

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:
RUBBER BANDS FROM CHINA AND THAILAND

) Investigation Nos.:
) 701-TA-598-600 AND
) 731-TA-1408 AND 1410 (FINAL)

Pages: 1 - 144
Place: Washington, D.C.
Date: Tuesday, November 13, 2018

ORIGINAL



Ace-Federal Reporters, Inc.
Stenotype Reporters
1625 I Street, NW
Suite 790
Washington, D.C. 20006
202-347-3700
Nationwide Coverage
www.acefederal.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
BEFORE THE
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
RUBBER BANDS FROM CHINA) 701-TA-598 AND 600 AND
AND THAILAND) 731-TA-1408 AND 1410 (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, November 13, 2018

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

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman David S. Johanson (presiding)

5 Commissioner Rhonda K. Schmidtlein

6 Commissioner Irving A. Williamson

7 Commissioner Meredith M. Broadbent

8 Commissioner Jason E. Kearns

9

10

11

12 Staff:

13 William R. Bishop, Supervisory Hearings and Information

14 Officer

15 Sharon Bellamy, Records Management Specialist

16

17 Christopher W. Robinson, Investigator

18 Raymond Cantrell, International Trade Analyst

19 Cindy Cohen, International Economist

20 Samuel Varela-Molina, Accountant/Auditor

21 Karen Driscoll, Attorney/Advisor

22 Elizabeth Haines, Supervisory Investigator

23

24

25

1 APPEARANCES:

2

3 Opening Remarks:

4 Petitioner (Roy Goldberg, Stinson Leonard Street LLP)

5

6 In Support of the Imposition of Antidumping and

7 Countervailing Duty Orders:

8 Stinson Leonard Street LLP

9 Washington, DC

10 on behalf of Alliance Rubber Co.

11 Bonnie Swayze, President, Alliance Rubber Co.

12 Jason Risner, Director of Business Strategy, Alliance

13 Rubber Co.

14 Roy Goldberg and Denyse Zosa - Of Counsel

15

16 Interested Party In Opposition:

17 Encore Packages, LLC

18 Vernon Hills, IL

19 Timothy Nelson, Principal, Encore Packaging

20

21 Rebuttal/Closing Remarks:

22 Petitioner (Roy Goldberg, Stinson Leonard Street LLP)

23

24

25

INDEX

1		
2		Page
3	Petitioner (Roy Goldberg, Stinson Leonard Street LLP)	6
4		
5	Bonnie Swayze, President, Alliance Rubber Co.	8
6		
7	Jason Risner, Director of Business Strategy, Alliance	
8	Rubber Co.	12
9		
10	Roy Goldberg, Stinson Leonard Street LLP	21
11		
12	Timothy Nelson, Principal, Encore Packaging	101
13		
14	Petitioner (Roy Goldberg, Stinson Leonard Street LLP)	139
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

1
2 CHAIRMAN JOHANSON: Good morning. On behalf of
3 the U.S. International Trade Commission, I welcome you to
4 this hearing on the final phase of Investigation Number
5 701-TA-598 and 600 and 731-TA-1408 and 1410, involving
6 rubber bands from China and Thailand.

7 The purposes of these final investigations is to
8 determine whether an industry in the United States is
9 materially injured or threatened with material injury or the
10 establishment of an industry in the United States is
11 materially retarded by reason of imports of rubber bands
12 from China and Thailand.

13 The schedule setting forth the presentation of
14 this hearing, notices of investigation, and transcript order
15 forms are available at the public distribution table. All
16 prepared testimony should be given to the secretary. Please
17 do not place testimony directly on the public distribution
18 table. All witnesses must be sworn in by the secretary
19 before presenting testimony.

20 I understand the parties are aware of time
21 allocations. Any questions regarding the time allocations
22 should be given directly to the secretary. Speakers are
23 reminded not to refer in their remarks or answers to
24 questions to business proprietary information. Please speak
25 clearly into the microphones and state your name for the

1 record for the benefit of the court reporter. If you will
2 be submitting documents that contain information you wish
3 classified as business confidential, your request should
4 comply with Commission Rule 201.6.

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

7 MR. BISHOP: Mr. Chairman, with your permission,
8 we will add Denise Zosa, of counsel, with Stinson Leonard
9 Street to your witness list. I will also note that all
10 witnesses for today's hearing have been sworn in. There are
11 no other preliminary matters.

12 CHAIRMAN JOHANSON: Very well, let us begin with
13 opening remarks.

14 MR. BISHOP: Opening remarks on behalf of
15 Petitioner will be given by Roy Goldberg of Stinson Leonard
16 Street. Mr. Goldberg, you have five minutes.

17 OPENING STATEMENT OF ROY GOLDBERG

18 MR. GOLDBERG: Thank you. And thank you, Mr.
19 Chairman and good morning Commissioners. With me today is
20 my colleague, Denise Zosa, and also from the Petitioner
21 Alliance we have Bonnie Swayze and Jason Risner.

22 Ms. Swayze is the president of Alliance Rubber
23 and Mr. Risner is the Director of Business Strategy for
24 Alliance Rubber. The record before the Commission
25 demonstrates that the domestic industry has been materially

1 injured and is threatened with material injury by reason of
2 the subject imports.

3 Subject imports, by quantity, were higher in
4 January to June, the interim period of 2018, as it compared
5 to the same interim period in '17. Price is a key issue for
6 rubber bands and the record contains clear evidence of price
7 decreases and underselling by the subject imports.

8 Alliance has lost sales and suffered price
9 suppression and depression because of the subject imports,
10 with the critical example being the lost Staples account,
11 which was featured in the preliminary determination. That
12 has come to pass, as so was so threaten then, that that
13 change was being made. It took a while because of the
14 nature of the business and the fact that the new bands from
15 Thailand needed to be put on a boat and came to the U.S.
16 But as of late last year, those boats started arriving and
17 the numbers for Alliance with that lost account and other
18 lost accounts have been going the wrong direction. So,
19 Alliance is suffering financial injury because of the
20 subject imports.

21 The business of Staples you will listen today
22 was critical. It was 10 percent of the business, but it was
23 a very critical 10 percent. It paid for overhead. It made
24 the difference between a certain level of profitability and
25 bare profitability and it's been very negative for

1 Alliance's financials and it was a subject import from
2 Thailand. It was not the one exporter that so far, as a
3 preliminary, has been able to avoid a margin.

4 So, again, this morning we will hear first from
5 President Swayze. She has quite a story to tell. It's a
6 family-owned company, going back many, many decades. She'll
7 give an overview of the company and the history and then we
8 will hear from Mr. Rison who has been extensively involved
9 in every step of the way of this case. He's been incredibly
10 important in dealing with the staff, with us, and just being
11 a very important part of our team and knows the industry and
12 what has happened very well.

13 And then after those two presentations, I will
14 offer some remarks, and I do have a deck, and go over some
15 of the key legal and factual arguments and rebut some of the
16 things that were done in the one Respondent's brief that was
17 filed by the exporter, U Yong in this matter.

18 So, let me turn this over to President Swayze.

19 STATEMENT OF BONNE SPENCER SWAYZE

20 MS. SWAYZE: Good morning members of the
21 Commission. My name is Bonnie Spencer Swayze. I am the
22 president of Alliance Rubber in Hot Springs, Arkansas. My
23 dad, Bill Spencer, began the company in Alliance, Ohio in
24 1923. On March 8 of this year, we celebrated our 95th
25 anniversary.

1 In 1944, as Alliance Rubber grew at a rapid
2 pace, my dad opened a second plant in Hot Springs, Arkansas.
3 He served as chairman emeritus until he passed away in 1986,
4 overseeing our move across the country as well as many
5 product innovations in the company.

6 Today, we manufacture rubber bands at the Hot
7 Springs facility started by my dad. We have 171 great
8 employees. We produce 14 million pounds of rubber bands
9 this year and we manufacture and sell a wide range of rubber
10 bands, including standard bands, produce and floral,
11 imprinted bands, custom bands, shellfish bands, gear wraps
12 and straps. We sell the bands we make in Hot Springs to
13 seven different industries: stationary, paper and
14 packaging, newspapers, agriculture, retail, government, and
15 post office, and ad specialty.

16 We've received the Excellence and Innovation
17 Award from the U.S. Department of Commerce, National
18 Institute of Standards and Technology, and the MEP
19 Manufacturing Extension Partnership. We are the leading
20 U.S. manufacturer of rubber bands. There was a time when we
21 had significant manufacturing competition based in the U.S.
22 Forty years ago there were 14 rubber band manufacturers.
23 Today, there are only three, with ourselves, accounting for
24 the majority of the U.S. production today.

25 However, over time, the pressure from

1 Asian-sourced imports has caused all of our significant U.S.
2 competitors to exit the rubber band manufacturing business.
3 We are fighting for our survival in the face of imported
4 rubber bands from China and Thailand and we seek your
5 assistance in obtaining a level playing field for our rubber
6 band products offered for sale in the USA.

7 In the early 2000s we experienced a slight
8 decrease in sales volume. At that time, we realized one of
9 our biggest industries, newspapers, was experiencing a sales
10 decrease as well. To stay relevant in this ever-changing
11 world, we began expanding sales to other areas, like
12 agriculture. Since 1988, we've maintained an office in
13 Salinas, California where a large share of American produce
14 is grown, as our bands are placed on many different fruits,
15 vegetables, and spices, including asparagus, broccoli,
16 celery, carrots, and cilantro.

17 In 2008, we battled a severe rubber price
18 fluctuation. To accommodate the rapidly rising cost the
19 company had to raise prices and we lost a few customers in
20 the short term. This price fluctuation was difficult for
21 us, but we never lost sight of what we offer, superior
22 quality rubber bands and superlative customer service.
23 Ultimately, the market even out and the majority of the
24 customers came back until the recent increase in imports and
25 the relentless pressure from Chinese and Thai imports that

1 are taking sales and harming our financial position and the
2 livelihood of our 171 great people.

3 The lost of the Staples' business, which
4 commenced last year, but impacted our company for real this
5 year is causing a decline in the bands made and sold by
6 ourselves and it's disrupted our plan to use the 20,000
7 square foot addition that we added on to Hot Springs to
8 service this account. We're also experiencing injury in the
9 form of an inability to pay semi-annual bonuses to our
10 employees of the amounts that they are accustomed to
11 receiving. In the summer and winter of each year, we try to
12 provide important financial bonuses to our people who rely
13 on them to make ends meet.

14 Because of the lost of sales and revenues due to
15 the subject imports we are unable to provide the level of
16 bonuses that we have given in the past. This causes huge
17 problems for our staff. Without higher bonuses, we can't
18 retain the talent we need to remain a profitable, viable,
19 and thriving business. Alliance and our workers are also
20 threatened with additional material injury if the unfair
21 pricing practices of the Chinese and Thai imports are not
22 restrained by anti-dumping and countervailing duty orders.
23 Thailand is the world's top rubber producer and exporter of
24 rubber bands. Prices has weakened as demand in China, the
25 world's biggest consumer of rubber, remains lack luster due

1 to China's economic slow down.

2 We appreciate you all, the Commission and the
3 staff's investigation, and we hope that you'll make a
4 determination that allows us to try to stay in business in
5 the USA. Thank you so much for your time and attention this
6 morning.

7 MR. GOLDBERG: Thank you very much. We'll hear
8 from Mr. Risner now.

9 STATEMENT OF JASON RISNER

10 MR. RISNER: Good morning members of the
11 Commission. My name is Jason Risner and I am the Director
12 of Business Strategy for the Petitioner, Alliance Rubber
13 Company. I have been extensively involved for Alliance in
14 every step of this anti-dumping and countervailing duty case
15 and have first-hand knowledge of the material injury and
16 threatened injury caused by unfairly traded imports of
17 rubber bands from China and Thailand.

18 I've worked at Alliance since 2010 and I'm very
19 familiar with all facets of the rubber band business,
20 including how rubber bands are produced, how they are
21 marketed and sold, the market for rubber bands in the United
22 States, the nature of the competition that Alliance faces
23 for rubber band sales, and the role that imported rubber
24 bands play and have played in the U.S. rubber band market.

25 I've held the title of Alliance Director of

1 Business Strategy since August 2016. Prior to that time, I
2 was the Strategic Marketing Director for Alliance from
3 February 2010 through August 2016. As my role as Director
4 of Business Strategy, I am responsible for identifying
5 strategic issues and opportunities that could affect future
6 growth and profitability and for developing and implementing
7 plans to increase revenues and profits at Alliance, and
8 especially, its rubber band business.

9 As part of my job, I track industry and
10 competitive trends, identify business threats, support
11 client relations, and assist with the client base to gain
12 market share. As the Strategic Marketing Director, I had
13 responsibility for the company's marketing, corporate
14 communications, and business development. I oversaw a
15 marketing approach and brand strategy for Alliance in seven
16 distinct industries.

17 The single like product for this investigation
18 includes all rubber bands of vulcanized rubber with a flat
19 length no less than one-half inch and no greater than ten
20 inches, subject to the width and thickness measurements in
21 the scope.

22 As a domestic producer of rubber bands, Alliance
23 is concerned about imported bands that either rubber or
24 synthetic, which includes non-latex bands, which Alliance
25 maintains are part of the scope. Rubber bands produced

1 domestically or in China or Thailand are generally viewed
2 similarly by producers and customers. The manufacturing
3 facilities, production processes, and employees used for
4 rubber band manufacturing in the United States and in
5 Chinese and Thai factories share many similarities; however,
6 Alliance believes that the Alliance system results in a
7 higher quality product.

8 In addition, not all of the Chinese and Thai
9 exporters sell their rubber bands in plastic bags that they
10 themselves manufacture. Alliance is a manufacturer of
11 rubber band products and produces nearly all of the domestic
12 production of rubber bands. These rubber bands are used for
13 a wide range of business, agricultural, industrial, and
14 consumer applications. The Hot Springs manufacturing plant
15 is large and employs approximately 171 employees. Alliance
16 accounts for a large percentage of the total production of
17 the rubber bands made in the United States that are most
18 similar to and constitute the like product in relation to
19 the imported rubber bands at issue in this proceeding.

20 The like products manufactured by Alliance at
21 its Hot Springs factory constitute a major proportion of the
22 total domestic production of the like product. Forty years
23 ago the list of rubber band manufacturers would've been
24 longer and the Alliance domestic market share would've been
25 less; however, the shift to lower-priced imports has

1 impacted the rubber band industry in this country and it is
2 left only a single entity, Alliance, with any significant
3 size, production capacity, annual shipments, and domestic
4 employment in this industry.

5 Based on our extensive knowledge of the rubber
6 band industry and market and the best available information
7 Alliance reasonably believes that it accounts for at least
8 90 percent of all rubber bands produced in the United
9 States. As reflected in our petition and supplemental
10 filings made by Alliance to the Department of Commerce and
11 to our ITC questionnaire responses and pre-hearing brief,
12 the subject imports have materially injured and threatened
13 material injury to the domestic industry that produces the
14 like product, rubber bands.

15 Given the nature of rubber bands, the imported
16 and domestic products are close substitutes and are sold in
17 the same commercial channels and used by the same types of
18 consumers. The volume of imports from China and Thailand is
19 significant, comprising several millions of pounds per year.
20 They are being sold at unfair and subsidized prices in the
21 United States and have prevented the domestic industry from
22 increasing prices and profits.

23 Chinese imports of subject rubber bands were
24 higher in volume in the first half of 2018 than the first
25 half of 2017. Similarly, the subject Thai imports increased

1 during the first half of this year versus the same period
2 last year. By contrast, Alliance's U.S. shipments decreased
3 in interim 2018 versus interim 2017. Regardless of the
4 channel of sale, the main determining factor in the
5 decision-making process for U.S. customers is the price of
6 rubber bands.

7 Chinese and Thai producers and exporters are
8 using low prices to push large volumes of unfairly traded
9 subject imports into the U.S. market at the expense of the
10 domestic industry. Chinese and Thai companies sold and
11 continue to sell subject merchandise at dumped prices, plus
12 subsidized imports from China preventing U.S. producers from
13 making the amount of sales that they should be getting and
14 obtaining the amount of revenues it should get from the
15 sales it does make.

16 In the spring of 2017, Alliance learned that
17 office supply superstore company, Staples Incorporated, was
18 switching its rubber band business from Alliance to Asian
19 imports, which we confirmed was Thailand and was not the
20 single Thai producer that has not been subject to
21 preliminary anti-dumping duties. Staples was Alliance's
22 largest customer and its business is what helped our
23 company earn a profit. The loss of the Staples business to
24 Thailand has had serious negative repercussions for our
25 company. It was not that long ago that Alliance was able to

1 obtain Staples private label rubber band business in the
2 first place. We bid for the work in 2015 and it was not
3 until mid-2016 that Staples started to buy our rubber bands,
4 but once the Staples purchases started they were very
5 significant -- millions of dollars of rubber bands on an
6 annual basis.

7 Unfortunately, this important business win for
8 Alliance was short-lived. In the spring of last year, we
9 were told that Staples was switching its source of rubber
10 bands to Asia because it offered one half the price that
11 Alliance was giving to Staples. For a product like rubber
12 bands there is no way for us to compete fairly when the
13 importers are offered at half price. Alliance is now losing
14 millions in dollars in yearly revenues now that Staples has
15 switched to subject Thai imports.

16 Alliance learned late last year, 2017, that
17 Staples brought in their first shipment of rubber bands on
18 November 19, 2017. The report does not identify the
19 shipper, but the country of origin is Thailand. The weight
20 was 298,144 pounds and it was all rubber bands. Because of
21 the time that it takes for Staples to import rubber bands
22 from Thailand the bands are transported in container ships
23 from the ocean.

24 The switch from Alliance to the imports did not
25 fully ramp up until early 2018. The ramp up of switched

1 sales for Staples from Alliance to subject Thai imports has
2 now occurred and the impact on our company is millions of
3 dollars each year in lost revenues. We do not agree with
4 the criticism that Alliance never should've expected to
5 retain the Staples business. We at all times provided
6 excellent customer service to Staples and never had any
7 quality issues arise. We also priced rubber bands as
8 competitively as possible.

9 Notably, when we bid on the continuation of the
10 Staples account in 2017, we did not increase the price that
11 was in place for Staples for the prior year. Also, our
12 experience is that once we obtain an account such as Staples
13 it remains with us for a long period of time. This has been
14 the situation with Wal-Mart and Office Depot, who we have
15 been selling rubber bands to for decades. However, the
16 subject Thai imports took away the Staples business with
17 pricing that was one half of what Alliance proposed to
18 Staples. This was extremely aggressive pricing from a Thai
19 company that is now, but was not then, subject to a
20 provisional anti-dumping duty order.

21 This is not a case where there's an allegation
22 that anything other than price caused the domestic industry
23 to lose the sale to subject imports. In addition, we are
24 seeking a higher final margin against subject Thai imports
25 and will continue to seek a higher margin with regard to the

1 Staples imports.

2 It is worth noting that the Commerce Department
3 did not independently investigate the Thai exporter of
4 rubber bands that took the Staples business because the
5 material volume of imports from that seller did not start
6 until 2018, which was after the Commerce's period of
7 investigation. However, an annual review should include
8 that exporter and we can expect a dumping margin for that
9 company to be significantly larger than 6 percent.

10 Alliance also is concerned that this will be the
11 tip of the iceberg. Staples will continue to source even
12 more rubber bands from Thailand to sell to other
13 distributors in the United States and Staples' competitors
14 will follow Staples' example and import an increasing amount
15 of rubber bands into the United States, which will result in
16 fewer sales for Alliance.

17 Although Staples is only one of multiple rubber
18 band customers, it was, by far, the largest single customer.
19 And the loss of Staples as a customer is having a very
20 significant, negative impact on Alliance's financials.
21 Alliance's shipments during the first half of this year
22 decreased in comparison to shipments during the same period
23 in 2017 and this includes the lost of the Staples account.
24 During that same period Alliance's gross profits declined
25 significantly and our operating income in the first half of

1 2018 was far lower than the operating income in the first
2 half of 2017. That is a serious loss of income that goes
3 directly to the company's bottom line.

4 The Staples' business was a primary reason why
5 Alliance decided to build an additional 20,000 square foot
6 warehouse room annexed to its factory. Alliance believed
7 that the Staples sales would continue into 2018 and beyond
8 and though it needed the extra warehouse space to house the
9 rubber to be used for the manufacture of Staples' rubber
10 bands.

11 Now that Staples has switched to imported rubber
12 bands from Thailand the new additional 20,000 square foot
13 warehouse it constructed in 2017 is no longer needed. Part
14 of the injury experienced by Alliance from the subject
15 imports is that we have a lot of capacity for the production
16 of rubber bands that is not being tapped. Given Alliance's
17 significant unused capacity and the market share of imports,
18 domestic shipments could have increased significantly if the
19 subject imports were fairly traded.

20 The negative pressure on domestic prices is
21 clear. We have been forced to lower our prices and maintain
22 prices to keep customers. Alliance would've liked to have
23 increased its prices for sales in the United States, but was
24 unable to do so because of the unfairly traded imports.
25 Alliance is experiencing material injury because of the

1 subject imports from China and Thailand, regardless of the
2 presence of a non-subject Thai importer.

3 Our biggest lost sale during the period of
4 investigation happened in 2017 and was the loss of the
5 Staples' private label account, worth millions of dollars
6 per year to Alliance. We did not lose this account to
7 non-subject Thai products. The existence of the non-subject
8 Thai rubber bands was entirely irrelevant to the loss of the
9 Staples' business. It is also clear that the domestic
10 industry is threatened with material injury by reason of the
11 subject imports.

12 The Chinese and subject Thai manufacturers and
13 exporters already have a significant foothold in the United
14 States rubber band market are selling their products in the
15 United States at unfair margins and have excess capacity to
16 flood the domestic market with more unfairly traded imports.

17 There are primary producers of rubber bands in
18 the subject countries that have huge capacity to manufacture
19 and export multiple millions of rubber bands to the United
20 States. Alliance will continue to be threatened with
21 material injury because of the subject imports, regardless
22 of the existence of the single Thai producer that so far has
23 avoided being subject to an anti-dumping duty. Thank you
24 for your time and attention this morning.

25 STATEMENT OF ROY GOLDBERG

1 MR. GOLDBERG: Thank you, Jason.

2 So I would like to cover some of the key points,
3 summarized, that were made in our public version of the
4 prehearing brief, and also to rebut some of the arguments
5 that were made in the Yuyang brief.

6 The record shows that the domestic industry is
7 material injured by reason of the subject imports. We have
8 both volume and a market share increase. The subject
9 imports by quantity were higher in interim 2018, the first
10 half, than the same period in '17. That's true for the
11 Chinese imports as well, and the Thai imports. All the
12 lines are going up. And the ratio of subject imports by
13 quantity, the U.S. production was higher in the first half
14 of '18 than '17.

15 Now the brief by the exporter from Thailand,
16 subject exporter Yuyang, makes a point of arguing that,
17 well, there's an entire three-year Period of Investigation,
18 or three-and-a-half, and that there were obviously some
19 benefits to the U.S. industry, increases in the U.S.
20 shipments versus decreases over the course of time of the
21 imports.

22 We think that that does not reflect what this
23 Commission can and should look at, which is the more recent
24 time period. Certainly in the preliminary you noticed that
25 Staples was on the horizon, and that that would be a threat

1 that would come, and that has come to pass. And Staples is
2 not here to argue that it's not price. They have not come
3 in in this case to say, as happens sometimes, we didn't buy
4 the imports because of price; there was another reason.

5 But there's a lot of good authority, recent
6 authority, that totally supports the Commission looking at
7 the more recent time period to take the temperature of the
8 industry. In this case, it would be comparing interim 2018
9 to '17, which makes perfect sense because again while they
10 have the Staples business, everything was much better. They
11 were doing better. I think they were still injured,
12 frankly, because of the other imports, Alliance was, but
13 certainly with the several million dollars a year of the
14 Staples private-label business, which is within the Period
15 of Investigation, we see some healthier financials than they
16 otherwise could be.

17 But then once we get into the ramp up of Staples
18 going to the subject Thai exporter, we have a concomitant
19 decline in the U.S. industry. And what these cases, Federal
20 Circuit cases, show is in most cases the most recent imports
21 will have the greatest relevance to the state of the
22 domestic industry, and that you can focus on imports during
23 the most recent period of that period, the new court case,
24 and the Taiwan Semiconductors, similar language about the
25 more recent part. So this is just to rebut what was sort of

1 an argument that was made by Respondent.

2 Subject imports are having an adverse effect on
3 U.S. prices. This is all material in the public version of
4 the prehearing report, which we thought was very detailed
5 and very supportive of the positions we are taking in this
6 case.

7 There's been consistent and significant
8 underselling by the subject imports, and it's very clear
9 that price drives a lot in most of these decisions.
10 Nineteen firms cited price as an important factor in
11 deciding which rubber bands to purchase.

12 There's no question that Petitioner lost a major
13 account, its most important account, because of price to a
14 subject Thai exporter. This was not the one exporter that
15 so far has avoided any margin.

16 The average unit values of subject imports
17 decreased between 2015 and 2016, before increasing in '17
18 but still a level lower than in 2015, and then the unit
19 values of the decrease of the imports then decreased. So
20 the lines were all going in the wrong direction for the U.S.
21 industry because values are going down for the imports, from
22 the subject imports.

23 Sales of subject rubber bands from China
24 benefitted--this is right from the public version of the
25 report by the staff--benefitted from the downward trend in

1 prices in the first half of '18 versus '17.

2 Petitioners had to reduce its suppressed prices
3 and has lost sales due to the imports. Of the 22 responding
4 purchasers, eight reported that since 2015 they had
5 purchased imported rubber bands from China instead of
6 U.S.-produced product. And all eight reported that the
7 Chinese import prices were lower than the U.S.-produced
8 product. And six even said that price was the primary
9 reason for the purchase of China versus U.S., and that
10 would be Alliance rubber bands.

11 One even said that the U.S. producer had reduced
12 the prices in order to compete with the lower priced imports
13 from China, on page 530. Thai prices have decreased. In
14 general, prices for the domestic product of subject imports
15 from Thailand decreased throughout the entire Period of
16 Investigation.

17 Prices for subject imports from Thailand were
18 below those of the U.S.-produced product in 45 of 70, which
19 is the majority of instances, for 2.8 million pounds. And
20 the margins of selling ranged from 0 to 35.5 percent.
21 Domestic price decreases ranged from .9 to 7.4 percent, and
22 there was increase in just the one of the many, I think six
23 different price groups, and the subject Thai import price
24 decreases ranged from 2 to 12.6 percent.

25 The unfairly traded subject imports have had a

1 significant adverse impact on the domestic industry. The
2 domestic industry has experienced a decrease in net sales.
3 U.S. shipments decreased in the first half of '18 versus the
4 same period as '17. The lower sales resulted from the loss
5 of U.S. accounts, especially Staples, but not limited to.

6 There has been a decrease in gross profits, net
7 income, and employment. This is all very important for a
8 smaller family-owned company. The domestic industry has had
9 a decrease in gross profits, net income, and employment, and
10 as a ratio to net sales gross profit was lower in the first
11 half of 2018 versus 2017. Net income was lower, and
12 Alliance has reduced the workforce.

13 If you see the PRW, it's a confidential figure.
14 You'll see a reduction in the production-related workers
15 comparing last year to this year.

16 Now the domestic industry has very ample
17 capacity, as has been reported in the prelim and in this
18 case. I mean they used to do three shifts. They've been
19 doing two shifts now, but back several years ago they did
20 three.

21 They have capacity even with the two shifts, but
22 certainly if they added the other shift back it's incredible
23 how much capacity they could have to satisfy all of the
24 market. We don't need any imports, frankly.

25 Now Alliance, part of their injury is they did

1 build a new warehouse structure that they at the time
2 reasonably thought was necessary because of the huge Staples
3 account that they had won in '15 and started coming in in
4 '16. And they entered a new agreement to buy a lot of
5 rubber in order to do the Staples account, and they needed
6 to construct a 20,000 square foot additional warehouse. And
7 remember for Staples part of the business was that it would
8 be a quick turnaround. They didn't get an order from
9 Staples and then decide to get a boat and bring it in from
10 somewhere--I'm talking about the rubber that was going to be
11 used, because the rubber is not produced in the United
12 States. They had to have the rubber already in-country to
13 make the rubber bands in Hot Springs.

14 There's no merit to the assertion that was in the
15 prelim and is being raised again in this case in the final,
16 that somehow Alliance caused their own injury because they
17 built this warehouse and they never should have built the
18 warehouse.

19 You know, it's a darned if you do, darned if you
20 don't situation. If they hadn't built the warehouse, hadn't
21 brought in the rubber, then there could have been a quality
22 or shipment issue with Staples. And, you know, there's a
23 lot of allegations in the Yuyang brief that says well you
24 should have assumed--you know, you got the Staples work.
25 You should have assumed it would not stay more than a year.

1 But as Mr. Risner testified, they've had Walmart and Office
2 Depot for decades. They had no reason to believe that they
3 would lose the Staples account.

4 And there's an allegation, I guess they just
5 didn't know, so they made an allegation, the Yuyang author
6 of their brief, that said, well, clearly you screwed up,
7 Alliance. You must have, you know, decided to raise your
8 prices in 2017, so Staples decided not to stay with you.

9 But the testimony that Mr. Risner has given, they
10 didn't raise the price, not one cent. So that was not true.
11 And it's not fair to blame the victim by saying, well, now
12 you have a warehouse, you shouldn't have built the
13 warehouse. And there's an allegation, you could have rented
14 space. They tried that once several years ago. They rented
15 some space six months--six miles away, and it was a
16 disaster. It did not work out. So they knew they needed to
17 have the space on the property.

18 There's an unmistakable causal link between the
19 import volumes and prices and the injury that the domestic
20 industry is suffering. The causation element of material
21 injury is satisfied, as the Commission knows, as long as the
22 effects of dumping are not merely incidental, tangential, or
23 trivial. Here the negative effects of the subject imports
24 is much more than incidental, tangential, or trivial.

25 It is clear from the volume of imports, the lost

1 sales and price pressure, and the negative financials. The
2 lower prices offered by subject imports is a driving force
3 over the last sales, and this is not a case where quality
4 has become a problem.

5 And there's no dispute that Alliance lost the
6 largest account in 2017 because of prices from the subject
7 Thai imports without having raised that price.

8 The amount of the preliminary margins in this
9 case for Thailand, obviously they are high for China and
10 those subsidies, very high for China as well, but as far as
11 Thailand, currently there's a 5.86 percent provisional duty
12 in place for all others, and for Yuyang with LLH being the
13 sole one that has no margin at this point, but that can make
14 a real different with a commodity product in pricing like
15 this.

16 The Commission of course is not required to
17 incorporate dumping margin into its lost-sales analysis.
18 There's plenty of case law that says, yes, it's in the
19 statute. You need to refer to it one way or another in your
20 views, but you certainly don't have to be--it doesn't have
21 to be persuasive, or sway you in any way whatsoever.

22 And more importantly, the cases also show, in
23 response to unsuccessful arguments to the CIT, that the
24 margin that we have here, provisional, is actually not
25 atypically low. Other cases have involved margins as low as

1 2.2 percent and 5.7 percent.

2 Imports of the nonsubject rubber bands are not
3 the cause of material injury. Clearly we do have one
4 exporter that at this stage, you know, is not subject to any
5 provisional duties.

6 Now what's important here is the volume of
7 nonsubject Thai imports is much lower than the volume of the
8 subject Thai imports. So that's a critical fact. And the
9 focus of the inquiry is not on the cause of injury in the
10 past--I'm sorry, is on the cause of injury in the past--very
11 important--not on the prospective effectiveness in the
12 future.

13 And so the idea that there was for a couple of
14 years, I think the Commission in response to Point Lisas who
15 originally had a replacement type of test when you had
16 nonsubject imports, and that is no longer the case.

17 As the Federal Circuit explained in Mittal, the
18 focus of the inquiry is on the cause of the injury in the
19 past, and not the prospect of effectiveness of an order in
20 the future. Consequently, the analysis in the
21 investigations needs to be focused on whether the imports
22 caused material injury to the domestic industry during the
23 POI.

24 And the Commission is not required to presume
25 that producers of nonsubject goods would have replaced the

1 subject goods if the subject goods had been removed from the
2 market.

3 There is also no basis to find that the negative
4 import of subject imports from China and Thailand had a
5 merely incidental, tangential or trivial effect on domestic
6 industry. The largest lost sale was Thai, subject imports,
7 not the nonsubject source of imports.

8 Subject Thai imports increased in the first half
9 of '18. As a ratio to U.S. production, subject Thai imports
10 were considerably higher in the first half of '18 versus
11 '17. The figures for nonsubject Thai imports were
12 materially lower. Nonsubject Thai products are being sold
13 in the United States at prices that are higher than the
14 subject Thai imports. In comparing subject Thai pricing
15 data with subject Thai pricing data, the prices for
16 nonsubject imports were lower than the subject imports in 27
17 instances, but higher in 57 instances.

18 Several U.S. producers buy their rubber bands
19 from China--although that's obviously different as well--and
20 the volume of Chinese imports was higher in the interim '18
21 versus '17.

22 Finally, the domestic industry is threatened with
23 material injury by reason of the imports, the subject
24 imports. China unquestionably has significant unused
25 capacity for rubber band production it could turn here in

1 the U.S. The limited information that we have--and this is
2 from your preliminary determination--is that they have
3 annual capacity of at least 9.1 million pounds of rubber
4 bands.

5 Thailand itself has significant unused capacity
6 for rubber band production. In addition to having
7 substantial production capacity and substantial excess
8 capacity, subject producers in Thailand are highly export
9 oriented. And that is an important aspect to Thailand. It
10 really doesn't even have a home market to speak of.

11 The record also shows there are substantial
12 volumes of subject imports that are available to be shipped
13 to the U.S. market--again this is your preliminary earlier
14 this year--and subject product producers in Thailand have
15 estimated that their rubber band production will go up in
16 2018 and 2019, along with exports to the United States,
17 according to the prehearing report.

18 So we think that the record here is clear, that
19 we've made our presentation, and we thank you for your time
20 and attention, and we would be happy to answer any
21 questions.

22 CHAIRMAN JOHANSON: I will begin today's
23 questions. First off, thanks to call of you for being here
24 today and to also for the exhibits you have in front of you.
25 I look forward to taking a look at those as I have seen many

1 rubber bands and I particularly like the kinds which hold
2 together produce. I think they're very useful. Anyway,
3 thanks for your products.

4 My first question is this, Subject Imports from
5 China and Thailand on a cumulated basis decreased from 2015
6 to 2017 and then increased in interim 2018 after the
7 petitions were filed. What is your explanation for these
8 trends?

9 MR. GOLDBERG: Certainly Mr. Chairman with regard
10 to the Subject Thai Imports -- I'm not sure if you were just
11 talking about China but also Subject Thai?

12 CHAIRMAN JOHANSON: Subject Imports from China
13 and Thai.

14 MR. GOLDBURG: Okay, so the Subject Thai Imports
15 it's largely Staples. That business which Alliance learned
16 prior to filing the case, one reason why they filed the
17 case, is that they lost the business from -- they were told
18 that in the Spring of 2017, that 10 percent of their company
19 was going to be lost but again the ramp up was not
20 immediate.

21 It took all the way till November for the first
22 boat to land in the United States with any rubber bands. So
23 those imports started to go up as you can well imagine and
24 the interim 2018. Chinese prices have been lower and I
25 believe that accounts also for why those imports have gone

1 up as well. Let me turn it up to Mr. Risner as he may be
2 able to weigh in on this.

3 MR. RISNER: Mr. Goldberg is correct in regard to
4 Thailand. The decrease that you see from 2015 to 2017 I
5 think clearly reflects the changeover of us winning that
6 Staples business so if you compare 2015 to 2017, we have
7 that benefit. In regard to China, I can only speculate.

8 We do go head-to-head against Chinese made rubber
9 bands, specifically in the retail industry so this would be
10 when we deal with companies that are looking for smaller
11 packaging, typically retail put-ups that are going to be
12 pegable. My guess would be that maybe people thought that
13 they could get ahead of the margins and imported a large
14 volume before that happened but I'm just speculating.

15 MR. GOLDBERG: We do allege critical
16 circumstances on China so that would be consistent.

17 CHAIRMAN JOHANSON: Okay, thank you. On page 30
18 of your brief you write that lower prices offered by Subject
19 Imports have been the driving force of lost sales. How has
20 Alliance been able to increase market share over the 2015 to
21 2017 period despite the apparent underselling of Subject
22 Imports?

23 MR. GOLDBERG: Thank you, Mr. Chairman and again
24 I think that the Staples situation would skew that a bit
25 because they did make that sale in 2015 which started to

1 show up in actual numbers in 2016 and throughout 2017 so
2 certainly that would explain most of the better performance
3 for that customer. As far as the other Subject
4 Imports and China and Thailand, that has been a consistent
5 story of lost sales and revenue. I know that in our
6 Petition and in our preliminary post-conference brief we
7 address many of those lost sales and revenues and then also
8 in response to the confidential questionnaire. So it's not
9 just Staples, obviously, there's a lot of others.

10 Certainly the Staples was big enough that up
11 until the end of November of 2017 the numbers were going up
12 but as we mentioned, we lost Staples as the Commission
13 recognized in the prelim, that was going to have an impact
14 and that has come to pass in the current financials.

15 CHAIRMAN JOHANSON: Thanks. Your material injury
16 arguments focus on the interim periods rather than the 2015
17 to 2017 period and this can be seen in your brief in pages
18 36-37. Were you injured during the 2015 to 2017 period?

19 MR. GOLDBERG: Yes, we do believe we were
20 injured. We don't agree, I don't want to speak for the
21 Commission obviously, you know the Yu Yong brief says that
22 you found in your preliminary there was no injury. I read
23 it many times. I don't see that there.

24 I see that you had obviously made the threat to
25 termination, there was no reason on a prelim at that point

1 to weigh in on injury or not. The case was going forward,
2 but we allege there and continue to believe we already were
3 injured because as the Commission well knows we can still be
4 profitable and still be injured and certainly we could have
5 been doing better.

6 The Staples business, as long as it was in
7 effect, did help and the company was doing you know, not as
8 well as it has done historically but certainly it was doing
9 okay but we could have been going better. The capacity
10 utilization alone showed how much more business that
11 Alliance could have been doing if it was not being faced
12 with some pretty aggressive price pressure from imports from
13 both countries.

14 So our position is that there's injury throughout
15 the Period of Investigation, it's just much worse since
16 interim 2017 and 2018 and also the case law as I mentioned
17 in the PowerPoint supports our view that the Commission is
18 on very solid ground looking at the more recent time part,
19 the sub-period if you will and also the Commission in the
20 preliminary definitely said we find threat without
21 addressing material current injury based on what's
22 happening with Staples and consistent with the correct
23 projection or prediction by the Commission, it's come to
24 pass.

25 We do spend some time, we definitely think we are

1 injured throughout the entire Period of Investigation. It's
2 gotten worse since we lost the Staples account but the
3 numbers are still not as good as they easily could have been
4 if we weren't dealing with unfair competition throughout the
5 entire period.

6 CHAIRMAN JOHANSON: Thank you for your response.
7 In your brief, you state that it is not fair to assume that
8 Alliance should have known in advance that it would lose its
9 largest customer to Subject Thai Imports in 2017, and this
10 is at page 30 of your brief, but Alliance had just won a
11 very competitive contract that had previously been awarded
12 to competitor. Why was it not reasonable to assume that
13 they or other competitors would try to get what seems to be
14 a lucrative contract back?

15 MR. GOLDBERG: Let me ask Mr. Risner and Ms.
16 Swayze to address that but I would say that the only they
17 would try to get it back but the only question is whether
18 they used unfair pricing to do so. Mr. Risner?

19 MR. RISNER: Jason Risner. I think you could
20 track the shipments that Staples was receiving from the
21 exporter in Thailand ever since they had had a private label
22 to begin with so that contract was held by them for a long
23 period of time and it has been our experience historically
24 that when we win an account we don't lose it the next year.
25 That's very atypical for us.

1 We've held the Wal-Mart account since the 1970's,
2 we've held Office Depot since the 1980's. Staples acquired
3 another company called Quill. We've done their private
4 label since 1996. We win business and we keep it on
5 quality, value and availability. It is not typical for us
6 to turn around and lose an account like that so quickly.

7 MS. SWAYZE: It was definitely a shock to us. We
8 first sold Sam Walton in 1971, Office Depot our largest
9 account now since 1987 and they've been consistently very
10 happy with us through the years and so yes, it was a big
11 shock to us. We expected we would have it at least 5-10
12 years.

13 CHAIRMAN JOHANSON: Thank you. From the 22
14 purchasers that responded to the Staff's questionnaires only
15 4 reported that they purchased Thai rubber bands instead of
16 U.S. Produced products and from those 4 only 3 reported that
17 Thai prices were lower than U.S. produced products and from
18 those 3 only 2 reported that price was a primary reason for
19 the purchasing decision. This is seen in the Staff report
20 on page 527 and your brief at page 23.

21 How do these low numbers support your injury
22 allegations in these investigations?

23 MR. GOLDBERG: Thank you, Roy Goldberg. We, you
24 know obviously all the numbers together clearly show injury
25 and threat of injury. This, as I mentioned back before the

1 staff, back in February, is a data-poor environment. This
2 is not one of those cases where we have a trade association
3 or some type of source of a lot of the information.

4 The Staff has done a great job in getting what
5 they have but this is certainly a case where I would say the
6 responsiveness on questionnaires for whatever reason has not
7 been as robust as I would like to have seen and I can't
8 explain why certain respondents filled out part of the
9 questionnaire or didn't return a questionnaire but I would
10 have to say the staff has done a great job assembling the
11 best record that probably can be assembled but I cannot
12 claim that I saw 100 percent participation.

13 I mean even the Chinese I don't think
14 participated at all. So the Staff has done a great job
15 using customs and other figures to try to fill in the holes
16 but I think the information the Staff got supports us. The
17 fact that some of the customers, you know we're talking
18 about rubber bands and obviously there are going to be some
19 customers that didn't take the time or didn't think it was
20 in their interest to respond.

21 CHAIRMAN JOHANSON: Yes, Mr. Risner?

22 MR. RISNER: Jason Risner. I would just like to
23 add to that that I think a lot of it can tie back to the
24 business that we've lost and we have tied other customers
25 that we've lost to Thai Imports. I can never recall a

1 situation where we have lost business on quality or value or
2 availability and we can back it up because our customers
3 tell us "we're leaving you because of price" and going to a
4 Thai import.

5 CHAIRMAN JOHANSON: Thank you for your responses.
6 Commissioner Williamson?

7 COMMISSIONER WILLIAMSON: Okay, Thank you
8 Chairman.

9 I want to express my appreciate to Alliance, Ms.
10 Swayze and Mr. Risner, for the very fascinating tour that
11 you gave us in early October. It was very, very helpful.
12 And welcome today.

13 The price of rubber has fluctuated somewhat over
14 the period, not a great deal. And I was wondering and
15 thinking about how the rubber prices have affected your
16 competitiveness with the Thai and Chinese importers?

17 THE RISNER: The cost of the raw materials that
18 go into producing rubber bands is obviously a factor in how
19 we price, but I wouldn't necessarily say that we index our
20 pricing to the cost of rubber. The cost of rubber does
21 fluctuate. We tend to try to buy when the cost of rubber is
22 down.

23 We buy in large quantities so that we can ensure
24 some of these longer term contracts and ensure the costing.
25 But we have done price increases in the past due to the

1 increasing costs of rubber and then we have also done price
2 decreases in the past when the price of rubber comes down.
3 But I wouldn't necessarily say that it's exactly indexed in
4 our pricing.

5 COMMISSIONER WILLIAMSON: What about the
6 difference in pricing for synthetic versus natural rubber?

7 MR. RISNER: It has been common that the price of
8 synthetic rubber would always be more expensive than the
9 cost of crude rubber, raw natural rubber, latex. That has
10 flip-flopped sometimes in the past few years to where we
11 could actually get synthetic rubber cheaper than we could
12 get natural latex rubber. But that was short-lived. I can
13 only think of one time that occurred.

14 COMMISSIONER WILLIAMSON: Okay. And I take it,
15 natural rubber is a much more important component of your
16 production than the synthetic.

17 MR. RISNER: Yes, sir. By far, natural rubber
18 latex is primarily used in our rubber band production.

19 COMMISSIONER WILLIAMSON: Okay. Someone
20 mentioned that Staples sells to other distributors? Might
21 sell the rubber to others? Your rubber bands to other
22 distributors? Did I misunderstand that?

23 MR. GOLDBERG: Thank you, Commissioner. The
24 concern has been expressed that Staples may do that with --
25 unless there's an order in place. They're getting a good

1 price, obviously half the price. That's what we were told
2 at the time and, you know, we may not just lose the 10%
3 business that we were doing with Staples, but they may come
4 in and they have other channels of distribution that they
5 could use in the United States. So we may see even more
6 competition from that particular lost account. That was the
7 concern.

8 MR. RISNER: I'd just like to add to that. One
9 of the consequences that doesn't necessarily get captured in
10 these questionnaires is that a low price import rubber band
11 product from Staples gets sold into the market at cheaper
12 prices.

13 So not only do we deal with the loss of the
14 Staples private label business that we had been selling
15 direct, it also erodes our market share of our national
16 branded products, and steals business away from our
17 distributor to sell our product, which I think is an
18 additional thing that's happening to us now, that's not
19 necessarily captured in our testimony or our questionnaire.

20 COMMISSIONER WILLIAMSON: Because one, they could
21 get it from -- Staples could become an intermediary rather
22 than an end user?

23 MR. RISNER: Right.

24 COMMISSIONER WILLIAMSON: End user in terms of
25 retail.

1 MR. RISNER: Sorry. So Staples sells to the
2 users. And so Staples buys an import band because it's
3 cheaper. And so the user would also buy rubber band because
4 it's cheaper, and so now that the user has access to cheaper
5 rubber bands, they're gonna buy more of the cheaper rubber
6 bands than they would buy of our national branded. So it
7 erodes our market share, even further than just losing the
8 Staples account.

9 COMMISSIONER WILLIAMSON: Okay.

10 MR. GOLDBERG: Right, because I think that
11 Staples is not only selling at the retail level and to
12 consumers, but also has B-to-B type of accounts, so they
13 could start selling into businesses as well.

14 COMMISSIONER WILLIAMSON: Okay. What -- if this
15 is proprietary, let me know, but, okay, so you lost the
16 Staples contract in the Spring of 2017? Was there another
17 bidding in the Spring of 2018? Is this an annual thing? Or
18 does this work? And again, if this is proprietary, I can
19 take the information post-hearing.

20 MR. RISNER: We have had other opportunities to
21 bid on Staples private label business. Staples has not
22 reached out to us on an annual basis, and they did not reach
23 out to us again to bid again this Spring.

24 COMMISSIONER WILLIAMSON: So is the term of the
25 contract they have with the Thai producer, is it fixed in

1 terms of years? Or how does --

2 MR. RISNER: I could only speculate. But they
3 had been doing business with this particular producer of
4 rubber bands in Thailand for a number of years. So I
5 suspect that they plan to continue that.

6 MR. GOLDBERG: There's nothing in the record,
7 despite the allegation by U Yong that this is an annual bid.
8 I mean I was just -- that was just -- not only was it
9 speculative, but it was wrong. I mean the facts are that
10 the current subject Thai exporter that has this business,
11 had that business for many years, and Alliance has a good
12 sales force and they kept refusing to take "no" for an
13 answer, and they were finally successful in 2015 and then it
14 took a long time to ramp up.

15 This is a big deal as far as, you know, getting
16 everything ready and getting the rubber, and then it was
17 gone. But it was not like Alliance had any assumption that
18 this would be an annual thing. Quite the contrary. The
19 history was, this is a long-term client. Get the business,
20 don't mess it up. Don't increase your prices unless, of
21 course, you can get away with it, which they didn't even
22 try.

23 And, you know, I've been in several cases here
24 where there's e-mails and everything about quality issues
25 and, you know, the petitioner says, "No, that's just a red

1 herring, it wasn't quality." Well, here, that's not even
2 been raised. So we know it's a price issue.

3 The other thing is that I'm just mentioning that,
4 you know, on Commerce, of course, is different than the ITC
5 because Commerce is only looking at 2017. So when they're
6 looking at margins and coming up with mandatory respondents,
7 they're looking at volume figures for a retroactive time
8 period.

9 2018 has nothing to do with what Commerce has
10 done, and therefore, this particular changeover to this
11 particular subject Thai exporter has nothing to do with what
12 Commerce has been doing at this stage. That could change
13 down the road obviously with the annual review. But at this
14 stage, that is just not part of Commerce, which I think is
15 an important consideration.

16 This is not a case where that particular exporter
17 that took this business away has been under the microscope
18 and has had their issues verified or any of their pricing at
19 issue.

20 COMMISSIONER WILLIAMSON: Okay. Thanking about
21 the other major retail purchasers that you have, you know,
22 the box stores, chains, are those contracts, are they
23 year-to-year, are they that same kind of open-ended? What's
24 the nature of the business in terms of this part of the
25 market?

1 MR. RISNER: No, sir, typically we can see
2 three-year term contracts and other times, they don't put it
3 out to bid for, let's say, five years. There's been
4 situations where we have to go into kind of a reverse
5 auction kind of situation, to bid on the business, to keep
6 the business. It's various different things.

7 I can remember an instance with Staples early on
8 with my career at Alliance, where they said, "Hey, if you
9 have a competitive bid, send it to us." But it was not an
10 official process, not an official, you know, budding process
11 that they put it out to bid. So it varies.

12 COMMISSIONER WILLIAMSON: Everybody's always
13 under pricing pressure. Is there a trend towards more
14 reverse auctions or more frequency of changes of contracts?
15 Or --

16 MR. RISNER: Not that we've seen. The reverse
17 auctions that we participated in have been, maybe one every
18 three to five years.

19 COMMISSIONER WILLIAMSON: Okay. Is that because
20 rubber bands are not, shall we say, sexy types of things
21 that people run new campaigns on or things like that?
22 Presumably they last a long period of time.

23 MR. RISNER: Yes. I had the opportunity to go to
24 one of the mega-national retailers of stationery products
25 and brought up a situation where we wanted to see more of

1 our products in their catalogue, and the gentleman looks
2 across the table at me and says, "No offense, but it's
3 rubber bands." So, if that answers your question.

4 COMMISSIONER WILLIAMSON: Okay. What about,
5 there was other segments of the industry, I guess,
6 agriculture's a very large purchaser. What are those
7 contracts like?

8 MR. RISNER: They're generally spots. So, you
9 know, we'll win a contract which is basically just a bid.
10 It's not actually an official contract. And they will stick
11 with us for three to five years. You know, sometimes they
12 ask for a cheaper price, sometimes not.

13 Sometimes they'll get a more competitive price
14 and come back to us and ask us to match it. Which sometimes
15 we're in the spot to be able to do that, and a lot of times,
16 we're not, especially when we're dealing with a Thai import
17 band.

18 COMMISSIONER WILLIAMSON: Okay. And are you
19 seeing any trends in terms of the imports into the
20 agriculture sector?

21 MR. RISNER: Oh, yes. Imported bands to the
22 agriculture sector have definitely been growing. We see a
23 lot of Thai competition in both the plain bands that you use
24 on produce, and the printed, which we call POU bands in the
25 produce industry, absolutely.

1 COMMISSIONER WILLIAMSON: Okay. My time is
2 expired. Thank you for those answers.

3 CHAIRMAN JOHANSON: Commissioner Broadbent.

4 COMMISSIONER BROADBENT: Thank you, Chairman
5 Johanson. I wanna welcome the witnesses today. Ms. Swayze,
6 thank you for some of the materials you've provided.
7 Background from your company said that Alliance had moved
8 from Alliance, Ohio, to Hot Springs in the 1920s, is that
9 right?

10 MS. SWAYZE: 1944.

11 COMMISSIONER BROADBENT: And then it said,
12 something I read that it had to do with the hot springs in
13 Arkansas that were the attraction?

14 MS. SWAYZE: My dad had arthritis.

15 COMMISSIONER BROADBENT: Oh, okay.

16 MS. SWAYZE: And in his 50's, he moved to Hot
17 Springs for the baths.

18 COMMISSIONER BROADBENT: Okay. That --

19 MS. SWAYZE: The mineral baths.

20 COMMISSIONER BROADBENT: All right. Good. I
21 didn't know if that had to do with how you made rubber bands
22 or --

23 MS. SWAYZE: No. He just loved Hot Springs.

24 COMMISSIONER BROADBENT: Great. And the other
25 thing I saw that said, you know, that one of your missions

1 is to help people increase organization in their lives.

2 And I, I'm sure everybody else does have a lot of
3 sort of disorganized elderly relatives and I go in and I
4 clean out the kitchen drawers, something and I put a rubber
5 band on the playing cards or the index cards or something.
6 And then I'll come back in a year later and it's broken.

7 And is that because it's made of not-natural
8 rubber? Or are these things just to be temporary tools and
9 not last over the years?

10 MS. SWAYZE: The bands that are normal rubber,
11 natural rubber, they will break down in the sun. We have a
12 line of EPDM bands that hold up in the sunlight, long-,
13 long-lasting. So they will not break down. So what you see
14 in front of you is--the products on the table--you'll see
15 some EPDM up there. So we've got the world's largest
16 variety of rubber bands. So we're 2000 different SKUs.

17 COMMISSIONER BROADBENT: Right.

18 MS. SWAYZE: So part of the success of ours for
19 ninety-five years is, our customers come to us with a
20 challenge and say, "I need this count per pound," "I need
21 you to shave down the wall," "I need you to shave down the
22 cut on this," "This is the count I need, this is the
23 particular size, color," "I need it in chartreuse, I need it
24 in a 10-inch," "I need it in a half-inch." "I need it in
25 silicone." We--whatever the demands are--we rise to the

1 occasion. So yes, we have lots of EPDM bands.

2 COMMISSIONER BROADBENT: What does EPDM stand
3 for?

4 MS. SWAYZE: It's twenty-six letters long.
5 Ethylene Propylene -- I mean it's in our catalogue --

6 COMMISSIONER BROADBENT: So it's a synthetic?
7 Instead of the rubber --

8 MS. SWAYZE: It's made from crude, correct.

9 COMMISSIONER BROADBENT: Okay, great.
10 Interesting.

11 MS. SWAYZE: But it will not biodegrade --

12 COMMISSIONER BROADBENT: Got it.

13 MS. SWAYZE: -- in the soil.

14 COMMISSIONER BROADBENT: Understood. Okay. Ms.
15 Swayze, the scope of this investigation has been updated
16 since the preliminary phase of the investigation. The
17 updated scope specifically excludes vulcanized rubber bands
18 of various sizes with arrow-shaped rubber protrusions from
19 the outer diameter that exceeds at the anchor point a wall
20 thickness of .125" and where the protrusion is used to loop
21 around and secure and lock in place. Can you please explain
22 this product to give us some sense of what it looks like and
23 how's it's used?

24 MR. RISNER: So what you're referring to, we
25 refer to in the industry as an anchor band.

1 COMMISSIONER BROADBENT: Okay.

2 MR. RISNER: And the reason that arrow-shaped
3 protrusion -- a rubber band, you would take and you would
4 wrap around an object, whereas the anchor band, you can wrap
5 around the object this way and then one end of the band
6 secures to the anchor, the arrow-shaped portion. So it's a
7 different way of bundling.

8 So it's good for, let's say, wiring harnesses.
9 Wiring harnesses, you can't stretch a rubber band around the
10 steering wheel and then onto the harness. You have to use
11 something that goes just around the harness, and they work
12 well for that. We really tried to limit the scope to the
13 things that we manufacture, and we do not manufacture that
14 band.

15 COMMISSIONER BROADBENT: Okay. Do you guys make
16 those rubber bands that hold your skis together? A rubber
17 tie?

18 MS. SWAYZE: Are they more like Velcro? Or are
19 they with the rubber? We used to do a K2 band, those were
20 side of rubber.

21 COMMISSIONER BROADBENT: Okay.

22 MS. SWAYZE: And printed.

23 COMMISSIONER BROADBENT: Interesting. What
24 federal regulations apply to purchasers of rubber bands by
25 the U.S. government? Such as those specified by the General

1 Services Administration or Buy America clause. Are there
2 other government restrictions when someone's purchasing a
3 rubber band? Criteria that are imposed?

4 MS. SWAYZE: We supply CABI, Central Association
5 for the Blind and Visually Impaired in Utica, New York.
6 They take the bands and repackage them. Skill craft
7 packaging, and the GSA falls under the Buy America clause.
8 However, U.S. Postal Service does not.

9 COMMISSIONER BROADBENT: Oh, interesting. Okay.
10 Good.

11 MS. SWAYZE: We helped design the very first
12 U.S. Postal Service band in 1966 for them. They needed a
13 certain wall, a certain cut, a certain count per pound. So
14 that's what we do when our customers come to us. We try to
15 come up with the specifics that they need to perform the
16 test for which it's necessary.

17 COMMISSIONER BROADBENT: And has demand for
18 rubber bands generally gone up or down with the Internet
19 age? I would guess you'd be less use for newspapers, but
20 you might have more use for packages that are being sold.

21 MR. RISNER: We have been very fortunate. So
22 we--at one point, newspapers were our biggest industry.
23 Then those started to wane. Then stationery becomes our
24 biggest industry, and now stationery and what's happening
25 with the Internet, and just less paper being used. Paper

1 and packaging has become our biggest industry. So we've
2 been very fortunate--agriculture has maintained high, high
3 volumes for us. But when one industry goes down, we've
4 been very fortunate to have another industry go up.

5 MS. SWAYZE: Bonnie Swayze. In 1923, newspapers
6 were 100 percent of our business, and today they're 3
7 percent. Stationery five years ago was 42 percent of our
8 business. Today it's 30 percent and dropping. So, yes, we
9 go out and beat the bushes and pioneer new markets to find
10 new people that need organizational methods.

11 It's not just the band; it's the gear wraps, gear
12 straps, the strap packs. We make the gear straps up to
13 25-foot in length. So we try to come up with new innovative
14 products to help all of our customers organize their lives.

15 COMMISSIONER BROADBENT: Is there much demand in
16 the medical rehabilitation devices, people stretching and so
17 forth?

18 MS. SWAYZE: We have a line of specialty
19 products that we provide for the health and wellness
20 industry called "Resistor Strips." They're 3 foot long by 4
21 inches wide, and they have all of the exercises custom
22 imprinted digitally in full color right on the Resistor
23 Strip.

24 So those are very popular. We have a lot of
25 workout bands that we do. And then there are different

1 companies that need the rubber band balls, stress balls. So
2 health and wellness is a growing industry for us.

3 MR. RISNER: Jason Risner. I'd just like to add
4 to what Ms. Swayze said. Not necessarily for stretching or
5 exercise, but we have a line of products that are non-latex
6 and antimicrobial that are heavily used in the medical
7 industry in hospital facilities.

8 MS. SWAYZE: Up to 5 percent of the population
9 is allergic to latex, so it's very important that they have
10 latex-free products.

11 COMMISSIONER BROADBENT: I noticed in your
12 materials that you give a bonus to workers that think of new
13 uses for rubber bands?

14 MS. SWAYZE: We have about a dozen different
15 bonuses a year of different iterations, and one of which is
16 new products.

17 COMMISSIONER BROADBENT: It sounds like you guys
18 have really reinvented things since your dad started with
19 the newspapers.

20 MS. SWAYZE: What you're looking at there on the
21 table in front of you, the products that Jason has placed
22 there, more important than those was if we had our 171
23 people in the galley here who would be very supremely
24 interested in any relief that would help their livelihood.

25 MR. GOLDBERG: Roy Goldberg. Unfortunately,

1 that bonus program is now under a lot of pressure, because
2 that was the kind of money that they were using, Staples and
3 other accounts that were lost, to fund. And now that's--Ms.
4 Swayze can maybe address that a little bit more, but it's
5 not sort of a given every year. It has to be funded. And
6 the funding has been pressured because of the unfair
7 imports.

8 COMMISSIONER BROADBENT: Okay.

9 MS. SWAYZE: With profits being off by
10 two-thirds, the challenge that we have is the summer and the
11 winter bonus that everyone relies upon so much as extra
12 income is greatly diminished. We've got 171 hard-working
13 people. These people are the salt of the earth, and some of
14 the greatest workers in the USA. We're very fortunate to
15 have them. And they come to us annually for a raise--I need
16 a new house, I need another car, trying to put my child
17 through college--and it's heartbreaking when they depend so
18 much upon bonuses.

19 And we've competed valiantly for 95 years against
20 vicious and brutal competitive environments. We're big
21 people. We're used to this. But we waited until the 11th
22 hour, 59th minute, to ask for some relief. So that's the
23 end of the 95 years.

24 COMMISSIONER BROADBENT: Okay, thank you. My
25 time has expired.

1 CHAIRMAN JOHANSON: Commissioner Schmidtlein?

2 COMMISSIONER SCHMIDTLEIN: Okay, thank you very
3 much. I'd like to also thank the witnesses for being here
4 today.

5 I understand from your brief, and I think the
6 presentation this morning, that you're making both an
7 argument with regard to price depression and price
8 suppression? Is that correct?

9 MR. GOLDBERG: That is correct.

10 COMMISSIONER SCHMIDTLEIN: Okay. So can either
11 you, Mr. Goldberg, or one of the witnesses, talk about how
12 did the decline in demand over the four years of the POI
13 impact the company's ability to price, either to not be able
14 to raise prices, or in terms of what impact it had on prices
15 going down?

16 MR. GOLDBERG: Sort of the difference between
17 the ability to raise prices because of a lower demand versus
18 the competition from the imports?

19 COMMISSIONER SCHMIDTLEIN: Right. That's what
20 we're trying to tease out. I understand that costs have
21 gone up, but at least over the four years of the POI demand
22 did go down fairly significantly. It did tick back up in
23 the interim. So if you're arguing that you couldn't raise
24 prices in the full years of the POI, which I'm assuming that
25 is part of the argument, how did the decline in demand

1 impact that? Would you normally be able to raise prices if
2 demand is dropping that significantly?

3 MR. GOLDBERG: Sure. And before I turn to Mr.
4 Risner, and we can obviously flesh this out in our
5 posthearing brief, but I believe, subject to being
6 corrected, that this is sort of part of the fact that we
7 have multiple markets. A single like-product, but of course
8 as in our papers we have different uses for the rubber
9 bands, and different purchasers.

10 So when we see the decline, it's mostly
11 attributable to the decline in newspapers and a short-term
12 decline in agricultural because of climate issues, because
13 of I imagine even what's happening in California right now
14 that would mean that there were less crops that will be used
15 with rubber bands.

16 So you can have a situation, a stratification,
17 where you have some aspects of the rubber band business that
18 are going to have lower demand, while the other aspects do
19 not have a lower demand. And when you are losing prices,
20 you are losing the ability to raise prices, or you have to
21 lower your prices for Staples, for example, or another thing
22 that's not agricultural or newspaper based, then you have
23 the injury we're talking about here.

24 But we can go into more detail certainly in the
25 confidential submission. But also I know Mr. Risner I think

1 would have something to say about this.

2 MR. RISNER: I think already in our confidential
3 submissions we've provided a summary of lost sales that
4 we've tied back not only to losing a customer, but also
5 price suppression. So we can put that in our posthearing
6 brief. But I would say generally speaking, if you talk
7 about a decline of demand, the--I would have a hard time
8 picking out a customer that we lost because they needed
9 less rubber bands over these last three years.

10 We lose a newspaper account, they didn't stop
11 buying rubber bands. They're just now buying an import. If
12 we lost an agricultural account, they're not buying less
13 bands necessarily--there again it has to do with growing
14 seasons and things like that--but we're losing it on price,
15 not because they require less bands. I can't think of an
16 instance in the last three years where someone has left us
17 because they didn't need as many rubber bands.

18 COMMISSIONER SCHMIDTLEIN: Okay. Do the prices
19 in one market segment affect prices in the others? So, for
20 instance this sale to Staples in I guess--I guess that's a
21 stationery sale? That's for private labels? That would be
22 categorized under stationery. Would that affect the prices
23 in the agriculture segment, or one of the other segments?

24 MR. RISNER: No. The different industries, we
25 do price differently. There are some things that affect

1 prices across all industries, but for instance agricultural
2 and newspapers are typically very competitive with Thai
3 imports. And we know that, and we have to price them
4 appropriately.

5 COMMISSIONER SCHMIDTLEIN: Okay, but you hadn't
6 seen that kind of competition in the stationery segment?

7 MR. RISNER: Well certainly knowing that we did
8 not have the Staples private label, we knew there was Thai
9 competition there. But there have been other stationery
10 customers that have lost due to Thai imports.

11 COMMISSIONER SCHMIDTLEIN: And can you talk a
12 little bit about what we call price transparency, which is
13 when you are negotiating with a potential customer, are they
14 quoting you prices from other suppliers--

15 MR. RISNER: The--sorry--

16 COMMISSIONER SCHMIDTLEIN: --subject?

17 MR. RISNER: The ones that we have tied in our
18 summary of lost sales, they have shared those prices with
19 us. So that's why we shared them, is because we knew what
20 price we lost that business at and we thought it was
21 important, .

22 COMMISSIONER SCHMIDTLEIN: Okay.

23 MR. RISNER: But there are other situations
24 where they do not share the price with us. But we have a
25 very good reputation in the industry, and we have a lot of

1 good, loyal customers, and they'll just lay it out on the
2 line and they'll say here's the price I'm getting, can you
3 match it? And we have to say, no.

4 COMMISSIONER SCHMIDTLEIN: Okay. And I guess
5 this was the lost sales information that came in through
6 your questionnaire response. Did you all provide any sort
7 of contemporaneous documents with that with regard to being
8 leveraged down by virtue of the subject imports?

9 MR. GOLDBERG: Commissioner, I don't think we
10 did in the questionnaire response, which this was an
11 attachment to. Certainly when we put the Petition together
12 and when we did the prehearing--I'm sorry, preliminary
13 submissions, we have various declarations, confidential
14 declarations of sales people of what happened. We have a
15 lot of emails with Staples. All that record is part of the
16 record. And because, obviously, it was only six months ago
17 we did not, you know, labor the record here and put it all
18 back in. But it's part of the record, and certainly that's
19 been documented.

20 Now we could provide some emails on the
21 confidential submission next week as far as to substantiate
22 some of the summary allegations made in the questionnaire,
23 and we'll make a note of doing that.

24 COMMISSIONER SCHMIDTLEIN: Okay. And in
25 particular I'm interested in other purchasers.

1 MR. GOLDBERG: Right.

2 COMMISSIONER SCHMIDTLEIN: So if there's other
3 purchasers that have shifted their purchases to subject
4 imports, or have used the pricing from subject imports to
5 leverage down your price, we'd be interested in seeing that
6 sort of contemporaneous documentation.

7 MR. GOLDBERG: There's some of that, and we will
8 submit that.

9 COMMISSIONER SCHMIDTLEIN: Okay. Speaking of
10 which, you mentioned that you had the accounts at Walmart
11 and Office Depot for many, many years. Have you had to
12 lower your prices with respect to those accounts to keep
13 that business in the face of competition from subject
14 imports?

15 MR. RISNER: So Office Depot, for instance,
16 we've been in situations where we've done the reverse option
17 and had to do some price decreases to keep their business.
18 Walmart has been very good for us to deal with in that
19 sense, and I can't think of a situation, at least not in the
20 Period of Investigation, where we've had to decrease their
21 price, or Office Depot's price, for that matter.

22 COMMISSIONER SCHMIDTLEIN: Or Office Depot?

23 MR. RISNER: Correct.

24 COMMISSIONER SCHMIDTLEIN: Which is curious,
25 because are they--are they not seeing the same product from

1 subject Thai producers?

2 MR. RISNER: There again I think--and it's
3 another reason why we felt that we would keep that Staples
4 business. We don't win business on price, and the business
5 that we lose is obviously leaving us for price, and we are
6 clearly injured. But when we can get our foot in the door,
7 a lot of times we can keep that business on quality, on
8 value, on availability, on our reputation. We are a small
9 business. We are an American manufacturer that does mean
10 things to some people. We are an Arkansas-based company,
11 which probably means something to Walmart. So those things
12 certainly help. But for a lot of cases, and certainly the
13 cases where we've lost business, it's price.

14 MR. GOLDBERG: I mean, Commissioner, there are
15 some companies that obviously take U.S.-based, other factors
16 more into consideration. Staples--you know, on the public
17 record, this is nothing confidential, you can read about
18 what's been going on in that company, a great company, but
19 in the last three or four years, you know, all the share
20 price and the pressure on the company, and it's become a
21 bottom-line pricing company. Which, you know, every
22 company is obviously interested in profitability, but some
23 are more cut-throat as to how they go about their purchases,
24 and whether they purchase U.S. or not. And other companies--
25 --and unfortunately, it's getting larger, but you can't say

1 every company. I don't think Walmart has that reputation.
2 Certainly with a company that's in Arkansas, that's been
3 there for 50 years, there's a relationship that is probably
4 going to not get thrown out immediately just because there's
5 an import that's lower priced.

6 But unfortunately that can't be said across the
7 industry. There are plenty of purchasers that will make
8 that change; others won't.

9 COMMISSIONER SCHMIDTLEIN: So some purchasing
10 decisions are based on price, but others aren't?

11 MR. GOLDBERG: I think that has to be true.
12 Price is, obviously as we've seen from the figures, the most
13 important factor, but it's not the only factor. It's the
14 only factor for some purchasers, too many purchasers.
15 Certainly the Staples issue was a price-driven factor. But
16 I think a Walmart also looks at the fact that they've had a
17 relationship with Alliance for, you know, half a century,
18 and that Alliance is within the State. You know, you
19 certainly can't discount that entirely, even if the lion's
20 share of the business is completely price sensitive.

21 MR. RISNER; Jason Risner. I'd like to add to
22 that, and I think it goes to the heart of where price
23 actually is a factor. We've been very fortunate right now,
24 based on the preliminary decision, we have been seeing
25 access to bid on rubber band opportunities that we have

1 never seen before that have only been importers. We've won
2 a couple of those accounts because of the relief, the
3 preliminary decision on the relief. And we hope to win
4 even more of those.

5 But like Roy said, there are some that are only
6 about price, and we see some of those customers coming to us
7 now.

8 COMMISSIONER SCHMIDTLEIN: Okay. Alright, thank
9 you very much. My time is up.

10 CHAIRMAN JOHANSON: Commissioner Kearns?

11 COMMISSIONER KEARNS: Thank you again to the
12 witnesses for appearing before us today, I appreciate it.

13 I wanted to start--I think probably for you, Mr.
14 Goldberg, it has to do with the pricing product data. For
15 one of these products we don't have data for Alliance, and I
16 don't know if you can talk about this now, or if it needs to
17 wait for posthearing brief. Hopefully you can say something
18 now. But if you can explain to us the situation there,
19 whether or not you make that product. And if not, whether
20 or not that means there is no, you know, competition for
21 that particular product with respect to imports from
22 Thailand and China.

23 MR. GOLDBERG: If I know what the product is, I
24 don't think it's confidential because our preliminary--our
25 Petitioner, you know, was pretty specific without being

1 confidential. But is it one of the six numbered products?

2 Or is it--

3 COMMISSIONER KEARNS: Yes.

4 MR. GOLDBERG: Okay, Mr. Risner can speak to it.

5 MR. RISNER: So when we went to fill out the
6 questionnaire, we read that as size 18 rubber bands sold in
7 3-1/2 ounce bags. Now then you could argue that a 4-ounce
8 bag would compete with that. You know, so maybe we should
9 have included those numbers. But we read 3-1/2 ounces. We
10 don't sell that size in a 3-1/2 ounce bag, so we left it
11 blank. But certainly any size 18 rubber band in one pound
12 or quarter pound, or 3-1/2 ounce, or a 1-1/2 ounce bag could
13 potentially compete and be in those numbers. But we did
14 leave them out.

15 COMMISSIONER KEARNS: Okay, so that--yeah, that
16 explains a lot, I think, because there seem to be some big
17 purchasers that purchase this product, and so I was
18 surprised to see that you all don't make it. But in essence
19 you're saying you do, it's just that you don't sell it in
20 exactly a four-ounce--in a 3-1/2 ounce bag, you sell yours
21 in four.

22 MR. RISNER: Correct. And we could have put our
23 four-ounce numbers there, but I think you already pick them
24 up on--I'm sorry, that was the one pound--we just didn't
25 because of the 3-1/2 ounces. But we could provide those

1 numbers to you, if you need them, and we certainly could do
2 a 3-1/2 ounce bag. That would be no problem.

3 COMMISSIONER KEARNS: Okay, and you all would say
4 that that does compete head-to-head, 3-1/2 ounce versus
5 4-ounce bags?

6 MR. RISNER: I would say, yes.

7 COMMISSIONER KEARNS: Okay, thank you.

8 By the way, just maybe a little bit more out of
9 curiosity, but I read something in our staff report that
10 suggested that rubber bands with higher rubber content but a
11 smaller size maybe could substitute for a rubber band with
12 lower rubber content but a higher size. Is that right? And
13 do you think, you know, if there is anything to that, do you
14 think that we need to take that into account when we're
15 looking at this pricing data? Or do you think basically you
16 can compare the way we have, with the exception of maybe the
17 size of the bag?

18 MR. RISNER: I think basically you could look at
19 the information the way that you have it now. I was
20 surprised to see the sizes that you picked out, because they
21 are some of the most popular sizes and they are some of the
22 most popular selling units as far as one-pound bags and
23 quarter-pound bags.

24 With that being said, you could absolutely--and
25 that's the thing about rubber content, and it's actually in

1 some ways a red herring because there is no industry
2 standard for how rubber content is calculated. But
3 certainly if you had a band that stretches more easily,
4 which would mean that it had a higher rubber content, then
5 you could drop back a size and get a lot more rubber bands
6 in a pound and still accomplish the same goal. And we push
7 that on our end, because what's really hard to get a
8 customer to understand is, although they buy by the pound--
9 and that's what they're looking for; how much are you going
10 to sell me this one pound of rubber bands for--people use
11 them by the each. So the value per band could work out
12 differently than the price per pound.

13 But, yes, you're correct.

14 COMMISSIONER KEARNS: I've been thinking about
15 that for several days now, and this all kind of boggles my
16 mind. It is mind-boggling. I wanted to go back to pricing
17 suppression and depression.

18 You answered the question I think about decline
19 in demand. Another question for you: If you're arguing
20 suppression, what data do you think supports such a finding,
21 particularly since the cost of goods sold to net sales ratio
22 was lower in interim 2018 than it was in 2015?

23 MR. GOLDBERG: Sure. Let me try to understand
24 the question, Commissioner. You're saying that we had lower
25 costs in 2018 versus '15?

1 COMMISSIONER KEARNS: Correct. Relative to
2 sales.

3 MR. GOLDBERG: Right. So we should have
4 therefore been comfortable with lower prices, because our
5 costs were lower?

6 COMMISSIONER KEARNS: Correct. That would
7 suggest that there wasn't suppression, if your cost as a
8 percentage of your sales was less in 2018.

9 MR. GOLDBERG: Right. I mean I can only say that
10 the numbers on profitability and income are dramatically
11 down. So, you know, it may be--I'd have to go back and
12 maybe it's in our confidential submission and we'll take
13 this question and give it our best shot, but, you know, that
14 to me is the figure for the interim period that really comes
15 out. I'd have to go back and reverse engineer why that is
16 the case, but certainly the financials are very poor. And
17 so it's not a situation where our costs were lower, so even
18 though we were lowering the price or keeping prices where
19 they were, we still were in the same position. Clearly,
20 we're not.

21 And that could be, again, the fact that that 10
22 percent business of Staples played maybe an outsized role in
23 just being able to be reasonably profitable and pay for
24 overhead. But we will definitely take a look at that and
25 respond in the posthearing submission.

1 COMMISSIONER KEARNS: Okay, thank you.

2 So I may not be following exactly when you
3 negotiate with Staples on an annual basis. Are you all in
4 negotiations now with Staples?

5 MR. RISNER: No.

6 COMMISSIONER KEARNS: Okay. Is it the time of
7 the year when the contracts should be coming due where you
8 all would be negotiating with--

9 MR. RISNER: Again, Staples has historically not
10 reached out to us with any kind of official bid process.
11 The bid that we did win was us reaching out and saying, hey,
12 can we bid on your business.

13 COMMISSIONER KEARNS: Okay.

14 MR. RISNER: I think there is a natural
15 understanding within the industry, especially with those
16 companies that have historically imported, that you don't go
17 to Alliance Rubber Company unless you want to pay a higher
18 price. And so there's kind of been that roadblock for us to
19 even get the opportunity to bid, because nobody even wants
20 to see our bid. They know it's going to be higher when
21 they're importing.

22 MR. GOLDBERG: And, Commissioner, you know,
23 there's speculation, and then there's the best that we know.
24 The speculation was in the Yuyang brief as to what Staples'
25 issue is, and speculating this was an annual thing, which is

1 not at all. I mean the best facts that we have--and Staples
2 is not a party here--but the best facts, and these are not
3 confidential, is that they had the same Thai supplier for
4 many years. Alliance kept banging at the door. Came in
5 with a decent enough price, a great product, and my guess is
6 that the day after that the Thai exporter started thinking
7 about how they were going to get that back and came in with
8 an extremely aggressive price, ridiculously aggressive
9 price, a price that Alliance was told: Meet this, and you
10 keep the business. And they said there's no way we can meet
11 that price.

12 I mean those are the best facts we have, and it's
13 certainly a lot better than the speculation in the Yuyang
14 brief, which is not supported by any facts in the record.

15 COMMISSIONER KEARNS: Okay, thank you. And I
16 know you touched a bit on your bidding process with respect
17 to other purchasers, but could you speak more specifically
18 to the process with respect to Office Depot and Walmart?
19 You had mentioned them earlier as two key clients for you.
20 Could you just tell us a little bit more about the process
21 with those two purchasers in particular?

22 MR. RISNER: Neither Walmart nor Office Depot
23 require an annual bid.

24 COMMISSIONER KEARNS: Okay, so it's just you all
25 do business on a spot-sales basis? But it's just sort of a

1 standing order? Or how does that work?

2 MR. RISNER: I believe that if there were a
3 situation where we had to increase prices due to whatever,
4 you know, occurrence--say the price of rubber went up--they
5 would then look at, you know, importing. But as it stands
6 right now, I believe that they are happy with the price and
7 the value they receive from us as a vendor.

8 For instance, a lot of these mega buyers, they
9 look at on-time infull rates. Are you shipping ontime
10 infull? They have all these metrics that they measure you
11 as a vendor, and we have excellent, excellent ratings with
12 these customers, and they're not going to find that with an
13 importer. So there are some other determining factors.

14 But there again, that only comes about because we
15 were allowed our foot in the door. You know, if it were
16 today and they were importing, we probably wouldn't be able
17 to get them on the phone.

18 MR. GOLDBERG: And--Roy Goldberg--just to make it
19 very clear that this was Yuyang, without any substantiation,
20 in their brief said well clearly you had no expectation of
21 keeping this business because we're going to assume--without
22 any evidence--that all of these Staples, Walmarts, Office
23 Depots, have these annual bid and you should have known you
24 would lose it.

25 I mean, there is no evidence of that whatsoever.

1 And, you know, the issues regarding Walmart and Office Depot
2 are frankly somewhat anecdotal just to say that that
3 particular red herring is completely crazy because not only
4 did we have no expectation at Alliance that the Staples
5 would be gone within a year or so, but certainly that type
6 of client--Staples, Office Depot, Walmart, similar type of
7 companies, similar type of retail sales, stores, Internet,
8 et cetera, you know, is almost getting into the mindset of
9 Alliance is what's been called into question. And they're
10 just explaining almost anecdotally.

11 We of course never thought that we would be
12 subject to having to lose Staples at least on anything other
13 than price on an annual basis, given that these other
14 similar customers have been with us, in some cases going
15 back for 50 years. And that's really the context of the
16 references.

17 MR. RISNER: I would just add to that, that if an
18 importer came back with a cheaper price to Staples within
19 reason, we would've likely kept that business. They came
20 back at half our price. Half.

21 COMMISSIONER KEARNS: Okay, thank you. My time's
22 up.

23 CHAIRMAN JOHANSON: Thai producer, U. Yong,
24 argues in its brief that the volume of subject imports is
25 not significant because subject import market share was

1 lower in interim 2018 than it was in 2015. This is in U.
2 Yong's prehearing brief at Page 2. What is your response to
3 this argument?

4 MR. GOLDBERG: Yes, thank you, Mr. Chairman. The
5 Staples issue really accounts for that difference. And
6 again, I would go back to--I think it was the second
7 slide--without actually going back to it literally, but it's
8 Page 3 of the DEC, which is part of the record, and you
9 know, just reiterate that in most cases of the most recent
10 imports will have the greatest relevance to the current
11 state of the domestic industry, that's Newport Corp vs.
12 United States, 414 F.3d.1331 at 1336 to 37, Federal Circuit,
13 2005, and there's other cases that are cited there, but that
14 would be our legal response. I think that the U. Yong
15 submission did not at all reflect that state of the law.

16 CHAIRMAN JOHANSON: Thanks, Mr. Goldberg. Apart
17 from the Staples contract and the handful of other specific
18 recent instances of lost business as described in the
19 attachment to your questionnaire, what is to prevent
20 Alliance from continuing this longer-term, 2015 to 2017
21 trend of gaining market share? Has something in the market
22 fundamentally changed? Beginning with 2018?

23 MR. GOLDBERG: Thank you, Mr. Chairman. There
24 are other factors that are addressed, but the elephant in
25 the room is Staples. And it's just, you know, the record in

1 this case is your preliminary determination back in the
2 Spring, March of this year, where you acknowledged and
3 recognized that, you know, this huge account was being lost,
4 and that that would impact itself in 2018.

5 That's exactly what has happened. So that
6 doesn't explain all of it because there's still pressure
7 from China and the other subject Thai imports, but one
8 cannot deny that the numbers are very large because of the
9 loss of the Staples account to subject Thai imports.

10 MR. RISNER: I would just like to touch again on
11 the -- there's a ripple effect that's likely to occur with
12 Staples being able to source rubber bands at half the price
13 that we would sell them, and that is that they're able to
14 sell those rubber bands at a lower price. And so that will
15 eat up more of our market share, so that will steal business
16 away from the customers that we currently distribute to.

17 And there again, none of that information is
18 being picked up on this questionnaire, but I think that we
19 would reasonably expect further declines, especially in the
20 stationery market.

21 CHAIRMAN JOHANSON: But Mr. Risner, you all have
22 been -- at least, you've been able to, at least, as of this
23 date, have been able to maintain your existing large
24 contracts?

25 MR. RISNER: Correct. We would maybe retain

1 those accounts, but those accounts would lose business to a
2 lower-cost rubber band from Staples.

3 CHAIRMAN JOHANSON: Okay, thank you. In addition
4 to preliminary AD/CVD and critical circumstances measures on
5 Chinese rubber bands, the executive branch has added an
6 additional 10% ad valorem duty action in September,
7 scheduled to increase to 25% in January, 2019. Assuming
8 that all of these acts materialize, how would the potential
9 loss of Chinese imports be replaced?

10 MR. GOLDBERG: Thank you, Mr. Chairman. I don't
11 think our particular tariff members are covered in that
12 relief. So it's not -- you know, when I've seen the USTR
13 listings, we have two tariff members that are part of our
14 scope and they have not been included.

15 CHAIRMAN JOHANSON: Could you perhaps verify that
16 for the purposes of the post-hearing brief, just so we'll be
17 certain on that one?

18 MR. GOLDBERG: Sure.

19 CHAIRMAN JOHANSON: Okay, thank you. The average
20 unit values of Thai non-subject imports were lower than the
21 average unit values of Thai subject imports in the first two
22 years of the period of investigation, as seen in the staff
23 report at Table 4-2.

24 Would it not be reasonable to assume that
25 low-price subject imports will simply be replaced by

1 nonsubject imports in the U.S. market if we were to impose
2 anti-dumping duty orders against the subject countries?

3 MR. GOLDBERG: Thank you, Mr. Chairman. Let me
4 start by referencing that, again, reiterating that I think I
5 addressed that somewhat in the opening presentation. A lot
6 of the data that is in the report suggests the opposite for
7 a lot of the transactions. I think that for the majority of
8 the transactions, we had the nonsubject imports being priced
9 higher. So that would be part of it.

10 But again, I think that, on a case law point of
11 view, you know, the days of Bratsk have been largely
12 modified by Mittal. Certainly this Commission's ruling and
13 certain passenger vehicle and light truck, which then became
14 the case at the CIT, which is on appeal now, which
15 said that, as the federal circuit explained to Mittal, the
16 focus of the Commission's inquiry is on the cause of the
17 injury in the past.

18 And we would say that that would certainly be all
19 the POI including the most recent part. Not the prospect of
20 effectiveness in the future. And for that reason, based on
21 that case law, we would say that there's no -- it would be
22 also speculative to assume that with the large volume of
23 subject Thai imports, which is much larger than the one
24 exporter, and then plus the Chinese imports, that this is
25 not a situation where it can be assumed, under the record,

1 that the orders go in place, and that we just see the
2 nonsubject Thai exporter take all the business away.

3 First of all, that would be improperly looking
4 prospectively, as opposed to what has already happened,
5 based on certain passenger vehicle and Mittale and it's
6 progeny. And also, again, this is not a case where we have
7 a situation where the nonsubject importer is already the
8 elephant in the room and we'll just sort of swoop in and
9 take the rest. They're, relatively speaking, a smaller part
10 of the Thai market, and their situation is, we don't believe
11 there's any basis for assuming that they're gonna come in
12 and just displace or -- in the replacement test also, we
13 would submit, is no longer good law under federal circuit
14 and the CIT. Let me throw that over to Mr. Risner, too.

15 MR. RISNER: Yeah, I would just mirror what Mr.
16 Goldberg said, that the, you know, that we do hope that this
17 nonsubject company will ultimately be included, but we've
18 clearly been injured by subject imports. And we would
19 expect, you know, a single exporter could be more easily
20 dealt with and we would be happy to compete with fairly
21 traded imports.

22 MR. GOLDBERG: I guess that is -- his point that
23 I neglected to make is that the huge lost sale that we're
24 talking about here is Staples, and that was a subject
25 import. So it wasn't like, in that particular situation,

1 the nonsubject imports, you know, came in and played a role.
2 I think it's fair to say that the presence of nonsubject
3 imports and the Staples story is of zero significance, and
4 that that is certainly part of the record in this case.

5 CHAIRMAN JOHANSON: And Mr. Goldberg, to develop
6 this further, you stated a moment ago that the nonsubjects
7 are a small part of the market. Is there a product
8 difference between the nonsubjects and the subjects? Or is
9 it simply due to the subjects being Staples?

10 MR. GOLDBERG: Don't want to go into anything
11 confidential, obviously. And I don't even, without having
12 the confidential record in front of me, fortunately, I
13 couldn't go into it.

14 But certainly, the record that is public from the
15 preliminary, I think gives some insight into the two
16 respondents that were, you know, participated, Schermerhorn
17 and Winne, Frank Winne and Son, and certainly the testimony
18 they gave suggested that there are certain segments of the
19 market -- I think it's hard to characterize their testimony
20 and would refer the Commission back to the transcripts --
21 but was that, "Leave us alone. We're buying products from
22 that particular company that are, you know, are much
23 differently priced and much different uses," and certainly
24 have no significance to your Staples situation. I think
25 that was their testimony. And we can put it in a

1 confidential submission. So it's anecdotal, but I think
2 there is something there.

3 CHAIRMAN JOHANSON: Thanks, Mr. Goldberg. In
4 your brief, you state that Alliance has been forced to
5 reduce its workforce because of the loss of rubber band
6 sales, and this is at Page 26 of your brief. Has this been
7 in the form of formal layoffs or early retirements? And how
8 many employees have been subject to this reduction in
9 workforce? And if that's confidential, you can just follow
10 up in your post-hearing brief.

11 MR. GOLDBERG: Let me start out. The PRW is
12 confidential, it's a number that's confidential. However,
13 when we came before the Commission in the Spring, we used a
14 different number, which is total. So not just PRW, but Ms.
15 Swayze and Mr. Risner, for example, who aren't on the
16 production line, and the number then was 176, and the number
17 today is 171. And that is a public decline and Ms. Swayze
18 can address that.

19 MS. SWAYZE: In 1999, we were at 250 employees.
20 February, we were at 176. Today we're at 171. And one of
21 the main objectives of business after ninety-five years is
22 to make sure you have a profit so you can pay your people.
23 Good wages attract better caliber of people. And make sure
24 that you have enough money for bonuses for your people.
25 That's how we get everyone on the same page. The bonuses,

1 everyone pulls together as a team. It's very beneficial.

2 What happens when your volume goes from 25-1/2
3 million pounds to 15 million pounds to 14 million pounds,
4 and you continue to decline, is that you lose the ability to
5 keep your good people. And we have a 170,000 square foot
6 facility on forty-eight acres. We have a \$9 million
7 payroll.

8 The challenge that we have is, "How can we
9 continue to attract and retain good people when the volume
10 continues to go down-down-down?" So we're big people.
11 We've been around for ninety-five years and we deal every
12 day in a vicious and brutal, competitive environment. We're
13 big people. We do this every day. And we always try to
14 price all of our customers fairly. And we're just asking
15 for some relief.

16 MR. GOLDBERG: Before I turn it over to Mr.
17 Risner, we'll make inquiries for confidential as to why the
18 reduction went down. There could be some sensitive
19 employment issues. Probably somebody -- but the numbers are
20 what they are, and we'll get that story.

21 MR. RISNER: I would only like to add that, as a
22 company, we've made it very clear, and we're struggling
23 right now with the decision that there will be further
24 reductions in our workforce without some kind of relief.
25 And so we're holding on right now hoping for that. And I

1 think Ms. Swayze added in her written testimony a list of
2 the other manufacturers of rubber bands that were around in
3 the 1960s, and we hope that we don't have to join them.

4 CHAIRMAN JOHANSON: Thank you.

5 Thank you Mr. Risner and Ms. Swayze.

6 Commissioner Williamson.

7 COMMISSIONER WILLIAMSON: Thank you. Given that
8 you argued about these annual contracts and you've explained
9 what the situation is, I was just wondering -- if it's
10 already on the record you can point to it post-hearing -- do
11 we have anything on the clauses in contracts that talk about
12 the terms or is it that they don't or anything else to sort
13 of document what the situation is in terms of the nature of
14 the terms of the contracts and how often they are renewed
15 with your big customers.

16 MR. GOLDBERG: Sure. I'll take a stab before
17 turning it over to Mr. Risner and Ms. Swayze. I mean my
18 understanding is that -- you know as a lawyer you know we
19 always like to see contracts signed by both parties with all
20 the terms. I think contract is a loose term in this
21 industry. I think that I'm not sure there are such
22 documents as opposed to offers and acceptances, somewhat
23 informal, but I'll leave that and start with Mr. Risner.

24 COMMISSIONER WILLIAMSON: Okay. And could it be
25 post-hearing if it's proprietary.

1 MR. RISNER: I believe it would be post-hearing
2 and we'd be happy to provide you with not only the written
3 contracts, where they exist, and then also the terms about
4 which other things have been negotiated. And we'll have
5 emails back and forth that we can provide you so you can see
6 some of the negotiation that goes back forth and the terms.

7 COMMISSIONER WILLIAMSON: Just so we can come to
8 closure on this, you said rubber bands is something that's
9 not exciting. Is that the reason we don't have this -- like
10 the nature of the practice of contracting the time you have
11 customers and all this. It's quite different from what we
12 normally see.

13 MR. RISNER: I would only say that it's a very
14 big deal to us, but our buyers it does seem to be low on
15 their list of priorities. Sometimes they share as much with
16 us. It is a commodity product and that's why price is so
17 crucial to all of our negotiations.

18 COMMISSIONER WILLIAMSON: Okay.

19 MS. SWAYZE: If I may add one more thing, a lot
20 of times our buyers say to us everything's good, all's good,
21 our scorecard is good. We even get the rebate from Staples
22 every quarter for being a superior supplier, so it's not
23 high on their priorities. If you are an excellent supplier,
24 excellent quality, price, the optimum in providing what they
25 need in service it's not at the top of their priorities and

1 it's no big deal to them.

2 So, as far as, yes, for U.S. Postal Service, we
3 do have formal bidding process, but most of the others do
4 not. If they don't have any problems, it's not a major
5 concern. People continually -- of the 55 importers in the
6 USA, people are continually approaching our customers with
7 lower pricing all the time and our buyers come back to us
8 continually and it's a continual back and forth. The
9 Staples was an exception with the pricing -- with the
10 bidding.

11 COMMISSIONER WILLIAMSON: Okay. You made
12 reference to new products and new directions that you're
13 going to and I was wondering to what extent does the more
14 intense import competition affect your ability to do the
15 R&D, to invest in the new products, and things like that and
16 how important is those new products to your future success?

17 MS. SWAYZE: It's vital because the profits are
18 what fund our R&D efforts. All of our automated rubber
19 banding machinery, all of our new silicon line -- we just
20 invested a million dollars in the silicon line that you saw
21 there. All of the new products that we come up with come as
22 a direct result of my cues, our new products managers, all
23 of our staff that worked so diligently with him to develop
24 new products. Because who would ever think that after 95
25 years there would be 171 people deriving their livelihood

1 off of little round rings of rubber, so it's time for us to
2 expand our horizons and make sure that we come up with new
3 products that will have a viability for the future and
4 without profits that's impossible and our profits are off
5 two-thirds so far this year, only because of one reason, the
6 loss of volume.

7 COMMISSONER WILLIAMSON: Post-hearing could you
8 . . . a question, are you running any other contracts or
9 doing other deals that kind offset the Staples -- loss of
10 the Staples contract? I imagine it's something you'll need
11 to do post-hearing.

12 MR. RISNER: Nothing that we've done so far has
13 offset that loss, but we are excited about the
14 opportunities. Bonnie and I were having this conversation.
15 The opportunities that we're getting right now because of
16 what's happened in the preliminary these are companies that
17 have never reached out to us before, that we've never been
18 able to make contact with, and they're out shopping right
19 now because they're afraid their prices are going to go low.
20 And if we were to win all of that business, we would offset
21 Staples, but we've had only small successes.

22 COMMISSIONER WILLIAMSON: Okay, thank you.

23 I want to go back to the warehousing experience
24 because Respondents made something of this. You said that,
25 I guess, you'd had experience before that showed you that

1 you had to have the warehouse right at the factory site and
2 wondering if you wanted to expand on that.

3 MS. SWAYZE: In 1991, we expanded. We
4 consolidated the Alliance Ohio into Hot Springs, Arkansas.
5 We had two plants. Two sets of inventories. Two sets of
6 challenges. So, we consolidated into Hot Springs, Arkansas.
7 At that time, we needed more space to store the rubber, so
8 we contracted with a place that was seven miles away and it
9 was disastrous. We were continually running out of rubber,
10 chemicals -- 19 different chemicals that go into the bands,
11 the different formulations that we have five grades that we
12 make in every color of the rainbow bands, so it was constant
13 chaos, so we said we have got to change this. So, within a
14 year we finished the plant in Hot Springs, 1991/1992, and
15 we're able to have enough space for rubber and chemical
16 store at that time.

17 And then when Staples we were thrilled to have
18 the business, so we said we've got to have expanded space
19 for rubber and chemicals and storage and so we made the
20 decision to add on the 20,000 square feet, so it took us
21 from 150,000 to 170,000 square feet. And that was what was
22 so devastating to us was 80 percent of the building now is
23 not being used, but the challenge that you have in business
24 you have challenges every day. Life is a gamble. Business
25 is a gamble. To have a \$9 million payroll versus in

1 Thailand the same factory would have about a million,
2 million and a half dollar payroll.

3 We have 30 percent additional we pay to all of
4 our people's -- or their fringe benefits very important.
5 They don't have that, to speak of, in China and Thailand.
6 So, it's very important to us that we provide a good living
7 for all of our people so they can rear their families, have
8 a good level of income, and be able to continue to stay with
9 us. But when your volume declines from 26 million pounds to
10 14 million pounds and when you look at the future you say we
11 used to be at 90 percent capacity. Today we're at 55 to 50
12 percent capacity. And from a business viewpoint as a
13 business person, you have to say where are we going here?
14 What's the future hold for us? So, that's why we've waited
15 till the 11th hour, 59th minute to ask these questions.

16 COMMISSIONER WILLIAMSON: Okay.

17 MR. RISNER: I'd like to add to that. I
18 mentioned earlier the on-time, in-full delivery rates that
19 we have that are such high ratings with some of our
20 customers. Not having the rubber on site would've put those
21 ratings in jeopardy and these mega companies they fine you
22 when your shipments are not on time and in full. And very
23 high likelihood that what little overhead we were covering
24 with Staples these are significant punitive fines when
25 you're not on time and in full. We could've lost a lot of

1 profitability if we had not had the rubber on site.

2 MR. GOLDBERG: And I guess it's worth putting on
3 the record, and we did have you visit. Thank you very much
4 and the staff. While the operation of the plant is near
5 downtown Hot Springs, it is not in downtown Hot Springs. It
6 is off on its own sort of highway by itself, so it wasn't
7 like there was a place next door or across the street there
8 was some empty, abandoned warehouse that could've easily
9 been suited for that purpose.

10 COMMISSIONER WILLIAMSON: Good, okay. Thank
11 you.

12 CHAIRMAN JOHANSON: Thank you. Commissioner
13 Broadbent.

14 COMMISSIONER BROADBENT: Thank you. Mr.
15 Goldberg, it's a little repetitive, but I just wanted to
16 sort of reiterate the importance of addressing trends over
17 the full period of investigation, 2015 to 2018. We need to
18 look at really several years of trends rather than just
19 potentially one unfortunate lost sale to establish injury or
20 threat. How is the industry worse off now than in 2015
21 before it even had the Staples business in the first place?

22 MR. GOLDBERG: Staples, while important, is
23 clearly not our only story at all. Certainly the documents
24 that we've submitted with the petition, with the
25 post-conference brief and in the questionnaire response talk

1 about various other customers and by and large not all
2 limited to the non-subject Thai exporter.

3 It's just been a very difficult environment for
4 Alliance as reflected on the record. The trends, I think,
5 are pretty clear in the staff report as to the declines and
6 the price pressure that has been on us.

7 It's certainly not a staff report that only
8 shows in the interim period underselling or, you know, the
9 staff report is, you know, I think a strong document to
10 support injury and threat because it shows over the entire
11 Period of Investigation that there has been low prices and
12 underselling by the subject imports.

13 COMMISSIONER BROADBENT: Alliance stated that
14 the contract with Staples in 2015 justified a substantial
15 expenditure in the 20,000 square foot warehouse to store
16 crude rubber. Given that you yourself had used aggressive
17 pricing to capture this business in 2015, why did you
18 anticipate that you would hold onto this contract for the
19 long term, Mr. Risner?

20 MR. RISNER: Again historically, we have held
21 onto this type of accounts for much longer than 18 months.
22 We anticipated that, which is why we invested in the
23 warehouse, and again half the price. That's why we lost it.
24 We lost it at half the price.

25 MR. GOLDBERG: And I would just -- this is Roy

1 Goldberg -- I would just say that, you know, there's some
2 terminology that Yu Yon has used, you know. I think that
3 the record shows that Alliance came in with a competitive
4 price to get the business, but the word "aggressive" would
5 have a connotation in relation to what the Thai exporter
6 used a year later or two years later technically, you know.

7 There's aggressive and there's aggressive, and
8 certainly the record doesn't show that Alliance was anywhere
9 near the type of, you know, and again the record is what it
10 is. Alliance had a price and the Thai, subject Thai
11 exporter by the pound came in at one half of that price.

12 There's really only one aggressive price here.
13 Despite the Yu Yong unsubstantiated connotations and
14 characterizations, and that was the exporter that became
15 very aggressive in order to get back a business that it had
16 had for several years.

17 COMMISSIONER BROADBENT: Okay. Back on the
18 warehouse, Mr. Goldberg you indicated that they tried to
19 rent warehouse space and that was a disaster?

20 MR. GOLDBERG: Yes. It was what Ms. Swayze just
21 talked about here. Again, you know, we never even thought
22 about renting of the space. I think the record from Mr.
23 Risner when they needed this -- had this need. But there's
24 a lot of second guessing in the Yu Yong brief. So in
25 addition to many, various other unsubstantiated allegations

1 and guesses, they say, you know, International Trade
2 Commission, don't let Alliance off the hook.

3 They never should have constructed the new
4 warehouse base. They should have just gone out and rented
5 it. And, you know, there's a lot of rebuttals to that. One
6 is, you know, where was that going to be? They've never
7 been to the space. They don't know that there's no place to
8 rent right there.

9 But the record should be clear. It wasn't like
10 there's any evidence that Alliance back in 2015, '16, '17
11 said let's look around for rental space. Rather, it was as
12 Ms. Swayze testified that we wouldn't have thought of that,
13 and we were quite reasonable for not thinking of that
14 because it just so happens we actually did that back in
15 1991, I think she testified to a few minutes ago, and that
16 was a nightmare.

17 So I mean it's just -- these are red herrings
18 that have been -- that have arisen as a result of a Yu Yong,
19 you know, linguini against the wall type approach, and as
20 crazy as they are, we're trying to address them.

21 COMMISSIONER BROADBENT: Ms. Swayze, was your
22 decision to file this petition driven entirely by events in
23 2017 and 2018, or did you experience injury from imports
24 prior to 2017?

25 MS. SWAYZE: This is Bonnie Swayze. I've been

1 in the business 47 years full time, and we've always existed
2 in a very vicious and brutal competitive environment. We've
3 always had every day is challenges. So what has happened
4 the last couple of years has been especially challenging.
5 As I said, we've waited for 95 years to do anything of this
6 nature. We have very ably competed successfully in the
7 American marketplace.

8 We've watched as our competitors have gone from
9 14 competitors down to two manufacturing in the U.S. We've
10 watched as the number of manufacturing facilities that have
11 been offshore go from 66,000; the number of manufacturing
12 jobs go from 17 million to 12 million. So we've always been
13 very strong proponents of American manufacturing. We very
14 much believe in the ability of our people to be able to
15 compete.

16 Let me give you a little side example. When you
17 go into Office Depot today, you will see American made
18 rubber bands made by Alliance Rubber. You will see paper
19 clips made in China. Go into Walmart. You'll see rubber
20 bands made in America by Alliance Rubber. You'll see paper
21 clips made in China.

22 So 20 years ago, when the duty was put on the
23 paper clips at that time, people did not stop buying paper
24 clips from China, even though a factory went up in Wheeling,
25 Illinois and one in New Jersey. It did not stop Chinese

1 paper clip manufacturers. They can still continue to thrive
2 and flourish. So yes, we waited until the 11th hour, 59th
3 minute. We've never considered any type of relief, asking
4 for relief until now.

5 COMMISSIONER BROADBENT: Umm in -- sure.

6 MR. RISNER: I have something to say. I would
7 just like to add that we began to speak to counsel back in
8 2015. Anti-dumping was also something that got floated
9 around before my time at the company. We had been
10 considering the pros and cons of it. We actually had the
11 tariff code assigned specifically to rubber bands to track
12 them. It's something that we anticipated getting worse.

13 We always know that we were up against lower
14 cost competition coming out of Thailand and China. It makes
15 sense, lower labor. But what didn't make sense at all was
16 that Staples at half the price, and it was the straw that
17 broke the camel's back, but certainly wasn't the only
18 reason.

19 And I do want to point out that when you do
20 review the summary of other lost sales and some of these are
21 also downward pricing pressure, you're going to see them in
22 the hundreds of thousands of dollars, approaching a million
23 dollars. So Staples is not the only one. We have focused
24 on it because it is the most significant, but there are
25 others.

1 COMMISSIONER BROADBENT: Okay. Ms. Swayze you
2 were mentioning 26 million pounds of production, and I guess
3 our staff report talks about much less than that. Was the
4 26 -- I mean how recently had you produced 26 million pounds
5 a year?

6 MS. SWAYZE: That was in the year 1995.

7 COMMISSIONER BROADBENT: Okay. On the issue of
8 threat, if your larger sales going into 2018 and 2019 were
9 lost primarily to firms in Thailand, Mr. Goldberg, should we
10 decumulate China and go negative on that country if we reach
11 a threat analysis?

12 MR. GOLDBERG: Not at all. Thank you for the
13 question. The staff report, I think, aptly shows that there
14 is plenty of imports coming in, plenty of U.S. purchasers
15 buying Chinese that obviously are at -- going to be
16 significantly margins. I would not make an adverse, an
17 unfair adverse inference on the U.S. industry because the
18 Chinese decided not to participate at all.

19 I mean obviously Commerce has treated them
20 appropriately for their refusal to participate, and the
21 staff has done the best they could with Customs and other
22 information, and we have our own information, anecdotal as
23 it is. But I think the staff report makes it very clear
24 that China -- there's even language, I think it was in my
25 PowerPoint that, you know, they've got -- they've been

1 getting the benefit of low prices in the U.S. market.

2 So we think that there's no basis not to
3 cumulate. We didn't address it this morning because it was
4 addressed in our papers, and we're not even aware that it's
5 an issue of cumulation of these commodity type products that
6 are competing with each other. You've got various
7 purchasers. Not all of them obviously, but some purchasers
8 are buying from both countries, some larger purchasers. So
9 we don't think that cumulation should be an issue at all.

10 We're not -- we think it was correctly handled
11 in the prelim. It's been addressed in our brief, but we
12 don't -- you know, if you look at all the factors that are
13 addressed in our most recent brief, cumulation is
14 appropriate.

15 MR. RISNER: Jason Risner. I would just like to
16 add to that that we do compete head to head with Chinese
17 made rubber bands. I think I mentioned early specifically
18 in the retail industry, and in our lost sales report we
19 tried our best to point out those that were China.

20 COMMISSIONER BROADBENT: Okay, thank you.

21 CHAIRMAN JOHANSON: Commissioner Schmidtlein.

22 COMMISSIONER SCHMIDTLEIN: Okay, I just had a
23 couple of questions having to do with what we call direct
24 imports, which is where the purchaser is acting as its own
25 importer, rather than using a separate importer. Do you

1 find that purchasers are increasingly doing that in this
2 industry?

3 MR. RISNER: Yes ma'am. We see more direct
4 importing.

5 COMMISSIONER SCHMIDTLEIN: Was Staples directly
6 importing? Do you know?

7 MR. RISNER: We look at a report. It's called
8 an ISIS report. I forget what that acronym actually stands
9 for, sorry. But it, on it it identifies the consignee and
10 the exporter, and we see Staples in that way as a direct
11 importer. So we saw --

12 COMMISSIONER SCHMIDTLEIN: As a direct importer.

13 MR. RISNER: Yeah.

14 COMMISSIONER SCHMIDTLEIN: Okay, okay. I don't
15 have any further questions. Thank you all for being here
16 today.

17 CHAIRMAN JOHANSON: Commissioner Kearns.

18 COMMISSIONER KEARNS: Thank you. You all had
19 described a little bit about some of the various segments
20 that you serve, and what market share they make up. I think
21 mentioned newspapers is down to three percent. I think you
22 said stationery's 30 percent and dropping.

23 Can you tell us about the other segments, paper
24 and packaging, ag, retail, government, post office,
25 advertising? Can you estimate either now or post-hearing

1 those other segments? But not just -- not necessarily just
2 for you all, but just what you think the industry as a
3 whole, you know, what the U.S. market looks like.

4 MR. RISNER: Yes. I think that would make a
5 good post-hearing, and we can give you the exact numbers and
6 percentages.

7 COMMISSIONER KEARNS: Okay, great. Thank you.
8 Returning to Staples, with respect to your non-private label
9 sales to Staples, have you seen competition from subject
10 imports?

11 MR. RISNER: That's actually a really good
12 question. So when I mentioned before that the low-priced
13 Staples imports would compete directly with our national
14 brand, not only have we seen obviously the loss of the
15 Staples private label business, but we also see a decline in
16 our branded sales through Staples. So already you can see
17 them eat, you know, a piece of our market share.

18 So they buy our nationally branded products and
19 they also have their private label, and their private label
20 has obviously cannibalized our national branded products,
21 and we would continue to see that in other, you know. Some
22 of our other customers would lose rubber band sales based on
23 those low costs.

24 COMMISSIONER KEARNS: Okay. So you're saying
25 that Staples' private brand is cannibalizing on your brand,

1 versus some, you know, third brand that is a Thai or Chinese
2 product that's coming in separately?

3 MR. RISNER: Just to be clear, what I'm saying
4 is that the Staples import is now with Thai rubber band, and
5 it's at lower cost than our nationally branded products.

6 COMMISSIONER KEARNS: Yeah.

7 MR. RISNER: So not only did we lose that
8 private label business, their private label business is
9 eating into our national branded business. So we're seeing
10 a decrease there in the hundreds of thousands of dollars.

11 COMMISSIONER KEARNS: Okay, thank you. Going
12 back to capacity and capacity utilization, you had mentioned
13 that you did used to operate three shifts. I think in your
14 opening you mentioned that. How long ago was that?

15 MS. SWAYZE: In 1995, we operated three shifts,
16 and at the beginning of the Staples business we were at
17 three shifts also. So things were blowing and going, and it
18 was an excellent sustainable business model.

19 COMMISSIONER KEARNS: Okay. If you could maybe
20 in your post-hearing, whether our data in the staff report
21 reflect that. I mean I think that the -- if I remember
22 right, I didn't see the capacity utilization numbers that
23 dramatically different before Staples. But maybe I'm
24 remembering it wrong.

25 MR. GOLDBERG: We'll address that Commissioner

1 Kearns. Thank you.

2 COMMISSIONER KEARNS: Okay, thank you. Ms.
3 Swayze, I think you had said earlier. I was just not
4 entirely what you were referring to. You were talking about
5 your labor costs. You said I think you have \$9 million in
6 payroll, and you compared that to \$1 million for a Thai
7 producer. Can you just elaborate on what you mean? Is that
8 just because they're a smaller producer or where do you get
9 those figures?

10 MS. SWAYZE: In Thailand, they typically pay
11 between a dollar and a half an hour and two dollars an hour.
12 They generally work in the Thai rubber band factories.
13 There are 20 of them in Thailand, a minimum of 20, and they
14 work six day week straight. They do not get paid for
15 overtime unless they have to work a Sunday.

16 Our average wages in the factory in Hot Springs,
17 Arkansas are \$19.38 per hour, plus 30 percent additional in
18 fringes. So when you take the difference between the two,
19 it's about 20 times additional. Our wages plus benefits are
20 about 20 times. That is the difference. So we have much
21 increased efficiencies and productivity in Hot Springs.
22 That's why we can still compete and continue to support 171
23 livelihoods.

24 COMMISSIONER KEARNS: And do you think that
25 labor is the number one reason why the Thai price is what it

1 is?

2 MS. SWAYZE: Yes. We have friends from outside
3 the industry that are always asking us, in similar
4 industries when we go to what, 25 trade shows a year Jason?
5 People always say when we start talking about comparing
6 businesses, and they say what's your labor cost? What
7 percent, and they go whoa, why aren't you importing? That's
8 our business model, is we love to keep America working.

9 MR. GOLDBERG: And before I throw this to Mr.
10 Risner, just to say that clearly that's been the case for
11 many, many years. So it's not like we're coming here
12 saying, you know, please give us relief. They have low
13 labor costs. I've done a lot of Chinese and other Asian
14 cases. I mean that's a fact of life.

15 Obviously we're focused on injury by reason of
16 what the Commerce Department is finding here, and Commerce
17 is obviously not looking at the issue of lower wages. In
18 fact to the contrary, it's harder to get a finding of below
19 cost in the Commerce Department because their costs are so
20 low. For them to actually find that the products are being
21 sold below cost is a serious, you know, conclusion for them
22 to make.

23 MR. RISNER: Jason Risner. I would just like to
24 add that we have always known that the wages were obviously
25 a contributing factor to why you could get cheaper pricing

1 out of Thailand and China.

2 But what really brought it home, you can't take
3 raw rubber, chemically -- add the chemicals, do the labor
4 that it costs to extrude it, chemically convert it from raw
5 rubber into a vulcanized rubber band at half the price that
6 we were selling to Staples.

7 So regardless of labor, regardless of wages,
8 just the raw material inputs alone, it didn't make sense to
9 us. That's what really, you know. It's not just a wage
10 issue.

11 MR. GOLDBERG: It's fair to point out, and this
12 is in the materials that, you know, rubber is by far the
13 largest cost. This is not one of those products which is 90
14 percent labor or something like that.

15 COMMISSIONER KEARNS: Right. Okay, thank you.
16 I have no further questions.

17 CHAIRMAN JOHANSON: Do any other Commissioners
18 have questions? Okay. We appreciate you appearing on
19 today's panel. Do staff have any questions for the panel?

20 MR. ROBINSON: Chris Robinson. Staff have no
21 questions.

22 CHAIRMAN JOHANSON: Thank you.

23 MR. BISHOP: We release this panel with our many
24 thanks, and we invite Mr. Nelson to come forward and be
25 seated please.

1 (Pause.)

2 CHAIRMAN JOHANSON: Thank you, Mr. Nelson. You
3 may begin.

4 STATEMENT OF TIMOTHY NELSON

5 MR. NELSON: Just hit the button? Thank you.
6 Good morning members of the Commission. My name is Timothy
7 Nelson. I'm the owner and president of Encore Packaging. I
8 would like to thank you and the Commission for your work and
9 your efforts and allowing me to come here and address this
10 issue that you have in front of you now.

11 I am a bit out of my element, so I may appear a
12 little nervous. I'm a business owner up out of Chicago. I
13 have a manufacturing and distribution company based on
14 Vernon Hills. We sell throughout the U.S. and overseas. I
15 have about 30 employees, a diverse workforce, ten years in
16 business. Just a hard-working team, building a business and
17 competing against a variety of competitors.

18 Most of our products are made in the USA,
19 primarily in the world of strapping. In some cases, we are
20 the last American manufacturer of certain products. My
21 primary competition comes from Taiwan, India and China, in
22 that order. I live in a world where you are constantly
23 fending off imports, people copying us and competition. The
24 pricing comes from China and Taiwan are exceptionally
25 competitive. It's interesting to hear about the half

1 price, because I compete in a world where they are a third
2 of my cost in the marketplace, and fight with them every day
3 selling through distributors across the country.

4 Encore has grown over the years. As our
5 customer base and product offering has grown, in the last
6 ten years it's been exceptionally challenging, both
7 personally and business-wise. But we add value to the
8 product and we work hard to create value and grow the
9 business.

10 I'm here as an interested party because we
11 import rubber bands from Thailand, primarily LHH, who I
12 think had the zero de minimis ruling from you. We've been
13 doing so for the last ten years, and it's probably about
14 eight percent of our business. We offer one grade,
15 industrial, and it isn't really a price-driven business, but
16 more one of channel.

17 Our customers and distributors tend to purchase
18 over a 1,000 SKUs, and so they like the fact that they can
19 get this particular product from us, amongst all the other
20 things they purchase from us. Given that we are
21 investigating anti-dumping, I assume there would be a couple
22 of topics that might be of interest to you.

23 I first looked at the gross margin, which is in
24 Exhibit A. We supplement what we sell with some products
25 that we bring in from overseas. Again, just expanding our

1 distribution or range of products so the customers can buy
2 an assortment of groups from us. So I thought well if
3 rubber bands are being subsidized, I would expect them to
4 have a much larger gross margin than the other products that
5 I bring in from overseas.

6 In Exhibit A, you can see that tensioners and
7 sealers from Asia are 56 percent. Knives are 56 percent.
8 Rubber band are 58 percent and palipans are 57 percent,
9 which are off of the inquiry there. So basically, the gross
10 margin is pretty much the same.

11 So I was definitely surprised when I learned
12 that the rubber band business was being challenged as being
13 subsidized overall, because I don't see it as really
14 anything different from what I buy, you know, from other
15 parts of the world. So there's definitely not a difference
16 there on that.

17 It just seems a bit natural that, you know, if
18 the products from overseas were less expensive, there would
19 be a difference there in the margin. So you know, and a lot
20 of people buy from overseas because the labor's less
21 expensive in the marketplace. So you know, you are
22 expecting pretty good gross margin when you're importing.

23 I did have a question on whether the half
24 percent I heard from Alliance included freight or not.
25 Importing freight out of Thailand is much more expensive

1 than China as a whole. And then again I was surprised when
2 I learned that Alliance had been the company that filed the
3 anti-dumping request. They're a fairly decent-sized
4 business. While not at their peak, they still seem to have
5 significant critical mass.

6 I believe, I thought there was only two rubber
7 band companies, so I guess today I learned there were three,
8 you know, Alliance and Arrow Rubber out of Chicago. They
9 seem to dominate the market, and there's just not a lot of
10 choices or alternatives. I believe if you eliminate the
11 imports, there is going to be no competition in the U.S.
12 market, especially at some of the rates I have heard.

13 So let's look at -- one of the reasons that I
14 was surprised with Alliance is they actually took one of my
15 largest rubber band accounts a couple of years back, was
16 Fasten-All. I had worked hard to earn their business. We
17 were set up with them. They buy a series of products from
18 us, and you'll see in Exhibit B from the Fasten-All website,
19 those are Alliance rubber bands, privately labeled under the
20 Fasten-All brand.

21 I used to have all of that business, and now we
22 only operate as a supplemental support there. In this
23 particular case they came in, undercut my price and took
24 that business from me. So it's a little hard for me to
25 believe that they feel so -- they find it so difficult to

1 struggle against people like myself who do import some
2 rubber bands from Thailand on that.

3 There was another situation, pallet bands going
4 to Amazon, where I had done just a huge amount of work in
5 terms of trying to earn that business. I don't have any
6 proof positive that it was Alliance that took that from us,
7 but I had spent hours on the phone convincing their Safety
8 Committee that the pallet bands were safe to move product in
9 their facility.

10 Then when they came back to order the units,
11 even though I was much less expensive, I couldn't supply
12 them the quantity they needed fast enough. I believe there
13 were only two companies in the country at that time that
14 would have had the 30 to 40 thousand pallet bands on their
15 floors. So in that case, I had done all of the work there
16 and ended up losing that business. But again, I have no
17 proof that was Alliance who actually was able to earn that
18 business.

19 Another interesting fact that I found was that
20 Alliance is importing from overseas, raw materials and
21 rubber bands from Asia. So you'll find in Exhibit C that
22 shows a report from a company called Pangeva that tracks
23 shipments into the U.S., showing some imports from Alliance
24 out of China.

25 I highlighted some of the cases where they are

1 importing. So it's just a little hard to understand how
2 they can be claiming that they're making an American product
3 when they seem to be supplementing what they bring in from
4 overseas. I assume the Committee would have that
5 information already in front of them, but I went in and
6 pulled out some instances of that occurring.

7 There, you'll see it's highlighted, and you
8 know, there's a fair number of shipments coming in. So it's
9 a little bit like the kettle or the pot calling the kettle
10 black. Alliance made the argument that they had lost some
11 market share, and they claimed that they used to be a lot
12 bigger, you know. What is causing this?

13 Well, my first thoughts is there's a lot of
14 competitive products out there. Three of them that I list
15 is bundling film, zip ties and paper straps. You know, I
16 was in the strapping business from 1990's onwards, and the
17 stretch film side of the business has taken a huge chunk out
18 of the strapping business.

19 Stretch film is much easier to wrap a pallet,
20 much more efficient, and I believe bundling film, which is a
21 smaller type of stretch film, has probably done the same
22 thing to rubber bands. You know, when you're looking to
23 hold products together, you're looking for a quick and
24 efficient way of doing that. You go back two or three
25 decades and there were not a lot of alternatives there in

1 that.

2 So the stretch film has consumed a large amount
3 of that business. There's several slitters now in the
4 bundling side of the business that didn't exist a couple of
5 years back. Businesses like Western Plastics out of
6 Georgia, Apex out of North Carolina, Stretch Tape out of
7 Cleveland all have grown and become much more mainstream.
8 You see them at almost all of the packaging shows now
9 selling their bundling film.

10 It's all about the same thing, basically holding
11 product together. So they didn't exist really a couple of
12 decades back, and definitely not in 1995 when they were at
13 their peak. You also have some other entrants into like the
14 paper strap industry, where companies importing or
15 manufacturing machinery.

16 Falin's out of Milwaukee is very strong. ATS
17 out of Switzerland are now name brand companies selling
18 paper strap to secure small bundles. The price of these
19 machines have dropped considerably, and the technology has
20 improved. The paper strap is just used to hold a couple of
21 small boxes together.

22 Zip ties and twine. Once the domain of just a
23 couple of major companies, you have several importers now
24 selling these. These come to mind because we used to sell
25 rubber bands to a fence post company that would use them to

1 secure labels to the fence post. But there's cheaper ways
2 to secure a label, and one of those comes from Bedford
3 Industries, has a little bulbous zip tie, where the little
4 ball gets pulled through the zip tie.

5 I believe that's how they're now securing their
6 labels, because they think it's more attractive and faster
7 to put onto the product. From a channel standpoint, so
8 those are alternative products that I think have probably
9 impacted them overall and could account for a lot of the
10 loss in the marketplace.

11 From a channels standpoint, you know, the
12 Internet has been game-changing. Large companies like
13 Staples and Granger now go direct, and to expect otherwise
14 just seems to floor me that that would be a surprise to
15 anybody. The larger retailers uses of products has gotten
16 much more sophisticated, and they have to compete with each
17 other.

18 The resellers like Amazon. This channel
19 shortening is an economic-wide phenomena, and if they have
20 lost business to major customers going overseas, well
21 welcome to the club. We all deal with this every single
22 day. I find their surprise in the fact that some of the
23 larger retailers are going overseas truly a little
24 shocking, because I've been living in this world where this
25 has been occurring over the last decade, where my major

1 customers now go and source product from overseas, and we
2 have a choice to compete with that or supplement their
3 offering.

4 We all deal with this issue, and you know,
5 unless you're going -- the Amazon and Ali Baba are going to
6 continue flattening the relationships between users and
7 manufacturers of their products. You know, unless you
8 outlaw Amazon, Ali Baba and the Internet, this is a new
9 world we all live in as manufacturers. It's something we
10 have to address and deal with.

11 We try to address and deal with it every single
12 day by coming up with unique and proprietary products, and
13 making sure that our customers are whole, are happy and
14 content. So I don't know what Alliance is doing in those
15 regards, but from my perspective it's just the nature of the
16 beast. Granger, Staples, Fasten-All, Uline, all source
17 directly now. A lot of them have subsidiaries over there
18 doing the sourcing for them.

19 Finally, I can only address what I see. My
20 world is one of packaging. I don't know the retail side of
21 the business or some of the other fish industry or things
22 like that. But we sell to a number of distributors
23 throughout the country. What I don't see from Alliance is a
24 lost sales effort.

25 I have spent 35 days on the road this year out

1 selling to my customers. 17 percent of my work time has
2 been away from my family, visiting and calling on customers
3 and working shows. I will be the first to admit that I may
4 be wrong here, but I don't see them at my customer shows. I
5 see Sealthere, 3M, Praegis, Inner Tape at a host of other
6 shows, but not Alliance.

7 We had at least five people at our booth in the
8 Chicago Packaging Show. This is the largest packaging show
9 in North America occurring this year. We showed our
10 products there including rubber bands. Exhibit D shows the
11 Alliance booth empty on the third day of the show at 10:10,
12 which should have been prime time. They only had one sales
13 person at the show. So my question is where's the owner of
14 the business?

15 I work all of the packaging shows because I'm
16 one of the best sales people for the company, and it shows a
17 presence and a commitment. If this is the largest packaging
18 show in the industry, then somebody should be there running
19 that show. I don't remember the Mexican Packaging Show. I
20 remember seeing them at the Mexican Packaging Show. I could
21 have been wrong there, but that's a huge market for us and
22 from an agricultural standpoint I would think that they
23 would be there.

24 Maybe Bonnie could comment on whether they had a
25 booth there at that show or not, or the one in the District

1 Federale and Guadalajara. So where we take a team down
2 there and sell our packaging hand tools because the fact
3 that the Mexican market is still using a lot of hand
4 packaging products.

5 So if you're looking for a reason why they may
6 have a loss in sales, my suggestion is that they should
7 think about what might be happening here. Encore, we do the
8 work. We visit our customers, we market our products. Any
9 business that we have developed or taken from Alliance has
10 been earned because we put in the time.

11 I don't believe we have somehow or another been
12 subsidized in our success by Thai manufacturers. We have
13 earned this business, and we have by our hard work. In some
14 ways I find it a bit maddening that the perception would be
15 anything different from the fact that we go out and knock on
16 doors and call our customers and take care of them.

17 A couple of key takeaways. We have lost
18 business to Alliance due to pricing, hardly dumping, and by
19 the way we don't have the luxury of paying bonuses to our
20 employees. We do pay small bonuses, but they're nothing
21 major. They import raw material and finished goods from
22 overseas themselves. Alternative products and channels
23 impact the market, and this needs to be considered, and this
24 might be what's happening, and Alliance may have some
25 responsibility for the loss of market share.

1 Thank you for your time. I am again just
2 familiar with the packaging side of the business, and I
3 don't know the pricing or cost structure of the bands coming
4 out of China. There may well be some issues there going
5 forward.

6 But it seems in regards to LHH and the rubber
7 bands we import out of Thailand, I sincerely believe there
8 isn't any dumping issues going on here, and the preliminary
9 findings of the de minimis claim for LHH should be upheld in
10 the final ruling, and this only seems fair to the employees
11 and families of Encore Packaging who work hard every day to
12 earn their business. Thank you very much.

13 CHAIRMAN JOHANSON: Thank you Mr. Nelson again
14 for appearing here today. We will begin questions with
15 Commissioner Williamson.

16 COMMISSIONER WILLIAMSON: Thank you Mr. Nelson
17 for presenting your testimony. I was -- one of the things
18 we had talked about this morning was the contracts with the
19 -- the fact that they're not regular, annual biz as we see
20 in some industries. I was wondering if you wanted to
21 comment on your -- which from your perspective, what you
22 have seen in terms of the nature of contracts with major
23 retail companies?

24 I understand that you're primarily in the
25 packaging business. Is that different or --

1 MR. NELSON: We do some business with Staples.
2 We sell a line of stretch film applicators there, and
3 they're considered their high end units, and they also bring
4 in some competitor products a swell from overseas in that
5 case. But the Granger, the Fasten-Alls, the Master Cars,
6 the Ulines, you know, they will usually go through a product
7 offering or a range in their catalogue, and that is when
8 it's put out to bid.

9 COMMISSIONER WILLIAMSON: So it's not an annual
10 thing. It may be every two or three years or --

11 MR. NELSON: It's every two or three years,
12 yeah. They tend to roll through the catalogue from my
13 general understanding of that. With Staples, what we have
14 isn't a major part of what they sell. So I think they tend
15 to not bother with us too much. It's a pretty minor
16 business.

17 COMMISSIONER WILLIAMSON: Okay thank you, and
18 that's a function -- and that's a major purchaser will take
19 that into account in deciding how often they want to examine
20 that?

21 MR. NELSON: Yeah. I think we go into a product
22 category, and whether it be office products or packaging,
23 and the look at the very different list of products and look
24 for the 8020, the ones that are, you know, most valuable
25 there. We'll come back and put them out to bid and work

1 with them. But we have to get out to see Staples about once
2 a year, and go out and visit with them and try to pitch
3 other products or what we have.

4 COMMISSIONER WILLIAMSON: Okay. I guess I don't
5 know if you have much -- you say you haven't had -- you
6 don't do import from China at all?

7 MR. NELSON: I import some hand tools from
8 China.

9 COMMISSIONER WILLIAMSON: But not --

10 MR. NELSON: No rubber bands, no. All Thailand
11 so --

12 COMMISSIONER WILLIAMSON: Because I was going to
13 ask you, you know, there's been this supplemental duties,
14 the 301 duties and from your view, these actions, you think
15 they will have much of an impact on the Chinese presence in
16 the U.S. market?

17 MR. NELSON: Yes, I believe they would. Yes, so
18 I know even if -- even unless LHH has a de minimis ruling,
19 from my understanding from my attorney is that there's a
20 clawback provision and you can go back three to five years
21 in terms of looking at duty and things like that. As a
22 small business owner, that's scary to me in that I have that
23 potential liability sitting out there, and it would probably
24 make me shy away from bringing rubber bands in because
25 there's not -- you know, at the end of the day that worry

1 is something that's real for me.

2 COMMISSIONER WILLIAMSON: Okay. Are you seeing
3 lost sales because of the direct imports, I mean of your
4 customers bringing goods directly in from China that had
5 formally would have --

6 MR. NELSON: We have some regional distributors
7 who do that, to bring product in, and it's just specially
8 yes. So that happens and I believe it's just the nature of
9 the world we live in, and you have to continue to figure out
10 how to make the products proprietary and add value to what
11 they do.

12 They have an interest, you know, they're buying
13 10,000 SKUs, and you know from a 1,000 to 10,000, and you
14 have to make sure that you're the path of least resistance
15 there for them. So you have the quality issue, you have the
16 price issue and you have the service issue, and all those
17 have to be managed, and then you have to get out to see them
18 and meet with them and talk to them, and find out what their
19 needs are.

20 COMMISSIONER WILLIAMSON: Okay, and you talked
21 about regional distributors. What are they by the way?

22 MR. NELSON: Yeah.

23 COMMISSIONER WILLIAMSON: What's a distributor
24 in this business, yeah?

25 MR. NELSON: Yeah. I mean you have regional

1 people who are rather large sized, who have the capabilities
2 and the wherewithal to bring in container loads from
3 overseas. So they may bring in a container load of rubber
4 bands and actually resell them out to other people.

5 COMMISSIONER WILLIAMSON: Are those rubber bands
6 that are going to be say wind up in a place like Dollar
7 Store or wind up in a corner grocery? Or is this more for
8 people who need rubber bands from Palatine or other
9 packaging?

10 MR. NELSON: I'm the other, other side. I don't
11 think those larger players have the wherewithal, somebody
12 like Alliance to deal with, you know, a platform across the
13 country and the volume and things like that. I mean
14 importing's complicated because you never quite know what
15 your customers are going to buy.

16 So you have to carry a fair amount of goods on
17 it, and people think, they get into it because they feel
18 it's easy, and they learn pretty quickly it's not that
19 simple, and you have to pay for your goods before they ship.
20 You have it on the water for 45 days, and then, you know.
21 So it's a challenging part of the business.

22 COMMISSIONER WILLIAMSON: Okay. What role are
23 we seeing with the Internet retailers. What impact is that
24 having on sales in the business? I mean sales of your --
25 the products you sell?

1 MR. NELSON: Yeah. I think -- yeah. We're
2 definitely watching the -- whether the Amazon, Ali Baba or
3 eBay are reaching out, especially to the B to B. Then
4 recently Ali Baba reached out and offered up a concierge to
5 help me source my products overseas. I was a little floored
6 that they were willing to take somebody from San Jose who
7 spoke English just fine, and help me source my products out
8 of Asia.

9 You know, so as I look at things as an American
10 manufacturer, as a proud American manufacturer, that's on my
11 radar screen. So you know, the defense I have is to one,
12 have a large enough infrastructure to grow my business, to
13 compete with them from a price standpoint, and then add
14 value with proprietary products.

15 We spend a tremendous amount of money patenting
16 our products out there, to give me some sense of protection.
17 But you know the patenting I only have is in the U.S.,
18 because international patent is just way too expensive for
19 us. I can't manage it as a company.

20 So but the flattening that's going on right now
21 I think will just continue to pick up speed --

22 COMMISSIONER WILLIAMSON: Flattening. Could you
23 clarify?

24 MR. NELSON: Meaning that the end user and the
25 manufacturer, the middle people in the industry are going to

1 disappear. So you know, in some ways I think Alliance is
2 strategically positioned to service the market, because
3 they're manufacturing here, you know, in this country, and
4 they should be able to figure out ways to lean out their
5 manufacturing process and the automation so that they can
6 compete with Thailand.

7 I don't know what their cost of goods sold is,
8 but I believe the cost of the rubber bands are -- the raw
9 material cost is the large cost of goods sold. Labor, I do
10 not believe, is a large part of their business. I don't
11 know, but I'm guessing there just because of the impact we
12 see when the cost of rubber goes up and down, and what we
13 see from our suppliers there.

14 So in theory, they -- someone like myself might
15 be bringing in, you know, having to add a layer of cost. I
16 need to make 30 to 40 percent, at least 50 percent markup on
17 my products in order to earn back my money and the people I
18 have internally in the company, and they're basically
19 selling direct. They're going from them to Staples, you
20 know, or from them to my customers. I have to bring it in
21 and compete with them.

22 COMMISSIONER WILLIAMSON: Okay. Of the subject
23 product, how important is proprietary products that are
24 protected by patents. Is this a significant part of the
25 business or --

1 MR. NELSON: For rubber bands or --

2 COMMISSIONER WILLIAMSON: Yeah, for rubber
3 bands.

4 MR. NELSON: The grade is important in terms of
5 the application in the industry. There's definitely a
6 certain amount of commoditization out there in the industry.
7 I think if you're going to Staples and you're picking up a
8 bag of rubber bands, you're probably not reading the label
9 to read the crepe level on it. I think B to B is much more
10 focused on the performance.

11 COMMISSIONER WILLIAMSON: What did you say about
12 the crepe level?

13 MR. NELSON: The crepe level of the rubber
14 bands, which is the natural rubber, the amount of rubber in
15 the rubber bands itself. You know, I think the average
16 consumer really isn't flipping it over and looking at that
17 quality level, you know, and I believe Alliance has the best
18 quality rubber bands in the industry.

19 So if you, you know, if you're looking for a
20 really high end rubber end that's going to hold up, they're
21 going to have it. In some cases we can't compete with it.
22 You know, if the customer's looking for an 80-85 percent
23 crepe level, we can't compete with them. We don't really
24 offer it because it's too niche for us.

25 COMMISSIONER WILLIAMSON: Okay, okay. Thank you

1 for those answers.

2 CHAIRMAN JOHANSON: Commissioner Broadbent.

3 COMMISSIONER BROADBENT: Thank you, Mr. Nelson.
4 Given that your supplier received a zero dumping margin and
5 a zero subsidy margin, are you still concerned about getting
6 adequate supply of rubber band imports?

7 MR. NELSON: I think the zero means that there
8 won't be any customs. I should be able to purchase from
9 them, so I don't -- you know, there's a chance that other
10 people are going to come to them and try to buy from them I
11 would assume in the industry and shift over. But I have not
12 put a lot of thought to that in that, you know, I hope they
13 will continue to supply us.

14 COMMISSIONER BROADBENT: Okay. You stated that
15 freight costs out of Thailand are significantly greater than
16 those out of China. Why is that?

17 MR. NELSON: I think they have to make two stops
18 actually. They'll go to Thailand and then they come
19 somewhere else. I do know that it takes us about six weeks
20 to get a shipment out of Thailand, and when I look at my
21 cost structure there, it's higher than what I pay for China.
22 China's done an excellent job streamlining the freight
23 system into our country.

24 COMMISSIONER BROADBENT: All right.

25 MR. NELSON: You know, they just have ships

1 leaving every single day. It's incredible how good they are
2 at what they do. A little scary.

3 COMMISSIONER BROADBENT: How often do your
4 customers list price as an important purchasing factor
5 compared with other factors?

6 MR. NELSON: We tend to keep our price the same.
7 We don't move it up or down over time. So we might have a
8 price adjustment over every year. If there are large, I
9 mean requests, sometimes we will lower the pricing for them
10 if they're looking at, you know, 500 or 1,000 pounds of
11 something. That may occur maybe one every 50 orders on
12 that.

13 COMMISSIONER BROADBENT: Okay. You stated that
14 Alliance won the Fasten-All business with a low price bid.
15 Does this show that prices are the most important factor in
16 purchasing decisions?

17 MR. NELSON: I think they were really into
18 private label as well, so and in -- I don't know why they
19 won. Actually, I don't know why. I'm assuming it was the
20 lower price than what I was able to do. So I believe they
21 private labeled that for them. I do know they sell for
22 Dollar -- my rubber bands are on Fasten-All's website is a
23 dollar more expensive.

24 COMMISSIONER BROADBENT: Okay. Have you seen
25 any producer stop production of rubber bands due to a

1 decline in U.S. demand for rubber bands?

2 MR. NELSON: No. Not to my knowledge, no.

3 COMMISSIONER BROADBENT: Okay, good. Thank you
4 for appearing. I appreciate your testimony.

5 MR. NELSON: Thank you.

6 CHAIRMAN JOHANSON: Commissioner Schmidtlein.

7 COMMISSIONER SCHMIDTLEIN: All right. Thank you
8 very much, Mr. Nelson.

9 MR. NELSON: Thank you.

10 COMMISSIONER SCHMIDTLEIN: For appearing here
11 today. I just had a couple of questions. This morning or
12 earlier this morning we heard some testimony with regard to
13 demand trends for different segments of the rubber band
14 market.

15 MR. NELSON: Yes.

16 COMMISSIONER SCHMIDTLEIN: Do you have any
17 insight into that? Do you agree with Alliance that the
18 newspaper segment has experienced a decline in demand in
19 terms of for rubber bands, but the other segments like ag
20 are increasing? Has that been your experience as well?

21 MR. NELSON: I don't have a lot. Obviously the
22 newspaper industry has declined substantially. I think in
23 the strapping world as well, just because of the fallout of
24 the newspaper industry. The strapping's fallen off as well
25 as the rubber band. So that doesn't surprise me at all. On

1 the agricultural side of the business, I would perceive that
2 as fairly steady way of holding products together.

3 It would be more the other areas of bundling
4 boxes and things like that, or holding some products
5 together for shipment, where I think the stretch banding has
6 probably come in and taken some of that share away.

7 COMMISSIONER SCHMIDTLEIN: So do you see -- what
8 segments do you think are increasing?

9 MR. NELSON: Segments for the rubber band side
10 of it?

11 COMMISSIONER SCHMIDTLEIN: Uh-huh, uh-huh.

12 MR. NELSON: That I don't know.

13 COMMISSIONER SCHMIDTLEIN: You wouldn't know?

14 MR. NELSON: Yeah. I really don't have an
15 opinion it per se so --

16 COMMISSIONER SCHMIDTLEIN: Okay. Do you -- just
17 sort of switching gears here a little bit. Do you find that
18 you're competing against other suppliers who are bundling
19 their product with other office supply products? Is that a
20 phenomenon that you sometimes see and sometimes experience
21 to your disadvantage?

22 MR. NELSON: Not as much in packaging. The
23 office supplies come through a similar channel, but they're
24 not as much as with ours. We're much more industrial in
25 nature there, you know.

1 But there is a large company called Essendant,
2 E-S-S-E-N-D-A-N-T, who has done very well as sort of being a
3 master redistributor for janitorial and office supplies
4 going into companies, and they sell through the distribution
5 channels there, and who's supplying them with the rubber
6 bands I don't know in that case.

7 COMMISSIONER SCHMIDTLEIN: Okay, okay. And then
8 I'm just curious. You mentioned that you often find
9 yourself competing against other imports that are at a third
10 of your cost I think you said at the beginning?

11 MR. NELSON: Yeah, the tensioners, yes.

12 COMMISSIONER SCHMIDTLEIN: How do you compete
13 with that?

14 MR. NELSON: Through quality and service on
15 that. So there is a distinct difference -- there is a
16 difference in quality on that. But there's a certain part
17 of the market you just have -- unfortunately you have to
18 give up. If price is the only determining factor there,
19 then it tends to be a business that is unattractive to us.
20 So what we have to do is we have to expand our product
21 offering.

22 So we've shifted not just into the strapping
23 tool world, but now we make paper units and we make stretch
24 film applicators and we make other items. So we tend to
25 walk away from that business that is strictly price-driven,

1 because I don't see a way around it, and I perceive it's
2 only going to get worse.

3 So we're adding, getting into other markets
4 where our innovation and technology can provide value for
5 the customers.

6 COMMISSIONER SCHMIDTLEIN: I know that
7 Commissioner Broadbent asked this, but do you view the
8 rubber -- or asked some form of this. Do you view the
9 rubber band market as being strictly price-driven?

10 MR. NELSON: Not to our customers, no. It's
11 convenience-driven for them.

12 COMMISSIONER SCHMIDTLEIN: It's
13 convenience-driven, okay.

14 MR. NELSON: Yes. I mean if they want -- if we
15 have the product on our -- you know, obviously they won't
16 pay four times as much, but if -- you know, once in a while
17 we'll get a bid for 1,000 or 2,000 rubber bands, where price
18 is an issue for the customer on that, or we can't exceed a
19 certain price.

20 But for the 25, 50 pounds, you know, 15-20
21 orders a day that we sell of those, it's all about do you
22 have it in stock and can you ship it out today to take care
23 of my customer. But I do believe the industrial side of the
24 business is probably slightly different than the retail
25 side. I mean when you're looking at a big end creature like

1 Staples, I suspect that's very price sensitive on it, in
2 that case.

3 But it doesn't surprise me. It actually
4 surprises me that they hadn't been -- that Staples sources a
5 lot of products from overseas. So it doesn't surprise me at
6 all that they would do that.

7 COMMISSIONER SCHMIDTLEIN: Yeah, okay.

8 CHAIRMAN JOHANSON: Commissioner Kearns.

9 COMMISSIONER KEARNS: I also wanted to thank you
10 for taking the time out of your schedule and coming down to
11 talk to us. We appreciate it. I just wanted to back up.
12 So you manufacture some products here in the U.S.? Can you
13 just tell us a little bit more about your business, what you
14 make here and what you import?

15 MR. NELSON: Yeah, we make a line of steel and
16 plastic strapping tools. And for the plastic strapping
17 tools, we're the only company left in the U.S. making those
18 here. And we sell those through distributors throughout the
19 U.S. on those. We make a line of strapping carts.

20 We make some paper crumpler devices and bubble
21 foam dispensers, things along those lines, mostly manual in
22 nature. Though we're quickly pushing into the automation
23 side of the business, addressing some of my concerns about
24 the market continuing to get smaller and more
25 price-competitive down in our market there.

1 COMMISSIONER KEARNS: So all those products you
2 just mentioned, you make all those in the U.S.?

3 MR. NELSON: We do. And I supplement those with
4 some imports actually from China that are price-driven in
5 those cases so that our distributor who wants to buy, they
6 want to have both the quality and the price. A lot of that,
7 you know, U-Line is very good about having -- they import
8 most of their stuff from overseas. And our distributors
9 compete with them head-on, and so we have to help them do
10 that competition.

11 COMMISSIONER KEARNS: Okay, thank you. And am I
12 right that with respect to rubber bands, you only sell into
13 the industrial packaging portion of the market?

14 MR. NELSON: Yes. And we've been with the one
15 company for ten years and, for me, it's a pretty steady
16 business for us. So again, I was surprised when it came up
17 as an anti-dumping thing. And I didn't expect it would come
18 up as an issue. We keep our pricing steady year in, year
19 out, and make a decent margin on it, but it's not out of the
20 ball-park. And I know my customers come and go -- I lose
21 some customers from time to time as well, so --

22 COMMISSIONER KEARNS: Yeah. Okay. And you don't
23 have any idea what percentage of the overall market is
24 industrial packaging, do you? Any guess there?

25 MR. NELSON: I do not, no.

1 COMMISSIONER KEARNS: I can understand why you
2 wouldn't. Yeah. Okay, thank you. I'd like to understand
3 the sales process a little bit better, at least in your
4 segment and market. For the customers you sell and try to
5 sell to, how do they make purchasing decisions? How does
6 price enter into the process? Do the purchasers use prices
7 of other companies as leverage to get you to lower your
8 prices?

9 MR. NELSON: We'll see some of that as
10 competitive bid. You know, it depends, I think, a lot on
11 the size of the sale. And if we're looking at a 25-pound of
12 industrial -- you know, the purchasing agent who might be
13 buying for packaging houses, you know, they're just
14 interested in getting that order off their desk, you know?

15 And so, in that case, it's all about convenience
16 and coming to us, and the fact that we carry it in our
17 channel. Before we got into this particular space, I don't
18 believe the packaging industry, per se, had easy access to
19 rubber bands, so that's one of the reasons why, you know,
20 when I started the business ten years ago, that we added
21 rubber bands to the offering, and they were needed from a
22 packaging standpoint.

23 We will obviously from time to time, have some of
24 our customers call up and say, "Yes, but I can buy it from
25 Schermerhorn or -- you know, or one of the other -- other

1 companies out there at a lower price. Can you please match
2 that price?"

3 Freight is another big issue in this industry,
4 the rubber band side of it. And so we only have one
5 location in Chicago, you know, but if you look at somebody
6 who might be manufacturing and can ship product into
7 different locations and warehouse them there, that gives you
8 a significant advantage if you have the critical mass to
9 have a warehouse person in a facility there.

10 COMMISSIONER KEARNS: Okay. And that --

11 MR. NELSON: Several disadvantages on shipping to
12 the West Coast, basically.

13 COMMISSIONER KEARNS: Yeah. I think my last
14 question. So did I hear you right that, with respect to
15 industrial packaging, you see a bit of a decline in demand
16 for rubber bands because of these alternative products, the
17 wrapping--can't remember what term you used--but those other
18 alternative products have been taking some of the market
19 from rubber bands?

20 MR. NELSON: Yeah, absolutely, yes.

21 COMMISSIONER KEARNS: Any guesses as to how much
22 of the demand for rubber bands has declined in that segment?

23 MR. NELSON: What I do think is, you know, when I
24 do think about the application and the bundling, what I do
25 see is the growth in the stretch bundling film. And the

1 emergence of companies that do nothing but that. And their
2 product is designed to hold product together.

3 And so that would be my key indicator there, that
4 if you go back a couple of decades, all you had was a rubber
5 band if you wanted to take two boxes and sort of hold them
6 together -- or you know, I believe we've done some -- you
7 can use the stretch wrapping very quickly, very easily, and
8 it's very inexpensive product.

9 COMMISSIONER KEARNS: Yeah.

10 MR. NELSON: And we've seen that in the strapping
11 world. The stretch film has just probably cut that entire
12 industry in half, you know, and so what we did to counteract
13 that is we developed tools for applying stretch film.

14 COMMISSIONER KEARNS: Okay. Thank you very much.
15 I have no further questions.

16 CHAIRMAN JOHANSON: Thank you again, Mr. Nelson,
17 for appearing here today.

18 MR. NELSON: Thank you so much.

19 CHAIRMAN JOHANSON: Certainly. And I have
20 another question or two for you. I was wondering, are
21 rubber bands, is the market seasonal in nature? We have
22 learned today that there is an increased use of rubber bands
23 in agriculture, is that --

24 MR. NELSON: Yes, absolutely.

25 CHAIRMAN JOHANSON: I mean, there's more of a

1 seasonal sales cycle?

2 MR. NELSON: Yes, I would say that's true, yes.

3 CHAIRMAN JOHANSON: Okay. And does the
4 seasonality affect your purchasing, importing and/or sales
5 patterns?

6 MR. NELSON: Typically, if you don't have it in
7 stock, you won't get the order. So if you have -- if
8 someone's harvesting vegetables down in, you know, Nogales,
9 you know, you better have the rubber bands, or they're gonna
10 go elsewhere. And all of a sudden, price becomes nonfactor
11 of the entire issue for that.

12 So I believe there is definitely a segment of the
13 industry that's very cyclical or seasonal in nature. We see
14 that in some of our strapping tools as well. We'll ship
15 large quantities down to Nogales and they put it on trucks
16 and they're taken over the border there when they're doing
17 their tomato harvest there and then they bring it all back.

18 CHAIRMAN JOHANSON: Does the seasonality, does
19 that benefit the U.S. manufacturer? Since they are more
20 likely to have the product readily available?

21 MR. NELSON: They would be able to respond. I've
22 definitely lost a lot of orders because of my 90-day lead
23 times. And there's just nothing -- you know, if I don't
24 have the product and can't react, then I lose the business.
25 We've definitely walked away from a lot of business where

1 people call and want to buy, you know, 500 or 1,000 or 2,000
2 pounds from us and we just don't have it.

3 CHAIRMAN JOHANSON: What would you say is your
4 biggest factor affecting your purchasing decision?

5 MR. NELSON: Inventory and cash. So I'm having
6 to pay for everything up front. So when we're buying a
7 containerload of rubber bands, it's definitely on my radar
8 screen. And so I trust my staff to make the proper choices
9 there.

10 And, you know, importing's very lumpy in nature.
11 And so if I don't have enough of one product, then I have to
12 be out of stock of it for an extended period of time,
13 waiting for the next shipment, and my customers who come to
14 me when that happens, and they have to go back out to the
15 market and find it from somebody else and that opens the
16 door for my competitors to come in and buy from them. So
17 we're trying to maintain our inventory and stock and avoid
18 that happening.

19 CHAIRMAN JOHANSON: With the factors driving your
20 purchasing decisions, how does the domestic industry compare
21 to Thai and Chinese subject imports regarding these
22 criteria?

23 MR. NELSON: In terms of delivery? Or --

24 CHAIRMAN JOHANSON: Right. Delivery. Product
25 availability. All the factors you've listed.

1 MR. NELSON: I believe Alliance has a pretty good
2 reputation for having product in stock. I don't know that
3 as a fact. We don't buy from them. We do buy from time to
4 time from Aero Rubber in Chicago when we run out. And in
5 that case, we're still able to buy from them and resell the
6 product. I don't think I answered your question there.

7 CHAIRMAN JOHANSON: No, I think you did.

8 MR. NELSON: Okay, that's good.

9 CHAIRMAN JOHANSON: Thank you. That concludes my
10 questions. Do any other Commissioners have questions for
11 Mr. Nelson? Okay. Do staff have any questions for Mr.
12 Nelson?

13 MR. ROBINSON: Chris Robinson. Staff have no
14 questions.

15 COMMISSIONER JOHANSON: Do petitioners have any
16 questions for Mr. Nelson?

17 MR. GOLDBERG: Yes, thank you, Chairman. Just a
18 few questions. Good morning, Mr. Nelson. What is your
19 basis, if it's your testimony, that Alliance has imported
20 from Asia in-scope rubber bands from January 2015 to the
21 present?

22 MR. NELSON: I went to Panjiva and pulled the
23 importation records off of there and I included that in the
24 exhibit. It does clearly say rubber bands on the tariff
25 code there.

1 MR. GOLDBERG: There's a reference to a global
2 rubber band. Do you know whether that's an in-scope rubber
3 band?

4 MR. NELSON: No, I do not.

5 MR. GOLDBERG: And by in-scope, I mean this
6 investigation has certain sized rubber bands that are within
7 scope and certain sizes that are not. Is that consistent
8 with your understanding?

9 MR. NELSON: Yeah, so they're importing things
10 that they haven't filed the petition for?

11 MR. GOLDBERG: Well, I --

12 MR. NELSON: That sounds very disingenuous to me
13 to try to carve out part of the business and then file
14 against -- you know, bring in from one side and then block
15 everyone else from another part of it, and then make claims
16 against that.

17 MR. GOLDBERG: Well, I'll give you an example.
18 The record is clear that Alliance imports rubber band balls,
19 which are not part of the scope. They do that because of
20 the intensive labor costs in making one of those rubber band
21 balls.

22 So I'm trying to find out, from your research,
23 did you identify any actual rubber band products within the
24 scope of this investigation that were imported by Alliance
25 during the period of investigation?

1 MR. NELSON: What I used was the tariff code to
2 drive that review. So whether those rubber bands were
3 in-scope or not in-scope, that I do not know.

4 MR. GOLDBERG: And the only evidence that you
5 found was whatever's in your exhibits?

6 MR. NELSON: That is a sample of what I found in
7 the exhibit there. It looks like they're bringing -- if
8 they're bringing rubber band balls into Salinas, California,
9 that would seem to be an odd fit for me. I don't know what
10 the ag side of the business would be doing with rubber band
11 balls. Salinas is primarily designed for the San Fernando
12 Valley and San Joaquin Valley and growing there.

13 MR. GOLDBERG: Do you know whether those rubber
14 bands are greater than 10-inches?

15 MR. NELSON: I do not, no.

16 MR. GOLDBERG: Your Exhibit C refers to an
17 Alliance Hose & Rubber Company. Is it your understanding
18 that Alliance Rubber Company uses the name Alliance Hose &
19 Rubber Company?

20 MR. NELSON: I did dig into that, because I
21 wanted to be careful in presenting, but the address given on
22 the import records are the same as their corporate
23 headquarters.

24 MR. GOLDBERG: Did you do any more due diligence
25 to find out whether or not this shipper report that you

1 obtained was applying the correct address to this name of a
2 company, Alliance Hose & Rubber?

3 MR. NELSON: I did not, no. But there were
4 definitely a lot of entries there for them, and I do tend to
5 trust the U.S. Customs --

6 MR. GOLDBERG: Have you --

7 MR. NELSON: -- that they would be accurate.

8 MR. GOLDBERG: Did you do any digging to find out
9 who Alliance Hose & Rubber by going on the Internet or
10 anything like that?

11 MR. NELSON: Yes. I typed that in. I believe
12 their home address came up again.

13 MR. GOLDBERG: But beyond getting an associated
14 home address, did you find any existence of an Alliance Hose
15 & Rubber Company that made them the same entity that is the
16 petitioner in this case?

17 MR. NELSON: That I don't know.

18 MR. GOLDBERG: On the trade show, when it says
19 McCormick Place, that's your Exhibit D, does that mean
20 Chicago?

21 MR. NELSON: Chicago. Yes.

22 MR. GOLDBERG: Right. So when was this trade
23 show?

24 MR. NELSON: It was three, four weeks ago.

25 MR. GOLDBERG: Okay. And Alliance was at the

1 trade show clearly?

2 MR. NELSON: They did, they had a booth, yes.

3 MR. GOLDBERG: Okay. Did you talk to anybody
4 from Alliance as to how many sales leads they obtained
5 during the trade show?

6 MR. NELSON: No, I did not. No, there's just one
7 salesperson there and I just said hello and left it at that.

8 MR. GOLDBERG: And then you waited till they left
9 and took a photo?

10 MR. NELSON: My sales person went down there to
11 visit another customer and he went by the booth and he
12 seemed very surprised that there was nobody at the booth and
13 I asked him to go down and take a picture of that and he did
14 that for me.

15 MR. GOLDBERG: And did you ask anybody at
16 Alliance why they weren't at the booth at 10:00 a.m. on that
17 day?

18 MR. NELSON: No, I did not. No.

19 MR. GOLDBERG: Could they have been on a bathroom
20 break?

21 MR. NELSON: Could've been. Yes. I have five
22 people at my -- we make sure our booth is covered. It's the
23 biggest packaging show in the country and so I work the
24 show. I get in at 6:30 there in the morning and leave at
25 6:30 to 7:00 p.m. at night after we pack the booth up. So

1 it's a big show, it's a big opportunity. You get a lot of
2 customers coming in from Mexico and South America, so you
3 know, if you're interested in selling rubber bands down
4 there, it's not a bad show to be at.

5 MR. GOLDBERG: What about U.S. purchasers? Are
6 they an important part of the show?

7 MR. NELSON: They are, absolutely.

8 MR. GOLDBERG: And it looks like this picture
9 taken by your staff person shows a fairly big booth, at
10 least there's sort of an angular table with a corner and
11 then another table plus --

12 MR. NELSON: It is, yes.

13 MR. GOLDBERG: So do you have an issue with the
14 size of the Alliance booth at the show?

15 MR. NELSON: No, it looks standard.

16 MR. GOLDBERG: Why doesn't your company buy
17 rubber bands from Alliance Rubber Company?

18 MR. NELSON: They are less expensive out of
19 Thailand. And so I think there's a lot of people in this
20 particular country and around the world who buy from other
21 countries because of price. And we both sell to the same
22 distributors.

23 MR. GOLDBERG: Appreciate it. No further
24 questions.

25 CHAIRMAN JOHANSON: Thank you, Mr. Nelson, again

1 for appearing here today. We will now propose for the
2 petitioners' closing. And petitioners have twenty-eight
3 minutes of direct, three minutes for -- minus three. So
4 that's twenty-five minutes and five minutes for closing for
5 a total of thirty minutes.

6 CLOSING REMARKS OF ROY GOLDBERG

7 MR. GOLDBERG: Thank you, Mr. Chairman and
8 members of the Commission. I won't be taking anywhere near
9 that amount of time, just really a few points.

10 As far as Mr. Nelson's presentation, I think in
11 my last question I probably saved the best for last, but I
12 mean price is what that's about and we understand that. And
13 there was an importers' questionnaire that Alliance filled
14 out and it was accurately filled out. I don't know all the
15 stories as to why certain things are being attributed,
16 antidotal, but there was no mistake in the importers'
17 questionnaire.

18 You know is very clear that Alliance does import
19 some goods from Asia, like the rubber band balls, as
20 explained, but they are not bringing in in-scope rubber
21 bands, not during this time period. There are some larger
22 rubber bands that are out-of-scope and that's just for a
23 number of economic reasons that's what they do.

24 So, as far as just wrapping up, I think it's
25 important that the record and the pre-hearing record does

1 show this is much more than a case about a single sale that
2 was lost. I mean I think there's some old cases, if I
3 recall, that you could have injury from that, but that is
4 not our argument. That is not what we're alleging here.
5 Obviously, 10 percent of the Alliance business and having so
6 much to do with their profitability and their ability to
7 meet overhead the Staples' business was important. And I
8 think that it's important that it was a subject Thai import
9 and it's important that the evidence is the pricing was so
10 low and aggressive.

11 But this is not a case at all where we are
12 alleging just look at Staples. I mean that is one example.
13 There are other examples that we've given -- lost price in
14 sales and again, the pre-hearing report says that sales of
15 rubber bands from China -- subject rubber bands from China
16 benefitted from a downward trend in prices in the first half
17 of 2018 versus the same period in 2017.

18 And on pages 527 and 530 of the pre-hearing
19 report, as far as China and why they should be cumulated,
20 there's a lot of evidence that the staff was able to get
21 that goes back all the way to the beginning of the period of
22 investigation, since 2015, that 8 of the 22 responding
23 purchasers said they had purchased imported rubber bands
24 from China instead of U.S. produced product. And all eight
25 of those purchases said that the Chinese import prices were

1 lower than the U.S. produced product. Six of them said that
2 price was the primary reason for their decision to buy that
3 product. And one even said that a U.S. producer had reduced
4 prices in order to compete with the lower-priced imports
5 from China.

6 So, if we take the China side of it, I think
7 cumulation and causation and having nothing to do with the
8 Staples sale is there. On the Thai sale -- the Thai market,
9 again, it can be easily looked at by the Commission for --
10 you know Thai I think there was some testimony from Ms.
11 Swayze they have like 20 producers or exporters in that
12 market. You know the fact that one for various
13 commerce-related reasons having to do with the lack of a
14 home market and there's a public record that the third
15 country sales that they had so many of were Canada. You
16 know to that one Thai producer I suppose Vancouver and
17 Seattle aren't all that different and Toronto and New York
18 aren't all that different and that's fine. That's an
19 anomaly in the trade laws. Maybe that could be fixed. I
20 don't know. Because they can say we have no home markets.
21 There's no classic dumping to even consider and just look
22 what we're doing in Canada versus across the border and if
23 you don't see an issue there, then we don't have a margin.

24 Well, you know that's fine for them, but that
25 does not explain what's going on with anybody else in that

1 country and so it would be -- you know it's one weird
2 situation of the current trade laws, but hardly the driving
3 force behind the evidence in this case. And again, the
4 percentages show most of the goods coming in from Thailand
5 are not that exporter. So, if it was a reverse, you'd
6 frankly have the Bratsk situation, even with the ultimate
7 finesse that came a few years later in Mittal that's a
8 similar situation there were you had so much of the
9 non-subject import, such a high amount, but here it's the
10 reverse, so they are what they are. They had Canada to
11 compare to the U.S. and so be it, but it certainly is not
12 this story. Partly, because of Staples, but also partly
13 because of all of the other companies that are out there and
14 the numbers are in the pre-hearing report to show that you
15 can't just look at non-subject imports and say that's what's
16 going on here. It may be true for some customers.

17 Clearly, the one who was here, Mr. Nelson says
18 he buys there, but the pre-hearing I think details nicely
19 and the questionnaire responses that there's a lot of
20 subject Thai imports that are coming into the market. In
21 most of the cases, the import prices are lower than the U.S.
22 prices, so the evidence, I think, is undisputed that pricing
23 is driving this and therefore it's not a surprise that
24 Alliance is either losing that business, as they are, or
25 pricing lower to retain that business.

1 And then, again, I think I would stress, as I
2 already have today, that the non-subject imports it's not a
3 replacement test that is the current standard here. It is
4 do we have a situation where the subject imports were
5 causing more than some type of a tangential or incidental
6 impact on the U.S. industry. We believe we have shown
7 clearly that, in fact, the impact of that subject imports is
8 more than tangential or incidental, but that it's a serious
9 impact that is attributed to the unfair prices. Thank you.

10 CHAIRMAN JOHANSON: Thank you, Mr. Goldberg.

11 And also thanks to all others who appeared here today.

12 I will now make the closing statement.

13 Post-hearing briefs, statements responsive to questions and
14 requests of the Commission and corrections to the transcript
15 must be filed by November 20, 2018. Closing of the record
16 and final release of data to parties occurs on December 7,
17 2018 and final comments are due on December 11, 2018. This
18 panel is adjourned.

19 (Whereupon, at 12:37 p.m., the hearing was
20 concluded)

21
22
23
24
25

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Rubber Bands from China and Thailand

INVESTIGATION NOS.: 701-TA-598 and 600 and 731-TA-1408 and 1410

HEARING DATE: 11-13-18

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: 1-13-18

SIGNED:

Mark A. Jago
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:

Diane Rice
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:

Bala Chandran (raj)
Court Reporter

