAN BROADBENT: Let's see. Ms. Bressler,  
23 maybe Ms. Trossevin can help with this question. Would I  
24 conclude correctly that you are kind of a trailblazer in  
25 your industry, being a female merchandising vice president

1 of a major retail chain? How many are there of your  
2 counterparts?

3 MS. BRESSLER: In my organization right now, I  
4 am the only one.

5 CHAIRMAN BROADBENT: I would imagine.

6 MS. BRESSLER: I like the trailblazer, thank  
7 you.

8 (Laughter.)

9 MS. BRESSLER: I may make a bumper sticker.

10 CHAIRMAN BROADBENT: Do you think that the big  
11 box retailers and other end users should sort of  
12 incorporate an added margin for the distribution services  
13 and stocking services that you're getting from your product  
14 suppliers?

15 THE WITNESS: I do not, and here's why I would  
16 say that. Because everybody across, whether you're in  
17 lumber through our department, we call department 59 decor,  
18 has that service added in there. Whether it's their own  
19 service teams or what we would call our merchandising  
20 execution team, we call them MET, they're all using a  
21 service team.

22 And it's actually something that we've had since  
23 we started the Home Depot, whether -- it's taken on a  
24 different acronym. But it helps train the associates.

25 Our goal is to be the number one customer



1 service retailer in the world. So we're always  
2 customer-based, and to be customer-based we have to make  
3 sure the associates on the floor are there to serve the  
4 customers. So when you guys go into the Falls Church or  
5 Aspen Hills store, you want to have the best customer  
6 experience ever. To get that, the associate has to be  
7 product knowledge-based. To get that product knowledge for  
8 the associate, it helps to have, like I talked before, the  
9 one stop shop, right, so to have an ease of assortment.

10           Some of our associates are nail experts or are  
11 not nail experts. So these MET associates or even the  
12 service associates, whether it would be a Prime Source  
13 associate or a Hitachi associate that would come into the  
14 store, can help train them on whether it's the nail gun or  
15 the different assortment, where I talked about the 400 SKUs  
16 of Prime Source, to talk to them about you use this for  
17 that application, because I'll tell you, nine times out of  
18 10, a customer walks in like this and says I need one of  
19 these. It's a nail in their hand and you have to find out  
20 what it is. The look on some of our associates face is  
21 what? I've got to do what?

22           So it helps if they know and you say okay, what  
23 are you using for? Are you nailing into wood, are you  
24 nailing into metal, what are you doing with it. Then they  
25 walk through, and that's why the service helps them do

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1 that.

2 Another thing, it's kind of a partnership. They  
3 will walk through the planogram. So we have the 8-foot  
4 bay. They will say man, you're out of this SKU every time  
5 I walk in there, every time. When there's 150  
6 merchandisers, every time I walk in here, you're out of  
7 this SKU.

8 What they will do is call us and say we need to  
9 double face that SKU and take this SKU out of here so we're  
10 not packing down so often. Or they will help with those  
11 local codes. We talked about the local codes. They're in  
12 touch with our pro desk to say, hey, the code changed in,  
13 like I talked about, in Naperville, Illinois. That code  
14 changed, local building codes change constantly, in some  
15 areas more frequently than we would like them to, so we'll  
16 have to change the codes to fit that.

17 I tell you, that is such an invaluable resource  
18 to have product experts, whether it would be from that --  
19 from the vendor or from our MET organizations.

20 I don't think -- I would say no, not a premium.  
21 But it's something that we do, whether it's, like I said,  
22 lumber or decor side. We have somebody in those aisles  
23 doing those sorts of PKs, planogram work, everything, all  
24 the time.

25 Does that help?

1                   CHAIRMAN BROADBENT: Yes.

2                   MS. BRESSLER: Okay, good.

3                   CHAIRMAN BROADBENT: Just out of curiosity, not  
4 really relevant to this. But the Home Depot has such  
5 market power, are you able to work cooperatively with  
6 domestic suppliers to encourage local production as well as  
7 all of your import sourcing?

8                   MS. BRESSLER: Yes. So we work with a lot of  
9 domestic suppliers. As a matter of fact, you know, Mona  
10 mentioned Maze. So we do have maze in our stores, Maze  
11 nails, which is a hot dip zinc coated storm guard nail. We  
12 do have them in the stores.

13                   Now, they didn't have the ability to come in and  
14 service, and we decided with them, because it's such a  
15 specialty nail and the PK that was needed for the  
16 associates was so relevant and that we would do PK demos  
17 and different things, we actually sourced it through Prime  
18 Source.

19                   So we sourced Maze Nails through them so that we  
20 could utilize the service arm nail and also the  
21 distribution arm. Because when we needed them quick, they  
22 had the DCs close enough to the stores so we could get it  
23 there quick and fast.

24                   So we utilized them to get the Maze Nails in.  
25 But we -- I mean, we went -- we worked with Maze to get

1 that done.

2           We've done that a couple different times with  
3 different domestic suppliers that have come to us and want  
4 to sell to us but just don't have the ability right away to  
5 get things there until like -- this was before we even had  
6 our DCs, regional distribution centers up.

7           We have ways to get things into the stores,  
8 start pilot programs, that's in 50 stores right now, to get  
9 them up and running.

10           CHAIRMAN BROADBENT: Mr. Marshak, Petitioners --  
11 this is for counsel. Petitioners -- this is on the --  
12 Petitioners and Respondents raised the issue of pricing  
13 product data in circumstances say where the importer has  
14 transferred the imports to the related party, either here  
15 or in the posthearing brief, could you please address the  
16 comparability of this data with other product pricing data,  
17 specifically, are these data comparable to traditional  
18 pricing product data from U.S. producers and/or U.S.  
19 importers? And if so, why?

20           MR. MARSHAK: We addressed that in our  
21 prehearing brief. A lot of it we would have to start  
22 talking about confidential information. So we'll talk  
23 about it in our posthearing brief.

24           But one thing I think that was brought up this  
25 morning, you know, the devil here is supposed to be Prime

1 Source. So we believe it should be Prime Source's prices  
2 to its customers to compare to Mid Continent's prices to  
3 its customers and the ITW prices to its customers and  
4 Hitachi's prices to its customers and Stanley's prices to  
5 its customers.

6 That's the real competition in the marketplace,  
7 and that's what Petitioner was talking about when they were  
8 talking about the problem of Prime Source and Hitachi.  
9 That's their focus, so let's look at their prices.

10 CHAIRMAN BROADBENT: Okay, good. I think that  
11 winds down my questions.

12 Vice Chairman Pinkert?

13 COMMISSIONER PINKERT: I just have a couple of  
14 questions. Ms. Bressler, just to let you know, I recently  
15 bought a staple gun at Home Depot.

16 MS. BRESSLER: Thank you, Commissioner Pinkert.

17 COMMISSIONER PINKERT: There were two different  
18 brands of staples that I could use in the staple gun, and I  
19 didn't know which one was preferable, so I chose based on  
20 price. But that was just me.

21 (Laughter.)

22 MS. BRESSLER: Thank you, sir.

23 MR. CHRISTY: Clearly you're not a professional  
24 stapler.

25 (Laughter.)

1                   COMMISSIONER PINKERT: I'm not a pro, that's  
2 correct.

3                   So anyway, Mr. Ippoliti, you raised the specter  
4 of Mid Continent controlling the U.S. market by means of  
5 the antidumping laws. And I was wondering what you meant  
6 by that, in light of all the testimony we've heard about  
7 competition in the market.

8                   MR. IPPOLITI: Where I compete against Mid  
9 Continent is within the framing nail business, which is one  
10 category of many in which we carry. And it's my opinion  
11 and judgment that with all the multiple antidumping cases  
12 in which they have been driving, it's a means by which to  
13 be able to have -- to gain more market share, instead of  
14 through what would be -- what I would consider more  
15 traditional means, and that is building relationships with  
16 the customers and having a product that's requested instead  
17 of driving it through just price alone.

18                   COMMISSIONER PINKERT: But is it your testimony  
19 that they could actually control the U.S. market by means  
20 of the antidumping law?

21                   MR. IPPOLITI: No, they couldn't, because they  
22 don't have the capacity or capability to be able to produce  
23 enough nails.

24                   COMMISSIONER PINKERT: Mr. Marshak, I see you  
25 shaking your head.

1           MR. MARSHAK: I totally agree. Mid Continent,  
2 you know, has been filing cases, and as Ms. Zinman  
3 testified, you know, at the end of the day, it's not going  
4 to make a difference, it's not going to get them the market  
5 share that they think somehow they deserve.

6           These cases are a tremendous pain in the neck  
7 for our clients because of the legal fees, because of the  
8 administrative costs, because of everything else.

9           But at the end of the day, the dumping margins  
10 are low. Our sources of supply is very good. What the  
11 dumping case is doing, it's putting more money in the  
12 pockets of the lawyers than anybody else, and that's really  
13 what the dumping -- the dumping law should not be about  
14 that.

15           When the actual impact on the marketplace at the  
16 end of the day is that the market share is not going to  
17 increase because this dumping case was filed one way or  
18 another.

19           MR. LEFFLER: Mr. Pinkert, Joe Leffler with  
20 Hitachi. I would like to add to that. Right here, sir.  
21 Hopefully you bought a Hitachi nail gun.

22           COMMISSIONER PINKERT: You know, I'm struggling  
23 to remember the brand, but go ahead.

24           MR. LEFFLER: If you bought Hitachi, you'd  
25 remember it.

1 (Laughter.)

2 MR. LEFFLER: I wanted to add too, because I do  
3 think that from a perspective -- I manage sales and  
4 marketing for Hitachi across the U.S. And when these cases  
5 come out, what happens is it creates uncertainty for  
6 customers.

7 Because when these cases are going along,  
8 there's a preliminary decision and there's a final  
9 determination. And when you place orders with Hitachi for  
10 direct containers, it may take three, four months for us to  
11 get the product to you.

12 So there's windows of time of uncertainty where  
13 customers are very, very concerned, they may go to a  
14 nonsubject import or they may try and strengthen a  
15 relationship with -- in the case that I see a lot of, it's  
16 Mid Continent, they may try and strengthen that  
17 relationship to have a balance that is for sure.

18 Because in the case of the preliminary  
19 determination, we don't know what that's going to be. And  
20 there's goods on the water. In the final determination, we  
21 don't know what that's going to be and there's goods on the  
22 water.

23 Well, customers are very concerned about that  
24 risk as well. So I think it does -- if you have a dumping  
25 case, you do have -- you do create doubt in the market, and



1 you can capitalize on that, if you're a domestic producer.

2 COMMISSIONER PINKERT: Thank you. Now --

3 MS. ZINMAN: I'd like to make, I'm sorry, one  
4 other comment. And I think it just kind of goes to  
5 fairness, and as just one example, Prime Source has bought  
6 nails from Taiwan for probably 20 years. If you look at  
7 the quantities that we've bought, it's been very  
8 consistent. Through this case, the quantity has been very  
9 consistent.

10 It's been -- we've been buying from the same  
11 manufacturers for years and years and years. You know, two  
12 years ago, three years ago, Petitioner clearly said as part  
13 of their testimony that Taiwan is fairly traded.

14 And now here we are suddenly after 25 years of  
15 the same mills selling the same -- you know, market prices  
16 that was fair two years ago, now suddenly they're dumping  
17 and it's unfair trade.

18 You know, we as a company -- as Mr. Marshak  
19 alluded to, so much time and money to try to defend and  
20 prove and show that, you know, we've been responsible, the  
21 mills have been responsible. What changed from, you know,  
22 a couple years ago, with no change in quantity, no change  
23 in market share?

24 Now -- before they were fairly traded as  
25 admitted, and now suddenly they are -- they're dumping.

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1           So it's -- I think that's to his frustration,  
2 you know, to the situation, to almost the unfairness of it,  
3 that led to his comment that you, you know, questioned  
4 originally.

5           COMMISSIONER PINKERT: Let me stay with that  
6 thought for a second. The commonsense argument that I'm  
7 hearing from the other side is we get an order on a  
8 country, and now another country fills in behind the  
9 subject imports from the first country because there's a  
10 restriction on the first country, so a new country comes  
11 in. And then we have to bring a case against a new  
12 country, or maybe more than one new countries.

13           What's wrong with that commonsense argument?

14           MS. ZINMAN: Okay. First of all, the allegation  
15 that, you know, we went -- you know, there was an order  
16 placed against Dubai and therefore we shifted our -- and  
17 that's the reason that we shifted our production to these  
18 other countries is not true. We were -- we were buying  
19 from Dubai, and I said this at the last hearing. The man  
20 died, okay. You know, he died, and as a result of his  
21 death, the factory closed. So they stopped making nails,  
22 so we had no choice. We didn't leave him, he left us,  
23 okay.

24           So now we need to replace this production with  
25 other countries' product. We are not able to go to Mid

1 Con. They don't make at all any 1-pound, 5-pound small  
2 pack nails, which is a very important part of our business,  
3 which we supply to Home Depot and others, a huge portion,  
4 many, many SKUs. They don't make it.

5 So where does that -- where does that tonnage  
6 have to go? It has to go to someplace else for us to  
7 remain as a viable distributor and keep our business model.

8 But in the -- to the extent of, you know,  
9 Taiwan, that's been consistent. We haven't shifted  
10 anywhere. We've done business with Taiwan before, we  
11 continue to do business with Taiwan at the same pretty  
12 much -- you know, give or take maybe the market conditions.  
13 But the business has been consistent, the pricing has been  
14 consistent, market pricing, never the cheapest.

15 So the allegation is not really, you know,  
16 correct. Or the implication or the reasoning is being  
17 painted as some kind of devious plan, when there really  
18 isn't.

19 COMMISSIONER PINKERT: Dr. Becker, do you want  
20 to comment on that argument?

21 DR. BECKER: Sure, thank you. Well, I think the  
22 idea is that we are losing imports from some countries in  
23 which we have orders, and I think that's factual, we all  
24 understand that. Then the question becomes if you're  
25 losing those imports, who is going to pick up the gap or

1 the slack.

2           And I think the answer is there's a lot of  
3 economic factors that go into that, who is competing where.  
4 But we certainly wouldn't expect the domestic industry to  
5 pick up 100 percent or even close to that.

6           The domestic industry is 20 percent of the  
7 industry, the imports are 80 percent, so you figure  
8 generally if the -- there's a gap in the -- and there's  
9 more business available, the domestic industry on average  
10 isn't going to get most of it. They're just not the big  
11 player in the industry.

12           They're going to get some, and they did get  
13 some, about 20 percent of the growth in the industry went  
14 to the domestic industry.

15           So I think what did happen was consistent with  
16 what you might expect without doing a deeper dive into  
17 this.

18           If the domestic industry went down over this  
19 time period or didn't go up at all, then you might be a  
20 little bit more questioning.

21           Similarly, if the domestic industry picked up  
22 100 percent, you might think something is going on the  
23 other way.

24           So I think the fact that domestic industry  
25 picked up its market share is probably what you'd expect

1 ex ante.

2 MR. MARSHAK: I really think -- I know you have  
3 to look at the industry as a whole, but you really should  
4 do a little bit deeper dive and look at certain companies  
5 in the industry and what individual companies did. There's  
6 some companies in industry who really did pick up market  
7 share, and there are certain companies in the industry who  
8 didn't who made business decisions to import from other  
9 countries, for example, China.

10 So when you look at the data, go behind the  
11 data, the gross data, you're going to see reasons why the  
12 domestic industry's market share didn't go up, why it  
13 stayed steady and why it didn't go up a lot more. Which it  
14 could have.

15 COMMISSIONER PINKERT: Thank you.

16 Thank you, Madam Chairman.

17 CHAIRMAN BROADBENT: Commissioner Williamson.

18 COMMISSIONER WILLIAMSON: Thank you.

19 In the posthearing briefs, this is for the  
20 lawyers, please address how the Commission has analyzed in  
21 prior cases the performance of a domestic industry that had  
22 been recently injured by other unfair trade -- other unfair  
23 imports, and for which trade relief had been recently  
24 applied on those other imports, similar cases to what we  
25 have here.

1           Either now or in a posthearing submission,  
2 please respond -- there's no one here -- please respond to  
3 Petitioners' argument on page 91 that the production  
4 capacity of the Taiwanese industry is significantly higher  
5 than reported to the Commission.

6           Another question on Taiwan. Taiwan's producers  
7 report low levels of home market shipments to U.S. exports.  
8 And I was just wondering, is there any demand for sales in  
9 the company's home market. It is a fairly developed  
10 economy.

11           With respect to Oman, either now or in  
12 posthearing submission, please respond to Petitioners'  
13 argument on page 89 to 91 of their brief that the  
14 production capacity of the Oman industry is significantly  
15 higher than reported to the Commission.

16           And another similar question to the one in  
17 Taiwan, they also report low levels of home market  
18 shipments, and is there any demand for sales in the Oman  
19 home market or even in the regional market.

20           And those are all posthearing. I was wondering,  
21 do you have any estimates on -- unless someone wants to  
22 address those now.

23           MR. MARSHAK: We'll put that in our posthearing  
24 briefs. It's pretty simple.

25           COMMISSIONER WILLIAMSON: Okay. Good, thanks.

1           I was wondering, do you have any estimates of  
2 the share of the subject imports that are sold under  
3 private labels? Anybody want to take that?

4           MR. KARAGA: At least from Oman Fasteners, I can  
5 tell you it's 100 percent.

6           MR. IPPOLITI: From BMD, I would say it's  
7 approximately 21 percent.

8           MS. ZINMAN: When you say private label, are you  
9 talking about like the Grip-Rite private label brand or are  
10 you talking about customers -- Grip-Rite customers who  
11 would request their own private label brand? Is that what  
12 you mean when you're talking about private label?

13           COMMISSIONER WILLIAMSON: No, actually, should  
14 we say branded then.

15           MS. ZINMAN: So like Grip-Rite brand, Hitachi  
16 brand.

17           COMMISSIONER WILLIAMSON: Yes. Because you're  
18 not all -- there's not one source, I think, for Grip-Rite  
19 products, is there?

20           MS. ZINMAN: No, no, no, correct. So you're  
21 talking about Grip-Rite brand and the brands that we talked  
22 about here today?

23           COMMISSIONER WILLIAMSON: Right. Anybody else  
24 on that? If not, at posthearing will be fine.

25           Do you agree with the Petitioners' assertion at

1 page 81 that there are often commercial disadvantages to a  
2 producer who makes nails under another firm's brand, like  
3 packaging costs and longer lead times? And does this only  
4 apply where a producer makes products under more than one  
5 private label?

6 MS. ZINMAN: I'm sorry, could you repeat the  
7 question?

8 COMMISSIONER WILLIAMSON: It was a question  
9 asked this morning. The Petitioners assert there are often  
10 commercial disadvantages, I'm sorry, to a producer who  
11 makes nails under another firm's brand, and they mentioned  
12 extra packaging costs, longer lead times.

13 Then I raised the question whether this only  
14 applies where a producer makes products under more than one  
15 private label.

16 MS. ZINMAN: Right. So you have to put the  
17 product in a box, so let's say you have one brand, then  
18 everything that you're producing is going into this one  
19 box. Then your cost of inventory for the boxes, your cost  
20 of -- when you're actually doing production time, you don't  
21 have to switch over to different boxes.

22 So if you only have one, then yes, your overall  
23 production cost will be less than if you're producing, you  
24 know, 20 different private label brands, because then you  
25 need to maintain box inventory for each of those -- each of



1 those brands. You have die costs to produce all the  
2 different boxes that go with each brand.

3 So it is more -- not difficult, but certainly  
4 more costly to produce multiple brands, as a manufacturer.

5 MR. KARAGA: Commissioner Williamson, I'd like  
6 to comment on that. We manufacture all of our products in  
7 private labels, and there is a cost associated with that.  
8 There's also an opportunity to explain to potential  
9 customers if they want to have the product in their -- in  
10 their own private label packaging, that, you know, it has  
11 to be an ongoing relationship.

12 I know it was discussed a little bit earlier,  
13 but we don't -- we don't do business with -- on the basis  
14 of accepting a purchase order from somebody without --  
15 without engaging in dialogue and meetings and a sales  
16 process, where we know that how much we're going to be  
17 producing, what -- what the customer's requirements are,  
18 because we have to price them properly based on their --  
19 the volumes that they might consume.

20 And it's simply a demand from the market. If --  
21 if the customer says that they want the product in their  
22 own private label carton and there are many sources that  
23 are willing to do it, then either you participate or you  
24 don't.

25 COMMISSIONER WILLIAMSON: But you might price it

1 differently, depending on whether they said we're going to  
2 do this for five years or I just want this one-time shot?

3 MR. KARAGA: We do not. Because as a matter of  
4 competition, we know that we don't have a brand. So Oman  
5 Fasteners doesn't have a brand, so how can we compete in  
6 the market? What's going to be our go to market strategy?

7 We rely on the brands and everything that goes  
8 along with the brands that we sell to. We sell to multiple  
9 major power tool manufacturers and we sell to some other  
10 powerful brands in the -- in the building products  
11 industry. Those -- those brands provide more than just  
12 graphics on the carton.

13 They provide a recognizable brand. They provide  
14 hundreds of millions of dollars in inventory in stock ready  
15 to go, so that customers can have product the very next day  
16 in many cases.

17 They service the product. They --

18 COMMISSIONER WILLIAMSON: So you're saying there  
19 are advantages, and there may be some cost disadvantages to  
20 having --

21 MR. KARAGA: There are a lot more functions --  
22 competitively, I see the choice as are you going to go to  
23 market and try to, well, establish a sales force to have  
24 people all over the country, like our branded customers do,  
25 or are you going to -- are you going to -- you can either

1     rely on someone else's brand or you can spend decades and  
2     hundreds of millions of dollars to build a powerful brand  
3     like -- like Dewalt or Hitachi or Senco or Bostitch or  
4     Prime Source.

5                 COMMISSIONER WILLIAMSON: You might prefer to  
6     run multiple different color boxes through your facility  
7     rather than distribution --

8                 MR. KARAGA: Yeah, absolutely. Either we rely  
9     on them to provide all those critical services for our  
10    success in the marketplace, or we have to build it brick by  
11    brick like they did over decades and participate like that.

12                COMMISSIONER WILLIAMSON: Thank you. I  
13    understand the distinction you're making there.

14                MR. TOWNSEND: If I could just add, Commissioner  
15    Williamson.

16                COMMISSIONER WILLIAMSON: Identify yourself,  
17    please.

18                MR. TOWNSEND: I apologize, Dave Townsend,  
19    Perkins Coie. The dynamic Petitioner is describing that  
20    you're referencing from their brief applies equally to Oman  
21    Fasteners as it does to the U.S. industry. So what they're  
22    saying there doesn't tell you why a company may or may not  
23    private label, that challenge applies equally across the  
24    industry.

25                COMMISSIONER WILLIAMSON: Okay. Thank you.

1 Thanks for those answers.

2 MR. KARAGA: Just one more thought on that  
3 matter. You know, it would be impossible for us, as I  
4 think it's impossible for some of the domestic  
5 manufacturers, to be able to get -- to be so reliant and  
6 held on one location with only fasteners.

7 I know that our customers ship along with many  
8 other products that they're selling a pallet of our nails  
9 that are going to different locations all across the United  
10 States.

11 Now, if I was anchored in Poplar Bluff,  
12 Missouri, and I need to get a shipment to Seattle, I'd have  
13 a problem, because if the customer wanted a full truckload,  
14 it would cost me 3- to \$4000. And if you wanted a couple  
15 of pallets, you know, whether it's there or Miami or  
16 Boston, those -- the freight would be several times the  
17 cost of the value of the goods.

18 COMMISSIONER WILLIAMSON: Okay. So distributor  
19 networks are worth something.

20 MR. KARAGA: They sure are.

21 COMMISSIONER WILLIAMSON: Ms. Zinman agrees with  
22 that. Thank you.

23 The Petitioners' brief goes into great detail  
24 analyzing purchases for which the industry has made lost  
25 sales and revenue allegations. Either now or in

1 posthearing brief, please respond to this information and  
2 their arguments. This is at page 42 to 59 of their brief.

3 Thank you.

4 MR. TOWNSEND: Dave Townsend again with Perkins  
5 Coie. We will respond in our posthearing brief to what  
6 Petitioners said. And I would also note that there is an  
7 issue that was discussed this morning with respect to what  
8 is or is not the origin of the products in question. And  
9 we will directly address that in our posthearing brief as  
10 well.

11 COMMISSIONER WILLIAMSON: Thank you.

12 Ms. Bressler, you mentioned the example of how  
13 you helped a U.S. producer with the -- found somebody to  
14 help them provide the same kind of service.

15 I assume that applies to -- could apply to  
16 almost any U.S. manufacturer or producer, as well as it  
17 would to a foreign producer.

18 MS. BRESSLER: Absolutely. Anyone, small, big.  
19 I mean even some of our larger suppliers have problems with  
20 the distribution network. They may be a large supplier but  
21 they don't have a distribution network, so we'll help them  
22 with that. Or they may need help with the service piece of  
23 it.

24 We'll work with them. I mean, to become a  
25 supplier with Home Depot, it's a quick two-step process. I

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1 mean, you can do it online.

2           You just hit the supplier portal, new product  
3 submission, it comes in. We review those every week and we  
4 bring vendors in continuously to the office to meet with  
5 them and see their product.

6           So as soon as we get them in the office, we  
7 review their product, make sure it will fit into the -- I  
8 mean, we love to bring new innovation in, because you all  
9 want to see new stuff; right? So we bring them in.

10           COMMISSIONER WILLIAMSON: As long as we can find  
11 it.

12           MS. BRESSLER: Been working on that. But we  
13 bring them in so we can see them, bring them into the  
14 stores. Our goal is to get it there as quick as we can,  
15 right. Because we want shelves that are in stock all the  
16 time. And then obviously have those associates that are  
17 fully trained so that when you come into the stores, you're  
18 getting the best customer service ever.

19           So that's our -- that's -- we're the conduit at  
20 our store support center, is to make sure we bind those  
21 people together. So if there is a missing link, we make  
22 sure we get them with the right people to do that, whether  
23 it's our supply chain or somebody else, to make that  
24 happen. Big, small, domestic, import, whatever.

25           COMMISSIONER WILLIAMSON: Okay. Thank you.

1 Thank you for those answers.

2 CHAIRMAN BROADBENT: Commissioner Johanson.

3 COMMISSIONER JOHANSON: Thank you, Chairman  
4 Broadbent.

5 Petitioners noted that during the UAE hearing,  
6 then-Chairman Okun asked whether Prime Source was planning  
7 to build -- to produce the entire product range that Prime  
8 Source was then importing from the UAE at progressive's  
9 Texas plant. The owner of Dubai Wire, who was also Prime  
10 Source's joint venture partner in Progressive, responded,  
11 every product that Prime Source markets we will produce in  
12 the United States.

13 The Petitioner indicated in its brief and again  
14 this morning that none of this has occurred. Now, I  
15 understand that the owner of Prime Source has passed away.

16 MS. ZINMAN: No, the guy who made that statement  
17 has passed away.

18 COMMISSIONER JOHANSON: I apologize, the  
19 gentleman who has made the statement has passed away. How  
20 do you all respond to the statement made?

21 MS. ZINMAN: I think that currently, I think  
22 it's a step-by-step process. I think that also his death  
23 caused a big hurdle for us, since he was in charge of, you  
24 know, the production of the plant.

25 So we had started with the basic nails that were

1 easier to make without, you know, adding all of the full  
2 range of products. So I think that, you know, we will  
3 be -- we are still in the process of reviewing what the  
4 next step is for that plant as far as what additional items  
5 should be added as a next step.

6 MR. MARSHAK: I just want to say, we were Dubai  
7 Wire's attorney and Mr. Ved's attorney. Mr. Ved, I don't  
8 know if the commissioners were here to listen to him, he  
9 was a strong owner, he controlled everything. His son was  
10 22 years old, he didn't anticipate dying. He had no  
11 successorship in place in his company.

12 When he died, they tried to do something with  
13 the company, somebody else tried to buy it. The company  
14 just died when Mr. Ved died.

15 COMMISSIONER JOHANSON: All right. Thanks for  
16 your responses.

17 I was wondering, what -- and this is probably  
18 BPI, or might be BPI, but we had an order go in on UAE, I  
19 believe it was 2012. I was around for that. And then  
20 shortly thereafter, you have this dumping order brought in  
21 Oman, which is right next door. I mean, was -- can I just  
22 assume that because of the UAE order in place, folks  
23 decided to move right next door to Oman and start producing  
24 this product? I don't know the history of this. I don't  
25 think it's addressed in the record.



1           It just seems to me looking at the world map,  
2   that yeah, that might have happened. I don't know.

3           MR. TOWNSEND: Commissioner, we do address that  
4   a little bit in our prehearing brief, and we'll be happy to  
5   get into more detail in our posthearing brief as well.

6           COMMISSIONER JOHANSON: Okay. Yeah, if it was  
7   addressed, I don't really -- I don't recall much about it.  
8   But it's just a curiosity of mine. I like looking at maps  
9   and this type of thing jumps out at me. I don't know how  
10  relevant that is or not.

11           Ms. Bressler, you stated that Hispanic customers  
12  are particularly loyal to certain brands in your store and  
13  overall in the area of nails apparently.

14           Do you know of any studies that discuss this?

15           MS. BRESSLER: That was -- so that was in  
16  relation to our pneumatic nailers. So, for example, we've  
17  done some consumer insight intercepts, where we have talked  
18  to some of the pros.

19           The category actually penetrates extremely heavy  
20  into the pro category, in the upwards of 70-plus percent.  
21  And I can get you some detailed information in the  
22  posthearing.

23           In addition to that, we've also been given some  
24  information from our vendors. So we will do things we call  
25  product line reviews every two years, where we bring in

1 current and any new interested vendors to kind much go  
2 through the review, see how the category is performing and  
3 kind of make some adjustments.

4           And we look at kind of market share and where  
5 it's going and what the different market vendors' market  
6 shares are. At that point is when -- we just did one, and  
7 we just found out more about specific brand share, what the  
8 different segments of the brand shares were, and that's  
9 when we learned a lot about Hitachi and some of their  
10 specific segments, like the Hispanic segment that was very  
11 loyal to their brand and loyal to specific things.

12           So I can get you some of that information as  
13 well if you're interested.

14           COMMISSIONER JOHANSON: Yes, that would be  
15 helpful. I'm kind of interested in this whole branding  
16 issue. I don't recall it, maybe I'm wrong, but I don't  
17 recall it being a big issue in the UAE case. I mean,  
18 that's been three years now.

19           Am I incorrect on that, Mr. Marshak?

20           MR. MARSHAK: It was less of an issue in the UAE  
21 case than it is now. A lot of the issues are the same.  
22 That was a lesser issue. Now we realize the branding is  
23 more important as time goes on.

24           UAE case, a lot of the issue was Prime Source  
25 and selling to Home Depot in that market. And now branding

1 is another issue that's become, in our minds, more  
2 important in the last several years.

3 COMMISSIONER JOHANSON: Okay, thanks. Given the  
4 characterization of subject nails as commodity products,  
5 why is it that the instances of underselling 210 versus 193  
6 quarterly comparisons and volume of underselling, 1.4  
7 million nails versus 1.7 million nails, do not show -- does  
8 this not show significant underselling on the record?

9 MR. MARSHAK: I mean, again, I'll go back. We  
10 think the final decision is going to be there's going to  
11 be -- we hope there's going to be a tremendous change in  
12 the over/underselling, when the proper level of trade is  
13 considered and you're comparing -- again, you're comparing  
14 Prime Source with Hitachi, with Mid Continent, with  
15 Paslode, with Stanley. So we think there's going to be a  
16 tremendous change in this in the final determination, when  
17 you look at the analysis at that time.

18 COMMISSIONER JOHANSON: All right. Well, that  
19 concludes my questions. I would like to thank you all for  
20 appearing here today. It's really a very interesting  
21 subject, I have to say. It's one of those subjects I don't  
22 think much about except when I find a nail in my tire,  
23 which has happened several times.

24 MS. ZINMAN: It wasn't our brand.

25 COMMISSIONER JOHANSON: Well, whatever it was,

1 it was a very sharp brand so it's probably a pretty good  
2 brand. But the first time I thought about nails I was on a  
3 ship, this was in Norway, and the ship was about to be --  
4 this was like one of the last trips it was going to take.  
5 And a man on the ship said, a man who worked on the ship  
6 said this boat will be turned into nails. And I thought he  
7 was joking, but he said no, I'm serious, they take ships  
8 and they turn them into nails.

9           When I think about nails, I think about that.  
10 But now I know a lot more than I did at that initial --  
11 during the initial period of my introduction to nails.  
12 Anyway, thank you all for appearing here today. I  
13 appreciate it.

14           CHAIRMAN BROADBENT: Commissioner Schmidtlein.

15           COMMISSIONER SCHMIDTLEIN: I always learn  
16 something about Commissioner Johanson during these  
17 hearings.

18           I just had a couple questions.

19           Ms. Bressler, since you're here, Home Depot, I  
20 note that Home Depot submitted a purchaser questionnaire  
21 here but not an importer questionnaire, and I was just  
22 curious, does Home Depot ever act as a direct importer of  
23 nails?

24           MS. BRESSLER: We do not currently -- we do not  
25 currently. We have done a special buy of nails, but we do

1 not currently on an ongoing basis.

2 COMMISSIONER SCHMIDTLEIN: Is there a particular  
3 reason for that that you can talk about?

4 MS. BRESSLER: No. We're just -- I mean, we  
5 have a wide variety of nails, very happy with our supplier  
6 of record right now, and there's no reason that we need to  
7 do it.

8 If we were the direct importer, we would have to  
9 utilize -- it would be very difficult for us. So we would  
10 have to -- we don't really have a wide variety of DCs to  
11 put them in, so it would take us a little bit longer, and  
12 we would have to think about how is the inventory, and then  
13 we can't get to the stores as fast as 35 Prime Source  
14 locations can get to the stores.

15 So we have an emergency situation or a tornado,  
16 you know, unfortunately will hit Dallas, like we've had  
17 some traumatic weather down there, and we will have trucks  
18 on the road within two hours with pallets of nails on them  
19 to help the situation down there.

20 That's more difficult for us internally.  
21 There's a lot of stuff that has to happen, a lot of people  
22 who have to cut POs and do some crazy stuff. They will  
23 move a lot faster than we can move.

24 So it's an advantage for us in the situation we  
25 have right now with their locations.

1           COMMISSIONER SCHMIDTLEIN: Are there other --  
2 I'm just curious, this is coming up in some cases where the  
3 big box retailers are involved, either as a purchaser or an  
4 importer.

5           Do you have other -- as the vice president for  
6 hardware, do you have any other products under your  
7 jurisdiction that Home Depot acts as a direct importer for?

8           MS. BRESSLER: Yes, we do. That's why I think  
9 to think a minute. We do direct-import quite a bit. We do  
10 it under our private branding.

11           So we have some private brand names. Everbilt  
12 is one of them if you walk through the store. Husky, that  
13 is our other private brand. So we do that.

14           COMMISSIONER SCHMIDTLEIN: I'm just curious, why  
15 do you do that rather than buy through an import agent?

16           MS. BRESSLER: Well, because we're -- we have an  
17 Asian sourcing office over there, does great work for us.

18           COMMISSIONER SCHMIDTLEIN: You said Asian  
19 sourcing?

20           MS. BRESSLER: Yes, yes. We call it our ASO.  
21 And they're actually in multiple locations. They will go  
22 through and find -- they will work with the manufacturer --  
23 with the plants, and it kind of gives us the leverage to  
24 kind of work on the quality, make sure the quality is  
25 there, do the quality audit, so they're into those

1 factories and plants maybe, you know, twice a quarter, and  
2 make sure everything is, you know, working well.

3 And then it also kind of gives us the ability to  
4 build brand. So if you think of the Husky brand and where  
5 it was two years ago and where it is today, you see Husky  
6 more prominent in the store. HDX is another brand that you  
7 see out there.

8 So it kind of lets us build some brand legacy  
9 into the Home Depot stores. So it's kind of one of our  
10 thoughts in merchandising, to kind of build that and get  
11 that going.

12 COMMISSIONER SCHMIDTLEIN: And does Home  
13 Depot -- do you all track internally, you know, for costing  
14 out these items and add, you know, something to that for  
15 what it costs Home Depot to be the direct importer of  
16 record?

17 MS. BRESSLER: So we do have a private brands  
18 department kind of, you know, there's a separate one of me  
19 for private brands. And I am -- I don't know of how he  
20 tracks that. I am not -- I'm not -- I don't have  
21 visibility to that.

22 My assumption is at some level, he would  
23 probably track that. But I don't see visibility through --

24 COMMISSIONER SCHMIDTLEIN: You don't know that.

25 MS. BRESSLER: Yes.

1                   COMMISSIONER SCHMIDTLEIN: I thank you for  
2 indulging me. This is an issue that's coming up in ITC  
3 cases. And since you're here from the big box retailer, I  
4 couldn't resist taking the opportunity to get a little more  
5 information.

6                   And I don't have any further questions, so thank  
7 you all very much.

8                   CHAIRMAN BROADBENT: Does the Staff have any  
9 more questions?

10                  MR. MC CLURE: Thank you, Madam Chairman, Jim  
11 McClure, Office of Investigations. Staff has no questions.

12                  CHAIRMAN BROADBENT: Do Petitioners have any  
13 more questions? Okay.

14                  Thank you. I want to thank all the witnesses  
15 for coming today and taking time from your businesses.

16                  With that, we will come to closing statements.  
17 Those in support of the petition have nine minutes for  
18 direct and five for closing for a total of 14 minutes, and  
19 those in opposition have nine minutes for direct and five  
20 for closing for a total of 14 minutes.

21                  As is our custom, we will combine those. You  
22 don't have to take all your time. We will start with those  
23 in support of the petition.

24                  CLOSING REMARKS OF ADAM H. GORDON

25                  MR. GORDON: Madam Chairman, good afternoon.

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1 This is Adam Gordon from Picard, Kentz & Rowe.

2           It has certainly been an interesting afternoon.  
3 I am going to start my closing remarks by noting that the  
4 Commerce Department has just announced antidumping duty  
5 orders in all five countries with margins running up to 290  
6 percent and countervailing duty order in the Vietnam case  
7 with margins up to 314 percent. There were two Respondents  
8 in the antidumping cases that have de minimis margins, one  
9 in Taiwan and one in Malaysia. And there were some margins  
10 that were smaller than the triple digits I announced as the  
11 maximum.

12           I mention that because while you know the  
13 Commission is tasked with considering the magnitude of the  
14 margins in its analysis, I think it's important to think  
15 back to the -- to the colloquy I quoted this morning  
16 between Commissioner Johanson and Ms. Zinman from the UAE  
17 case where she specifically testified that really, the size  
18 of the margins doesn't matter. It's the uncertainty caused  
19 by the margins, and we've heard that again this afternoon,  
20 that compels them to leave countries under order and find  
21 other sources of supply.

22           It may be a sad fact that they feel unable to  
23 approach the domestic industry or work with the domestic  
24 industry to obtain fairly priced nails, or to import fairly  
25 priced nails from new -- new sources.

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1           That, however, does not alter the facts of the  
2 record before the Commission this afternoon. The facts on  
3 the record before the Commission plainly show a case of  
4 present material injury, in the case of the domestic  
5 industry, nothing that has been said this afternoon  
6 undermines it. And, in fact, there were multiple  
7 statements that further support the analysis that's been  
8 presented by the domestic industry and some of the points  
9 that have been made.

10           I would like to run through just a few of the  
11 brief points made that I think are worth noting.

12           One thing I'd like to start with is the question  
13 of excluding one company's reported pricing data. I think  
14 it was Dr. Becker who specifically spoke and actually  
15 provided another reason for questioning the propriety of  
16 those data. According to Dr. Becker, this company's  
17 reported data, the pricing data, are reported on the basis  
18 of transfer pricing.

19           And I would note that the Commission's  
20 questionnaire specifically instructs the companies to  
21 report prices at market. So I would ask if -- you know,  
22 really it sounds as though Dr. Becker is admitting that the  
23 company misreported its price and revenue data to the  
24 Commission. That would provide another reason to continue  
25 to exclude this company's pricing data from the final

1 analysis.

2           One of the exchanges between the Commission and  
3 the last panel had to do with the conditions presented in  
4 this case as compared to the conditions presented in the  
5 case in the UAE -- in the case in the UAE, where the import  
6 volumes under order left the market because of the order,  
7 and imports from these new sources surged in to take those  
8 margins.

9           This may be a rare case where I agree with  
10 Mr. Marshak, that the Commission got it right. It got it  
11 right in the China case, it got it right in the UAE case,  
12 and based on the facts and the incredible similarities, it  
13 should reach the same result in this case.

14           I would also like to highlight the fact that  
15 Mr. Marshak and his client appear to be in disagreement  
16 about -- about exactly what was going on in the  
17 Commission's reasoning.

18           I submit the Commission's analysis was correct,  
19 and based on the facts before the Commission in this case,  
20 an identical result should be found.

21           Another line of conversation that occurred this  
22 afternoon had to do with the effect of wire rod prices  
23 declining and the effect of that on pricing. I guess the  
24 comment I would make is if pricing tracked wire rod and it  
25 did so in a way that should reflect declines, why then did

1 the data show an increase in the cost of goods sold to  
2 sales ratio illustrating a classic price cost squeeze  
3 before the department?

4 Along those lines, Dr. Becker had made some  
5 comments concerning table 16 of his report. It's important  
6 to note that table 16 does not reflect actual data.

7 According to footnote 2, it excludes products  
8 priced on a per short ton basis, only includes products  
9 priced on a thousand nail bases.

10 Our calculations, as Mr. Klett testified  
11 earlier, rely on all of the pricing product data. In those  
12 cases, we converted to a common short ton basis.

13 Really two other points before I wrap up. One,  
14 I think it's important to reflect on the testimony provided  
15 by the representative from Home Depot this afternoon.  
16 Prime Source has made a great deal of the value it brings  
17 to its customers by virtue of its vaunted distribution  
18 network in the United States.

19 James Miller from Tree Island testified this  
20 morning that in fact Tree Island does all these things.  
21 Whether it does it itself or by using third-party logistic.  
22 The capabilities are out there and the domestics can  
23 provide it.

24 That said, Ms. Bressler actually specifically  
25 testified that you don't even need to have that to come to

1 work with the Home Depot, they love to have new suppliers  
2 qualify, and they work with them. If you can't do it  
3 yourself, they will use their supply chain to help you.

4           So I think that is -- that dramatically  
5 undermines the value proposition that's been described  
6 concerning Prime Source. It's all about price. That's  
7 what the data show, and that I would suggest is probably  
8 why Home Depot doesn't import these goods on its own.

9           Oh, one other point, two other points really.  
10 Commissioner Johanson asked about Oman Fastener and the  
11 production in Oman. I would respectfully refer the  
12 Commission to our petition. We have some public exhibits  
13 concerning a UAE producer moving to Oman to set up  
14 production, and that bears some scrutiny. And I would also  
15 very much look forward to the discussion that will be  
16 provided in the posthearing brief.

17           Lastly, there was some question about  
18 Progressive Steel & Wire and why it's not doing what Prime  
19 Source testified they were going to do back in 2012.

20           They haven't opened new plants in Pennsylvania  
21 and California, as they said they were going to do in 2012,  
22 nor are they producing the full range of products in the  
23 Grip-Rite catalogue, as they testified they would do.

24           Now, Ms. Zinman said it's all because Mr. Ved  
25 passed away. Let's talk about the timing of events here.

1 Mr. Ved passed away in November 2013, I think it was.  
2 Two-thirds of the way through the period of investigation.  
3 So the failure to open up new plants in Pennsylvania and  
4 California has nothing to do with his unexpected passing.  
5 Nor does the failure to actually grow their production  
6 lines.

7           If you look at when the import surged into the  
8 market, it happened while he was alive. So I think you  
9 have to look at that sort of excuse with a fair amount of  
10 skepticism.

11           I'm sad that he's passed away, he was a very  
12 nice man. However, that doesn't explain Prime Source's  
13 decisions to keep sourcing imports from overseas at dump  
14 prices rather than doing what they testified under oath  
15 that they were going to do back in 2012.

16           So overall, we submit for the record that the  
17 evidence before the Commission fully supports an  
18 affirmative material injury finding. We thank you very  
19 much for your time and efforts today, and we'll be  
20 submitting our posthearing brief next week. Thank you.

21           CHAIRMAN BROADBENT: Thank you.

22           CLOSING REMARKS OF DAVID S. CHRISTY, JR.

23           MR. CHRISTY: Thank you, Madam Chairman, members  
24 of the Commission. I'm David Christy with Perkins Coie  
25 representing our client, Respondent Oman Fasteners. Thank

1 you for this opportunity to address the Commission and  
2 Staff.

3 In light of the number of folks from Missouri  
4 here, I will attempt in this last 10 minutes to show you  
5 that relief is not warranted. Couldn't resist, sorry.

6 (Laughter.)

7 I spent 10 years growing up in Kansas, so right  
8 on the border there. Yeah, sorry.

9 At the archives, the past may be prologue. At  
10 the Commission the key is the period of investigation,  
11 which in this case didn't begin until 2012. Given the  
12 administrative record here, it's no wonder that Petitioner  
13 focuses on the two earlier cases, but focusing on the prior  
14 cases creates two problems for Petitioner.

15 First, it raises a crucial question why didn't  
16 the domestic industry benefit from two previous orders.  
17 They have got an answer to that, and I'll explain why  
18 that's wrong.

19 And second, this contrasts the administrative  
20 records in the prior cases with the record in this one.

21 This highlights the fact that the record here  
22 establishes that the domestic industry is neither injured  
23 nor threatened with injury and that any difficulty  
24 experienced by the domestic industry is self-inflicted and  
25 not due to subject imports. I believe that today's

1 testimony confirms that. Certainly we'll be discussing  
2 that further in the posthearing submissions.

3           When considered together, these two points  
4 compel a negative determination by the Commission.

5           Also, they indicate that the domestic industry  
6 should reevaluate its strategy and consider competing for  
7 the large sections of the market it currently ignores.

8           Jennifer Bressler, Mona Zinman and Joe Leffler  
9 have addressed the first issue thoroughly. An additional  
10 consideration is that during the period of investigation,  
11 certain domestic producers decided to meet U.S. demand by  
12 importing product from nonsubject countries, including  
13 China, which is the single largest source of imported  
14 nails.

15           Two points here. First, U.S. production,  
16 shipments and market share, as healthy as they were during  
17 the period of investigation, would have been even higher  
18 had domestic companies not cannibalized their own U.S.  
19 sales in favor of nonsubject imports.

20           Second, under these circumstances, especially  
21 given today's testimony that Petitioner did not even  
22 compete for sales with Hitachi and Prime Source, the U.S.  
23 industry could not possibly have benefited from the absence  
24 of subject imports and plainly it would not benefit from  
25 the imposition of an order in this case. Rather, any gaps



1 in the market would be met by imports from China and other  
2 countries.

3 With regard to the health of the domestic  
4 industry, Petitioners' witnesses, especially Mr. Klett, are  
5 focused on comparing 2014 to 2004, 2005, 2007, 2011. They  
6 want to show that trend of what's happened outside the  
7 period of investigation.

8 They studiously avoid comparing 2012, the first  
9 year of the period of investigation, to 2014, the last  
10 year. And they do that because they know doing so ruins  
11 their case.

12 If we focus on the record in this investigation,  
13 the data show that the U.S. industry is doing quite well  
14 and, in fact, was performing significantly better at the  
15 end of the period of investigation than at the beginning.

16 During the period of investigation, the domestic  
17 industry's profitability more than doubled, shipments  
18 increased by 15.4 percent, production increased by 11.5  
19 percent, and capacity utilization increased by 6.7 percent.

20 Also, the domestic industry gained two new  
21 members, Fusion and Progressive. And Petitioner was  
22 acquired by the Mexican steel conglomerate Deacero, and  
23 have since announced multiple expansion plans.

24 Moreover, as established in Respondents'  
25 prehearing briefs, the decline in unit values is explained

1 by the decline in raw material costs, not by subject  
2 imports. I heard a lot of talk about that today. I didn't  
3 hear anything that actually undermines that basic point of  
4 how markets work.

5 Finally, when the domestic industry is properly  
6 defined to exclude one company, as argued in our prehearing  
7 brief, the price data -- I'm sorry, the performance data  
8 show an even stronger U.S. industry.

9 In the face of the data that show a stronger  
10 U.S. industry, Petitioner is forced to hearken back to the  
11 earlier proceedings and to argue incorrectly that the  
12 domestic industry would have been even stronger but for  
13 subject imports.

14 In doing so, Petitioner ignores the many ways in  
15 which competition between domestic nails and subject  
16 imports is attenuated, as well as the fact that any  
17 problems it has in the U.S. market are self-inflicted.

18 The record evidence and today's testimony detail  
19 many sources of attenuation, including first, that many  
20 U.S. purchasers require private labeling, but Petitioner  
21 and other domestic producers have failed to embrace that  
22 fully, although obviously they are making a nod to doing  
23 so, they're not taking the steps they need to take full  
24 advantage of the opportunities in the market that companies  
25 like Oman Fasteners live on.

1           Second, sales of branded nails follow sales of  
2 branded nail guns. Although -- and Petitioners' nail gun  
3 brand does not compete head to head with five premium  
4 brands. So that's a sector of the market that the U.S.  
5 producers basically are forgoing.

6           Third, many U.S. purchasers, including large  
7 purchasers such as Hitachi and Prime Source prefer to buy  
8 from companies that sell a broad range of nails, maintain  
9 substantial inventories and provide superior service in  
10 terms of packaging options and a host of other variables.

11           Some of this was addressed in the prehearing  
12 submissions. A lot of it was discussed today.

13           For example, Mr. Martin of Mar-Mac conceded this  
14 morning that he offers only a "narrow range of nail  
15 products." And Tree Island admitted that they don't do any  
16 national distribution in the United States.

17           So you don't have domestic industry which has  
18 the same reach and is providing the same type of service  
19 that many of the Respondent companies are doing.

20           By failing to offer these benefits, by failing  
21 to put the customer first, in essence, domestic producers  
22 are not competing for these producers -- I'm sorry,  
23 purchasers.

24           Petitioner asserts it should have taken the  
25 market share once held by United Arab Emirates imports

1 after the order was imposed, and for that matter, a  
2 significantly larger portion of the growth in U.S.  
3 consumption over the period of investigation, as though the  
4 Petitioner is the only participant in the market other than  
5 subject imports.

6 But to take that share Petitioner would have had  
7 to compete for it, by offering product range, private  
8 labeling and superior service.

9 As our witnesses demonstrated, Petitioner failed  
10 to do this and thus should not be complaining about losing  
11 sales for which it never exceed.

12 In sum, as the Commission heard today, domestic  
13 producers do not even try to sell to Hitachi and Prime  
14 Source, and on another level of trade, Home Depot and  
15 similar companies. Instead, the domestic producers for the  
16 most part have chosen to compete directly with these and  
17 other potential customers. By doing so, they are forgoing  
18 a substantial segment of the U.S. market for nails.

19 For these and other reasons, competition between  
20 the domestic like product and subject imports is highly  
21 attenuated, which severs any causal link that might exist  
22 between subject imports and any claims of injury that the  
23 domestic producers might advance, again claims that, of  
24 course, we would disagree with. And this is confirmed by  
25 the pricing data.

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1           As it stands now, the record shows a mix of  
2   overselling and underselling, but has demonstrated in  
3   Respondent's prehearing briefs, the Commission's analysis  
4   must be adjusted in two instances to ensure  
5   apples-to-apples comparison of domestic and import prices  
6   at the appropriate level of trade.

7           Properly adjusted, the data highlight the fact  
8   that subject imports regularly and substantially oversold  
9   domestic nails during the period of investigation.

10          Finally, the basic outline of Petitioners' story  
11   does not hold together. You pull any thread and it begins  
12   to unravel.

13          For example, this morning we heard the president  
14   and CEO of Mid Continent claim that Mid Continent is on the  
15   ropes, suffering from failure or inability to reinvest and  
16   a lack of adequate return on the investment it has made.

17          We disagree, obviously. And as Commissioner  
18   Williamson noted this morning, Mid Continent appears to be  
19   engaging in a period of increased investments.  
20   Mr. Villanueva himself agreed, citing plans to increase  
21   production, efficiency and employment.

22          But even if one were to accept these claims at  
23   face value, the next question is, well, why? Why then did  
24   Deacero make such a lousy investment?

25          The only answer is that they didn't make a

1 horrible investment. Rather, they acquired a profitable  
2 company, Mid Continent, that dominates the pallet sector of  
3 the U.S. industry.

4 In short, the administrative record in this  
5 investigation shows that subject imports did not materially  
6 injure the domestic industry during the period of  
7 investigation and do not threaten the domestic industry  
8 with material injury. We hope that you agree and will vote  
9 in the negative.

10 Thank you very much. We look forward to  
11 providing additional comments on questions you asked in our  
12 posthearing submissions. Thank you.

13 CHAIRMAN BROADBENT: Thank you.

14 And, again, I want to express the Commission's  
15 appreciation to everyone who has participated in today's  
16 hearing. Your closing statement, posthearing brief  
17 statements responsive to the questions and requests of the  
18 Commission and corrections to the transcript must be filed  
19 by May 21, 2015.

20 Closing of the record and final release of data  
21 to the parties will be on June 10, 2015. Final comments  
22 are due on June 12, 2015. And with that, this hearing is  
23 adjourned.

24 (Whereupon, at 3:53 p.m., the hearing was  
25 concluded.)

## CERTIFICATION OF REPORTER

TITLE: In The Matter Of: Certain Steel Nails from Korea, Malaysia, Oman, Taiwan,  
and Vietnam

INVESTIGATION NOS.: 701-TA-516-519 and 521 and 731-TA-1252-1255 and 1257 (Final)

HEARING DATE: 5-14-2015

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: 05-14-2015

SIGNED: Mark A. 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: Christopher C. Weiskircher  
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: Carmen Smith  
Signature of Court Reporter