

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.:
ALUMINUM WIRE AND CABLE FROM CHINA) 701-TA-611 AND
) 731-TA-1428 (FINAL)

Thursday, October 17, 2019
Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC

The meeting commenced pursuant to notice at 9:31
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 Jason E. Kearns

7 Commissioner Randolph J. Stayin

8 Commissioner Amy A. Karpel

9

10

11

12 Staff:

13 William R. Bishop, Supervisory Hearings and Information
14 Officer

15 Tyrell Burch, Management Analyst

16

17 Keysha Martinez, Investigator

18 Pedro Cardenas, International Trade Analyst

19 John Benedetto, International Economist

20 David Boyland, Accountant/Auditor

21 Jason Miller, Attorney/Advisor

22 Elizabeth Haines, Supervisory Investigator

23

24

25

1 Opening Remarks:
2 Petitioners (Sydney H. Mintzer, Mayer Brown LLP)
3 In Support of the Imposition of Antidumping and
4 Countervailing Duty Orders:
5 Cassidy Levy Kent (USA) LLP
6 Adduci Mastriani & Schaumberg LLP
7 Washington, DC
8 on behalf of
9 Encore Wire Corporation ("Encore")
10 Daniel L. Jones, Chairman, President and Chief
11 Executive Officer, Encore
12 Kevin Kieffer, Vice President Sales & Marketing, Encore
13 Jack A. Levy, Myles S. Getlan and Deanna Tanner Okun -
14 Of Counsel
15
16 Mayer Brown LLP
17 Washington, DC
18 on behalf of
19 Southwire Company, LLC
20 Aaron Asher, Vice President, Distribution, Southwire
21 Company, LLP
22 Jonathan Hendricks, Manager, Building Wire Products,
23 Southwire Company, LLC
24 Sydney H. Mintzer and Timothy C. Lee - Of Counsel
25

1 Closing Remarks:
2 Petitioners (Myles S. Getlan, Cassidy Levy Kent LLP;
3 and Sydney H. Mintzer, Mayer Brown LLP)
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

1		
2		Page
3	Petitioners (Sydney H. Mintzer, Mayer Brown LLP)	7
4		
5	Jack A. Levy, Cassidy Levy Kent LLP	10
6		
7	Daniel L. Jones, Chairman, President and Chief Executive	
8	Officer, Encore	14
9		
10	Kevin Kieffer, Vice President Sales & Marketing, Encore	18
11		
12	Daniel L. Jones, Chairman, President and Chief Executive	
13	Officer, Encore	22
14		
15	Aaron Asher, Vice President, Distribution, Southwire	23
16	Company, LLP	
17		
18	Petitioners (Myles S. Getlan, Cassidy Levy Kent LLP)	110
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

1
2 9:31 a.m.

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

5 CHAIRMAN JOHANSON: Good morning. On behalf
6 of the U.S. International Trade Commission, I welcome you to
7 this hearing on the final phase of Investigation Nos.
8 701-TA-611 and 731-TA-1428 Final, concerning Aluminum Wire
9 and Cable from China. The purpose of these final
10 investigations is to determine whether an industry in the
11 United States is materially injured or threatened with
12 material injury, or the establishment of an industry in the
13 United States that's materially retarded by reason of
14 imports of aluminum wire and cable from China.

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

21 All witnesses must be sworn in by the
22 Secretary before presenting testimony. I understand that
23 the parties are aware of the time allocations. Any
24 questions regarding the time allocations should be directed
25 to the Secretary. Speakers are reminded not to refer in

1 their remarks or answers to questions to business
2 proprietary information. Please speak clearly into the
3 microphones and state your name for the record for the
4 benefit of the court reporter and for those seated in the
5 back of the room.

6 If you will be distributing documents that
7 contain information you wish classified as business
8 confidential, we request you comply with Commission Rule
9 201.6. Mr. Secretary, are there any preliminary matters?

10 MR. BISHOP: Mr. Chairman, I would note that
11 all witnesses for today's hearing have been sworn in. There
12 are no other preliminary matters.

13 CHAIRMAN JOHANSON: Very well. Let us begin
14 with opening remarks.

15 MR. BISHOP: Opening remarks on behalf of
16 Petitioners will be given by Sidney H. Mintzer of Mayer
17 Brown. Mr. Mintzer, you have five minutes.

18 OPENING STATEMENT OF SYDNEY H. MINTZER

19 MR. MINTZER: Great, thank you and good
20 morning. My name's Sydney Mintzer, partner at Mayer Brown
21 LLP, appearing today on behalf of Southwire Company, the
22 largest U.S. producer of aluminum wire and cable that is the
23 subject of this investigation. We appear today as
24 co-petitioner, and are joined by Encore Wire Corporation and
25 their counsel.

1 The Commission is often tasked with
2 investigating complex claims of material injury that require
3 a deep dive into statistical analyses and numerous contested
4 facts. Fortunately for us today, that's not the case. The
5 data collected by the Commission staff describes a textbook
6 case of a U.S. industry suffering from material injury by
7 reason of dumped and subsidized imports. This investigation
8 does not present a close call.

9 The U.S. aluminum wire and cable industry
10 forms the backbone of the national electric grid, and the
11 products at issue in this investigation are a critical
12 component of that grid. As a single conductor, you might
13 see AWC connecting your home to a utility pole.

14 AWC can also be buried underground with single
15 or multiple conductors, distributing electricity from a
16 utility source to a user's electric panel, whether on a
17 home, a multi-use building or a football stadium. AWC is
18 critical to the safe, reliable supply of electricity in the
19 United States.

20 As a commodity product, the conditions of
21 competition in the AWC industry are such that AWC is sold
22 primarily on the basis of price. For any particular
23 application, imports and U.S.-produced AWC are
24 interchangeable, and compete head to head on a national
25 basis. That said, in 2015 with a strong U.S. economy at

1 its back and growing market for AWC, the domestic industry
2 was poised to enter a period of sustained growth.

3 However, that never came to be. As our
4 industry witnesses will attest, importers of Chinese AWC
5 began to aggressively enter the U.S. market at aggressively
6 discounted prices, forcing U.S. producers into the
7 unenviable position of having to choose between unprofitable
8 prices to maintain volume or lose sales completely. It is
9 through these aggressive discounts and a pattern of
10 underselling that Chinese imports of AWC have surged into
11 the market and captured market share at the expense of U.S.
12 producers.

13 Indeed, subject imports increased by about 28
14 percent between 2016 and '18, and importers of Chinese AWC
15 have led the market to lower and lower prices, that have
16 eviscerated the U.S. industry's profitability. Only the
17 onset of these investigations has stemmed the tide of
18 subject imports. Although Section 301 duties were first
19 imposed on some AWC imports in July 2018, they only
20 increases prices in the very short term and quickly
21 reverted.

22 In fact, despite the 301 duties, subject
23 import volumes were higher in the second half of 2018 than
24 they were in the first half. It wasn't until early 2019,
25 when AD/CVD cash deposits became more likely, that the

1 domestic industry began to see an improvement in market
2 prices and industry profitability, and even then the
3 domestic industry has only begun to heal as market share and
4 profitability still have not recovered to pre-injury
5 levels.

6 Without relief, the Chinese AWC industry will
7 continue to threaten U.S. producers. Chinese producers have
8 substantial unused capacity. The same Chinese subsidies and
9 currency policies that have allowed China to unfairly expand
10 in the U.S. market show no signs of abatement. As it
11 stands, the only thing standing between a materially injured
12 U.S. industry and a new flood of Chinese imports is the
13 combined 70 to 227 percent AD/CVD duties that are currently
14 imposed on subject merchandise.

15 Absent those duties, the U.S. industry will be
16 in dire straits. Thank you very much, and we look forward
17 to giving you our testimony today.

18 MR. BISHOP: Thank you, Mr. Mintzer. Mr.
19 Chairman, the panel in support of the imposition of
20 anti-dumping and countervailing duty orders have been
21 seated. This panel has 60 minutes for the direct testimony.

22 CHAIRMAN JOHANSON: You all may begin whenever
23 you like.

24 STATEMENT OF JACK A. LEVY

25 MR. LEVY: Thank you, Mr. Chairman. Jack Levy

1 from Cassidy Levy Kent, counsel for co-petitioner, Encore
2 Wire. It's a pleasure to be before the Commission again,
3 and I'd like to extend a special greeting to Commissioners
4 Stayin and Karpel. It's a privilege to be appearing before
5 you today for the first time.

6 I think before we turn things over to our
7 industry witnesses, I just wanted to provide a very brief
8 executive summary of the data, by reference to what is in
9 the public record. If we could begin with Exhibit 1, I
10 should say way of background, and as Mr. Mintzer explained,
11 AWC is a commodity that trades primarily on the basis of
12 price.

13 What we see during the Period of Investigation
14 is a steady increase in aggregate demand for AWC. What does
15 this mean? It means that the Period of Investigation should
16 have been a period of great opportunity for the U.S.
17 industry, opportunity in terms of increasing sales volumes,
18 and opportunity in terms of increasing prices, but that is
19 not what we see on this record.

20 If we turn next to Exhibit 2, what we did
21 witness from 2016 to 2018 was a significant volume of
22 subject imports, significant in absolute terms and
23 significant in terms of the increase in volume from 2016 to
24 2018.

25 Turning next to Exhibit 3, the result of this

1 Chinese volume increase was a share loss for the domestic
2 industry, from 2016 to 2018, and how did subject imports
3 manage to take share from the domestic industry? The short
4 answer plain and simple is underselling.

5 The pre-hearing report shows clearly a
6 preponderance of underselling and as discussed in our brief,
7 we think that once we account for some clarifications on the
8 record that were developed post-issuance of the prehearing
9 report, we think that the final report will likely show more
10 pervasive underselling than even a preponderance.

11 But in any event, it's perfectly clear that
12 the U.S. industry lost share to subject imports, and that
13 shift in share was driven by import underselling.

14 Turning next to Exhibit 4, these adverse price
15 effects manifested themselves in the form of a cost-price
16 squeeze, and what we can see from 2016 to 2017 to 2018 is a
17 clear and progressive increase in COGS in relation to net
18 sales. Put another way, gross margins for the domestic
19 industry were being squeezed over this period.

20 Turning to Exhibit 5, the result of the gross
21 margin squeeze was material injury, as manifested here in
22 terms of decreased operating profit for the domestic
23 industry. Make no mistake, low-priced leadership from
24 subject imports was the driving cause of this injury. I
25 think I'd like to turn next to Exhibit 6, and talk a little

1 bit about the interim period. It's important to talk about
2 the interim period simply because this is a case that
3 exhibits some clear post-petition effects.

4 If you look all the way over to the right of
5 Exhibit 6, what we can quite clearly is that in interim
6 2019, China receded from the market, and the frequency and
7 depth of subject import underselling also moderated during
8 this period. Turning next to Exhibit 7, you heard Mr.
9 Mintzer testify that U.S. prices are improving in interim
10 2019. At first blush that might not be obvious to all of
11 you if you're looking at the C tables and looking at the
12 average unit values of U.S. producer prices.

13 So I wanted to just take a minute and unpack
14 that for you. If you look along the top, the blue line is
15 just that. It's the average unit values of the domestic
16 industry for '16, '17, '18 and then you see the first half
17 of 2019. You may look at that and say hey wait a minute.
18 That line over to the right looks pretty darn flat. Where's
19 the pricing improvement?

20 But the way domestic producers generally think
21 about price is the price relative to the cost of the major
22 raw material, the aluminum metal, and they're thinking about
23 the price spread relative to what's happening on their
24 metal. What you see on the red line is just that, it's the
25 price spread above and beyond the metal cost. What you see

1 there is exactly the narrative you've been hearing from the
2 co-petitioners, that from '16 to '17 to '18, the price over
3 metal decreased and there is a measurable uptick and an
4 improvement in the margin, essentially the pricing in the
5 first half of 2019. So I just wanted to talk about that.

6 If you turn next to Exhibit 8, this manifests
7 itself in the form of the decrease in the ratio of COGS to
8 net sales in interim 2019. Put another way, the cost-price
9 squeeze is being alleviated post-petition. Then finally at
10 Exhibit 9, at the same time that gross margins are
11 improving, not surprisingly operating profit is improving.
12 Make no mistake, this is because of the pendency of these
13 investigations.

14 Now to be sure, we expect that you the
15 Commissioners may have questions for us about the role of
16 non-subject imports or the impact of Section 301 tariffs
17 during the Period of Investigation, and those are fair
18 questions and we look forward to addressing them during Q
19 and A. But for now, I think we'd like to just turn things
20 over to our industry witnesses, so you can hear in their own
21 words what they experienced during the POI. Thank you very
22 much for your attention.

23 STATEMENT OF DANIEL L. JONES

24 MR. JONES: Good morning. My name is Daniel
25 Jones, and I'm the chairman, president and CEO of Encore

1 Wire Corporation. I'm joined here today by our VP of Sales
2 and Marketing Kevin Kieffer, as well as Mr. Asher and Mr.
3 Hendricks of Southwire Company, which is the co-petitioner.
4 Encore is a publicly traded company and the leading U.S.
5 manufacturer of wire and cable products for commercial,
6 industrial and residential applications.

7 We're headquartered in McKinney, Texas and
8 distribute to customers across the United States. Our
9 aluminum wire and cable business is vitally important to our
10 company. The AWC business used to be a very profitable
11 category for Encore, and for precisely this reason we made a
12 decision in 2014 to invest tens and millions of dollars to
13 upgrade our aluminum wire and cable plant, more than
14 doubling the size of the facility.

15 Unfortunately, just as we were completing that
16 investment, we began to witness unfair price competition
17 from the Chinese, and problem worsened over the several
18 years. In some instances, we saw finished product from
19 China being sold for less than aluminum metal cost. That's
20 not fair competition and subsidized and dumped pricing plain
21 and simple.

22 This illegal pricing behavior destroys the
23 value of our investment in aluminum wire and cable
24 production. It injured our business and threatens the
25 welfare of our Texas plant workers. That's why we filed the

1 petition and that's why I'm testifying here today, to remedy
2 this illegal pricing activity by the Chinese and ensure the
3 viability of our aluminum wire and cable business.

4 In our testimony this morning, we're going to
5 tell you about product and how it's produced. We're also
6 going to identify demand drivers for aluminum wire and
7 cable. We'll talk about how the practice sold and the role
8 of price in the market. We'll also describe from Encore's
9 perspective how aggressive pricing from China has injured
10 our business.

11 Before I hand things over to Kevin Kieffer,
12 I'll kick things off by briefly describing the product and
13 how we make it. AWC products are insulated electrical
14 conductors that are manufactured to meet industry standards
15 and electrical codes. The manufacturing process begins with
16 aluminum rod, which you can see here.

17 We buy our rod in large coils, but other
18 companies, including Southwire, self-produce their rod
19 feedstock. We draw the rod down to strands such as this
20 example. We then combine multiple strands together to form
21 aluminum conductors such as this one. We then insulate the
22 conductor with CVC or cross-linked polyethylene. When we're
23 talking about a single conductor, we're usually talking
24 about a wire, this single conductor.

25 By contrast, if we twist our cable, two more

1 conductors together that's usually called a cable. That
2 would be these three conductors together. AWC comes in a
3 variety of configurations, with varying sizes and gauges and
4 varying numbers of conductors and different types of
5 insulation or protective coatings.

6 The Commission collected processing data for
7 six different AWC products, and we have samples of each of
8 those with us. Product No. 1 is an SCR 4 ought 4 ought 4
9 ought and 2 ought, which is a neutral ground and three
10 conductors. This SCR cable is for service drop. It's
11 typically used above ground to convey electricity to a
12 residential electrical panel.

13 We also have here examples of Products 2
14 through 6, each of which has its own unique characteristics
15 and is suitable for its own particular application. Nearly
16 all AWC products are rated at 600 volts, and they can
17 consist of different aluminum alloys such as 1350 and 8000
18 series. Depending upon the intended use, each alloy imparts
19 different combinations of electrical conductivity and
20 tensile strength, which makes the more or less suitable for
21 particular applications.

22 The type and thickness of the insulation
23 influences and moisture and heat characteristics of the
24 product and its applications. As a general rule, when you
25 talk about wire and cable, the applications fall into three

1 categories: feeder, intermediate and circuits. In our
2 experience, about 80 percent of AWC cells are concentrated
3 in the feeder segment. This would include a conveyance of
4 power from the utility pole to the meter base and from the
5 meter base to the distribution panel board.

6 In these applications, the lighter weight of
7 aluminum make it a particularly attractive product. Almost
8 all the remaining 20 percent of AWC cells are focused on the
9 intermediate segment, which could include branch circuits
10 through a building. By contrast, smaller circuit sized
11 wiring is almost exclusively served by copper.

12 Aggregate demand for aluminum wire and cable
13 is fundamentally a function of the U.S. economic activity,
14 and more specifically construction activity. New industrial
15 and commercial construction, as well as building renovations
16 drive demand for AWC, and as construction activity has grown
17 over the past few years, we've seen the market for AWC grow
18 as well.

19 If you refer to Exhibit 1, you can see the
20 overall demand trend for AWC during the Period of
21 Investigation, according to the data in the prehearing
22 report. With that introduction, I'll turn things over to
23 our VP of Sales, Kevin Kieffer.

24 STATEMENT OF KEVIN KIEFFER

25 MR. KIEFFER: Good morning. I'm Kevin

1 Kieffer, Vice President of Sales with Encore Wire.
2 I want to talk to you today about how we sell aluminum wire
3 and cable, and what we have been experiencing in the
4 marketplace. As a general rule, we are selling our product
5 to electrical distributors, who in turn sell to electrical
6 contractors who are responsible for installation. In this
7 context, Encore is typically selling at the same level of
8 trade at which the Chinese product competes.

9 For example, the Chinese material is imported
10 by a master distributor such as Priority. Just like Encore,
11 these master distributors and importers compete with Encore
12 and other U.S. manufacturers for sales to electrical
13 distributors across the country. It's important to bear in
14 mind that aluminum wire and cable is a commodity product,
15 that it is produced to industry standards and electrical
16 codes.

17 Because it's a commodity product, customers
18 really only care about two things: do you have the
19 particular item available for shipping and are you the
20 lowest price? At Encore, we pride ourselves in offering
21 short lead times and outstanding customer service. For the
22 most common items sold out of inventory, we are shipping
23 within 24 hours, often on the same day and for less common
24 items, we ship in just a few days, almost always less than
25 a week's time.

1 But when it comes to price, we were getting
2 clobbered by the Chinese. Let me try to explain to you how
3 this price competition takes place. For our main channel of
4 sales to electrical distributors, all major suppliers
5 maintain price sheets with list prices. These list prices
6 may be updated from time to time based on changes in
7 aluminum metal prices or other market conditions such as
8 freight. However, nobody sells at the list price.

9 Instead, they compete by offering a percent
10 discount off of the list prices. On a daily basis, we are
11 quoting a discount offer list price with the goal of
12 covering our cost and generating a profit. But what our
13 customers told us day after day is that we were not
14 competitive on price, because the discount offered for the
15 Chinese material is significantly greater.

16 In this context, we were forced to decide
17 between losing business or meeting the Chinese price and
18 selling at a loss. What often happened was an electrical
19 distributor would fill up on the cheap Chinese product for
20 those in-stock items from the master distributor, and then
21 they may come back to us to fill the remainder of the order
22 at our higher prices.

23 The only reason we lost on sales was price.
24 Make no mistake, this is not just a question of lost sales
25 volumes. The presence of low-priced Chinese imports in the

1 market also placed a ceiling on the prices that we could
2 charge to our customers. It is no secret that the cost of
3 our aluminum metal feedstock increased steadily from 2016 to
4 2018. In this environment of rising raw material cost, our
5 gross margins were being squeezed every day. When the
6 President imposed Section 301 duties on AWC last year at
7 almost the same time we filed our petitions, here was hope
8 that it would provide some relief.

9 However, we really did not see any meaningful
10 change in the market until earlier this year, when the CVD
11 duties and later AD duties were imposed. Since the start of
12 this year, we have witnessed a major pullback in volume from
13 China, and the China pricing problem seems to becoming under
14 control. That is not to say all is well today. Low-priced
15 imports from other countries continue to be a major factor
16 in the market.

17 But we're no longer seeing the kind of deep
18 discounts and uneconomic pricing that we saw when Chinese
19 product was being imported in increasing quantities. This
20 case has allowed us some reprieve from the years of dumped
21 and subsidized Chinese imports. We need the AV/CVD orders
22 in place to ensure that those aggressively priced Chinese
23 imports do not return, and upend the AWC market as they had
24 for the past few years.

25 I'll stop here, because I know Daniel has more

1 to add and Southwire also needs to tell you about their
2 experience. Thank you.

3 STATEMENT OF DANIEL L. JONES (Continued)

4 MR. JONES: Thanks Kevin. This is Daniel
5 Jones again for Encore. Let me just say that aggressive
6 pricing behavior by Chinese imports that Kevin described was
7 the worse that I'd ever seen in my 30 years with the
8 company. It is only possible because of the illegal
9 subsidies and dumping, and U.S. manufacturers like Encore
10 were being made to suffer the consequences.

11 I spoke earlier about our recent investments
12 in aluminum wire and cable. We have a world class facility
13 with world class delivery and customer service. We're a
14 lean manufacturer. But because of illegally priced Chinese
15 product, we failed to earn an acceptable return on our
16 investment. We deferred further investments in our AWC
17 plant.

18 The AWC market has grown in the past few
19 years, yet our capacity utilization is a fraction of what it
20 should be. We could easily double our output to meet
21 customer orders if the price was right. Unfortunately, the
22 ability to raise prices to pass through rising metal cost
23 was under pressure throughout most of the Period of
24 Investigation.

25 Things did not begin to change until the start

1 of the year, after the petitions were filed and when Chinese
2 imports became subject to CVD duties. While low-priced
3 imports from other country sources remain a challenge, we
4 appreciate they're not as aggressively priced as Chinese
5 imports had been.

6 The key point is without AD/CVD relief,
7 Chinese imports will quickly regain market share at cut rate
8 prices, and further erode pricing in the marketplace. I
9 realize that Encore is not the only U.S. producer, or not
10 even the largest U.S. producer of aluminum wire and cable.
11 But I cannot imagine that our experience is much different
12 from others, who are materially injured. Unless there are
13 trade remedies to address China's illegal subsidies and
14 dumping, China will again threaten the health of our
15 aluminum wire and cable business. Thank you.

16 STATEMENT OF AARON ASHER

17 MR. ASHER: Thank you, Daniel. Good morning
18 and thank you for the opportunity to testify today. My name
19 is Aaron Asher, and during the Period of Investigation I was
20 a senior director of Building Wire Products at Southwire
21 Company. I was responsible for the profitability,
22 serviceability and innovation of Southwire's aluminum
23 building wire profits.

24 I have been at Southwire for 13 years. I'm
25 also joined today by my colleague, Jonathan Hendricks, who

1 is the manager of our Building Wire Products. Southwire is
2 a family-owned business based in Carrollton, Georgia. We
3 employ more than 7,500 people and we're North America's
4 leading manufacturer of wire and cable used in the
5 transmission and distribution of electricity.

6 Southwire is a leading U.S. manufacturer of
7 the aluminum wire and cable or AWC at issue in this
8 proceeding. We produce AWC at six manufacturing facilities
9 in Georgia and in Mississippi. I'd like to talk to you
10 today about how the AWC market works, and about the injury
11 Southwire suffered throughout the Period of Investigation as
12 a result of unfairly traded imports of AWC from China.

13 First, the term "AWC" refers to a range of
14 commodity products used for electrical power in residential,
15 industrial and commercial applications. AWC products are
16 produced to industry-wide standards. That means that a
17 given AWC product is interchangeable, regardless of whether
18 the supplier is Southwire, Encore or a Chinese importer.

19 AWC is not universally interchangeable with
20 other types of wire such as copper. Indeed, copper and
21 aluminum wire never really direct compete. When Southwire
22 bids on a project such as providing wire to a data center or
23 a mixed used commercial building, the project specifications
24 dictate whether aluminum or copper should be used.
25 Therefore, Southwire is never in a position of pricing its

1 AWC against copper alternatives.

2 In any event, copper cannot be used in most of
3 our AWC applications. Copper is much heavier than aluminum
4 and thus can't be used for overhead applications, and it's
5 too expensive to be used for most underground applications
6 that carry power for miles and miles. On the other hand, in
7 most jurisdictions copper, not AWC, is the required metal
8 for in-home wiring. In our industry, AWC is generally sold
9 from inventory. Southwire primarily sells AWC through
10 distributors.

11 We compete for the same customers as other
12 U.S. manufacturers and AWC importers. Since all AWC of a
13 given standard product is interchangeable, the AWC market is
14 highly competitive and AWC is sold primarily on the basis of
15 price. The AWC market is also highly transparent.
16 Generally speaking, AWC suppliers publish price sheets with
17 prices listed for a range of different AWC products.

18 Suppliers then make sales to customers on a
19 transaction-specific basis, with discounts applied to those
20 list prices. Customers routinely compare quoted prices and
21 discounts from various suppliers before deciding where to
22 purchase a product. Further, customers inform us directly
23 of the various quotes they have received, in an effort to
24 play manufacturers off one another.

25 When a customer has received a lower quote

1 from a competitor, that customer often tells us in an effort
2 to get us to lower our prices even more. In fact, when we
3 quote that customer a price, the customer often asks us to
4 beat the price of the Chinese imports. Before addressing
5 the impact that Chinese imports have had in the U.S. AWC
6 market, it is important for the Commission to take account
7 of the fact that demand for AWC grew during the Period of
8 Investigation as a strong economy meant a healthy and
9 growing construction industry.

10 Southwire was poised to grow in this
11 environment. However, because of the significant volume of
12 underpriced Chinese AWC in the market, Southwire was simply
13 unable to take advantage of this increased demand. Our
14 market share and profitability declined dramatically during
15 the period. Low Chinese prices left Southwire with two
16 choices. We either forfeit sales to Chinese producers, or
17 match low priced Chinese AWC, prices that just weren't
18 sustainable.

19 Another trend during that period relates to
20 increased raw material costs. Aluminum costs rose during
21 the period, in part due to Section 232 duties, which made
22 aluminum more in the U.S. than in foreign markets.
23 Typically in a growing market, we would have been able to
24 raise prices to capture those increased costs. That wasn't
25 possible during the Period of Investigation.

1 Chinese products were sold at such a steep
2 discount that market prices were continually driven lower.
3 Our inability to recoup the increased aluminum costs meant
4 that we experienced a cost-price squeeze, as low-priced
5 Chinese AWC suppressed our prices. As a result, not only
6 did we lose market share, but our profitability suffered
7 significantly, with declining profits during the Period of
8 Investigation particularly over the 2016 to 2018 period.

9 When the Section 301 duties were first imposed
10 in July of 2018 on some imports of Chinese AWC, we saw some
11 improvement, but only in the very short term. Prices
12 increased to account for the duties, but ratcheted back down
13 shortly thereafter. What we actually experienced was a
14 sustained penetration of Chinese AWC in the market, as
15 importers continued to gain market share from significant
16 volumes of Chinese AWC.

17 Simply put, the Section 301 duties did not
18 have the sustained impact that was needed to protect
19 domestic AWC industry from significant volumes of
20 underpriced AWC from China. More importantly, most Chinese
21 AWC is now exempt from the Section 301 duties as a result of
22 an exclusion request that was granted in late September of
23 this year. So any benefit from these duties, which was very
24 short-lived to begin with, no longer exists.

25 The domestic industry finally began to see

1 improvements in 2019, but this was not because importers
2 decided of their own accord to abandon the market share they
3 had gained during the Period of Investigation. Rather, the
4 reason for this improvement was because the impact of these
5 proceedings finally began to take effect, and Chinese AWC
6 was forced to cede market share.

7 Indeed, we finally saw our market improve and
8 profits turn at the beginning of the year. Without
9 anti-dumping and countervailing duty orders in place,
10 Chinese AWC is poised to capture more market share. Indeed,
11 an affirmative finding is the last line of protection for
12 the domestic AWC industry.

13 To conclude, Southwire was materially injured
14 by significant volumes of unfairly traded AWC from China
15 throughout the Period of Investigation. All of this
16 occurred against a backdrop of overall market growth and
17 increased demand for AWC. Southwire's sales of AWC
18 decreased during the Period of Investigation, and we
19 suffered from a cost-price squeeze due to our inability to
20 raise prices to recoup rising aluminum costs.

21 The improvements we've seen came recently, and
22 were a direct result of these proceedings. Without an
23 affirmative determination, this injury will undoubtedly
24 continue. Thank you for your attention. We'd be happy to
25 answer any questions you may have.

1 MR. LEVY: Mr. Chairman, I think that concludes
2 our prepared presentation. This panel looks for to any
3 questions.

4 CHAIRMAN JOHANSON: Alright, thank you all for
5 appearing here today. We will now begin Commissioner
6 questions with Commissioner Schmidtlein.

7 COMMISSIONER SCHMIDTLEIN: Okay, thank you very
8 much. I'd like to thank you all for being here as well.

9 I'm going to start with a question about
10 non-subject imports, as you alluded to, Mr. Levy. The share
11 of non-subject imports rose by a greater percentage than the
12 share of subject imports over the POI and so I'm wondering
13 if anyone can speak to why that happened since you've talked
14 about the interchangeability and the substitutability of
15 this product. Non-subject were priced lower than U.S.
16 product, so why were they -- but not as low as Chinese
17 product, as I understand it, so why were they able to gain
18 a greater share than Chinese product?

19 MR. LEVY: Commissioner Schmidtlein, I think we
20 would agree with your general characterization that during
21 the POI non-subject imports were priced lower than domestics
22 and lower still were subject imports. What we saw from 2018
23 -- excuse me -- from 2016 to 2017 was the U.S. industry lost
24 share and that share lost was split almost evenly between
25 subject imports and non-subject imports. I think it was a

1 slightly larger share gain for non-subject imports, but I
2 think what you've heard from this panel is that from an
3 adverse price effect standpoint, the effect of subject
4 imports was most pernicious and for that reason China was
5 the target of this proceeding.

6 If you refer to Confidential Exhibit 3 on the
7 pink paper -- admittedly, these are just averaging of
8 values. This simply depicts the relationship between U.S.
9 producer prices in blue and non-subject prices in green.
10 And so you can see -- and again, you know the AUV is
11 admittedly imperfect comparisons, but what we can see, in
12 particular, in the interim period of 2019 is that as China
13 receded from the market and as the frequency and depth of
14 subject import underselling moderated, non-subject imports
15 remained in the market and essentially stood out at the low
16 price leader. And so, what we see there for in interim 2019
17 is a situation where the share lost that China began to
18 experience became the gain of non-subject imports, not for
19 the domestic industry.

20 But importantly, and at the same time, the
21 domestic industry experienced a significant recovery in
22 terms of prices and gross margin and operating profits as a
23 result of curbing the pricing behavior of subject imports.
24 So, you know, truth be told, non-subject imports were a
25 factor in the market, but the view of this panel is that

1 subject imports were most pernicious during the period from
2 2016 to 2018.

3 And I don't know, Mr. Keifer, or if Mr. Asher
4 want to elaborate from their commercial perspective on the
5 relationship between non-subject imports on the one hand and
6 subject imports during the period. Mr. Asher?

7 COMMISSIONER SCHMIDTLEIN: Yes, because I think
8 -- I mean I appreciate your argument, but what I'm trying to
9 understand is, given the commodity-like nature of this
10 product, what was it about the non-subject that allowed them
11 to gain at a greater percentage than subject, even though
12 they weren't priced as aggressively, which is, I think, one
13 of the witnesses testified to a few minutes ago. So, maybe
14 one of you can speak to that.

15 MR. ASHER: First off, to Mr. Levy's point,
16 obviously, non-subject imports and subject imports you know
17 have played a role over the period of investigation, but
18 what we have dramatically seen is the predatory pricing and
19 cut-rate pricing from the subject imports at a much higher
20 degree which has affected the profitability and our
21 inability to recoup costs and recoup as the material prices
22 continue to increase.

23 We did see that the most first part of 2019 --
24 as you know we're saying we've seen some relief, we are
25 obviously not healthy yet. We're far from healthy, but the

1 relief we've seen as our ability to raise our prices up
2 enough to start recouping some of that cost because of the
3 fact that the Chinese have ceded market share and their
4 pricing was so much more predatory and below that of ours
5 and even of the non-subject imports.

6 COMMISSIONER SCHMIDTLEIN: Okay, so you're sort
7 of reverse engineering this, like it must be the Chinese
8 because in the interim period when they left our performance
9 improved even though non-subject increased. Do I understand
10 the argument?

11 MR. ASHER: Correct statement, yes.

12 COMMISSIONER SCHMIDTLEIN: Okay. So, one
13 question I had about that because Mr. Levy you put up a
14 slide, Exhibit 7, in the public slides, right, which showed
15 the spread because you mentioned in your statement that when
16 you look at the AUVs, right, and I don't think -- at least
17 AUVs for U.S. shipments, which I don't think are
18 confidential, at least it's not bracketed on this.

19 MR. ASHER: No.

20 COMMISSIONER SCHMIDTLEIN: That U.S. shipment
21 AUVs only go up by one cent, right, and when you look at the
22 full year of 2018 versus the interim 2019, right, if you
23 look at the pricing products, which cover a decent
24 percentage of shipments, right, for U.S. and China, prices
25 continue to go down in the pricing products in 2019, right?

1 So, what I was a little confused about was -- and you sort
2 of alluded to this -- is where do we see the benefit to
3 prices from Chinese product leaving, given that the
4 information we have with regard to AUVs and the pricing
5 products don't really show that.

6 And when you look at -- you know you've pointed
7 to the spread improving, but when you look at the price of
8 aluminum, at least as indexed by the LME and the Midwest
9 premium, you see the price of that you know those indexes go
10 down starting in the middle of June -- the middle of 2018.
11 So, isn't the spread improving because aluminum prices are
12 going down and not really because U.S. prices -- at least
13 based on the information we have in the record that U.S.
14 prices are going up? In other words, the industry is
15 really benefitting from the decline in the cost of raw
16 materials is what's improved their performance.

17 MR. LEVY: So, from 2016 to 2017 to 2018, we
18 witnessed a situation where aluminum costs were going up and
19 the nominal value of U.S. prices was also going up, but not
20 keeping pace with the increase in metal costs. So, what was
21 happening, as you see in red line, is that the spread --
22 that is to say the price relative to the metal was being
23 depressed over this period.

24 What we see in interim 2019 from the data, quite
25 simply, is a situation where aluminum prices are now going

1 down, as you correctly note, and U.S. prices, in nominal
2 terms, are relatively flat and so, in that environment the
3 spread begins to improve. That is a qualitative change and
4 it means that the price suppression effect of subject
5 imports has moderated during this period.

6 COMMISSIONER SCHMIDTLEIN: But prices didn't
7 actually go up. You're saying they stopped going down.

8 MR. LEVY: Well, some products they went up and
9 some products they went down.

10 COMMISSIONER SCHMIDTLEIN: Do we have that in
11 the record because based on the pricing products they all
12 went down.

13 MR. LEVY: We certainly have examples in the
14 competitive intelligence of Encore -- and I don't know if
15 Southwire has this kind of information, but we would, for
16 example, see quotes from 2018 where the leading master
17 distributor of subject imports during the POI was Priority
18 and Priority was selling Chinese product in 2018. And we
19 would see that their discount is "x" percent off of the list
20 prices.

21 And you fast forward to 2019 and you have
22 situations where Priority's discount off of the list prices
23 is now "y" percent, which is a less deep discount. And we
24 know from seeing their product in customer warehouses that
25 the country of origin is now Ecuador and Turkey, not China.

1 So, we definitely see a moderation in the depth of the
2 discounting from the same importer/distributors. The only
3 thing that's changed is the country of origin and the depth
4 of the discounting. And that, we believe, has contributed
5 to the ability of the U.S. industry to raise prices relative
6 to where the metal cost is.

7 COMMISSIONER SCHMIDTLEIN: Okay, if you could
8 put that on the record that would be helpful.

9 MR. LEVY: Certainly.

10 COMMISSIONER SCHMIDTLEIN: Contemporaneous
11 documentation of that that you're referring to.

12 MR. LEVY: Certainly.

13 COMMISSIONER SCHMIDTLEIN: My time is almost up,
14 but one other question I had is I noted that neither of the
15 parties, the Petitioners -- you both filed separate briefs
16 -- are arguing price depression, and I'm curious why not,
17 just given the behavior of the pricing products and your
18 arguments with regard to the impact of the Chinese prices on
19 U.S. prices.

20 MR. LEVY: We can address that more fully
21 post-hearing. I think we would take the view that there is
22 price depression of sorts; particularly, when you look at
23 the price spread over metal. And we can explain that
24 through kind of the lens of the industry in our post-hearing
25 brief.

1 COMMISSIONER SCHMIDTLEIN: Okay. Alright, thank
2 you. My time has expired.

3 CHAIRMAN JOHANSON: Commissioner Kearns.

4 COMMISSIONER KEARNS: Thank you. Thank you all
5 for being here today. I appreciate it. You know I had some
6 of the same questions that Commissioner Schmidtlein did.
7 I'll try not to be repetitive, but again, I guess going to
8 the non-subject imports during the interim period and
9 putting aside, if we can, the issue of raw material costs.

10 I mean how is it -- it looks as though, at least
11 on the aggregate level, it looks like the petition was filed
12 and as a result of that you know, essentially, all market
13 share that was lost by subject imports was gained by
14 non-subject imports. But as you're saying, there seems to
15 be some -- in terms of profitability and otherwise, some
16 positive price behavior going on, but how would that work?
17 I mean how is it -- and maybe the companies can explain -- I
18 don't know if it's on a transaction-by-transaction basis or
19 otherwise, but how is it that non-subject imports seem to be
20 replacing subject imports. Non-subject imports are priced
21 still below your product. How are you able to get some
22 price benefit out of that?

23 MR. LEVY: So, I think -- do you wanna speak to
24 that, Mr. Asher?

25 MR. ASHER: Sure, Aaron Asher, Southwire Company.

1 So, and a very good point, and what you've seen, especially
2 in the 2019 time period is, as the Chinese AWC importers
3 kinda fell back from the market, you did see a replacement
4 to a certain extent from those nonsubject imports.

5 The difference is, those nonsubject imports were
6 not taking part in the predatory and really cut-rate pricing
7 at the same levels that we saw from the Chinese importers.
8 So as a result, we were able to get some relief and raise
9 our prices -- not up to the levels, you know, that we would
10 initially want, but up to levels where we can start
11 recouping some of the increase in the material costs.

12 Now, they're not to the levels that it makes
13 great business sense to continue to grow and pick up market
14 share, but it is to the levels where we can at least start
15 again to recoup those costs and make more profitability in
16 what we can sell.

17 COMMISSIONER KEARNS: Okay. And that makes
18 sense, kind of in theory to me, but, like, in practice, I'm
19 still trying to understand -- I mean, regardless of whether
20 you are, you know, whether Chinese imports way underprice
21 you and steal your sales, or nonsubject imports after the
22 petition's filed, still underprice you and take your sales
23 -- how it is that you're able to say, "Great, we can now
24 increase our prices and we'll make more money." You
25 weren't gaining any new sales, so if you can just --

1 MR. LEVY: Yeah, so Commissioner Kearns, we
2 certainly had the same questions when we looked at the
3 C-Table the first time, and so we've been dialoguing with
4 our clients. The one peculiarity in this record in interim
5 2019 is that the U.S. industry didn't recoup share even as
6 China recedes from the market, even though there are pricing
7 improvements. Because this is a commodity product, it is
8 the case that purchasers can switch sources of supply for
9 differences as little as a percent, right? And that's
10 something you see in many industries.

11 And so, let's just say, without using APO data,
12 that, you know, prior to the petition, the Chinese were
13 discounting, say, 15% below the domestics. And then they're
14 underselling and the frequency of underselling moderates and
15 the low price leader, for lack of a better word, becomes
16 --non-subject in subject imports at, say, 5% discount, not
17 the rock bottom on economic 15%. So in that environment,
18 you would ask, does it make sense for nonsubjects to be
19 taking from the domestics, sure. I think your other
20 question, though, is, "Well, then, how are you getting any
21 sales?" And as I --

22 COMMISSIONER KEARNS: Or how are you, how are you
23 having any better pricing if--and Mr. Kieffer, I know, wants
24 to jump in, too--but the two of you, you know, if you've got
25 these sales over here that you had even when China was in

1 the market, you've still got those sales. Just kinda
2 understanding how it works, that you are able to charge
3 more, even though, you know, the nonsubject are just
4 replacing the subjects. I don't, Mr. Kieffer, if you wanna
5 jump in --

6 MR. LEVY: So, if I could finish my thought and
7 then I'd love to hear from Mr. Kieffer. Let's say on a
8 given day, in 2018, you're competing against the Chinese.
9 And all these products that you see here are among the many
10 on the price sheet, and you're bidding as a percent discount
11 off of everything on the price sheet.

12 So, in an effort to win sales and meet Chinese
13 competition, you need to be competitive with that 15%
14 discount as the illustration I provided. And as it may be,
15 you may get none of those sales, or you may just get a few
16 where the Chinese might not have product ready to ship. And
17 so that explains the sales that you do make, but at deeply
18 discounted, depressed prices.

19 Fast forward to 2019, it's the same dynamic, only
20 now you're trying to meet competition where the Priority's
21 of the world selling nonsubject imports are discounting 5%
22 off. So it's the same dynamic, you're competing to be
23 competitive on price. You may be losing, you know, some of
24 these volumes, but let's say that on a given day, Priority
25 doesn't have this one ready to ship, so you have this piece.

1 Well, you get this piece, only you get it at a
2 higher price than you used to get, because you didn't have
3 to discount as deeply to compete for the offer for the total
4 volume. And so I think that explains that it's not a
5 black-and-white, on/off dynamic in terms of what you're
6 selling in the bidding process, but in an effort to win all
7 the volume, you have to bid a competitive discount relative
8 to your entire product line-up. I don't know, Kevin, if you
9 can add more color to that.

10 MR. KIEFFER: Yeah, so Kevin Kieffer, Encore
11 Wire. I appreciate your question. It's a bit of a
12 head-scratcher, and that's what we've been doing for about
13 three years, which is what led us to here. So I live this
14 every day. I'm involved with pricing every day. I see
15 these phone calls and e-mails and texts, everything coming
16 through.

17 And what led to some of our financial
18 improvements and profitability improvements was not
19 necessarily the ability to raise prices--in other words,
20 take it, you know, today from \$1.00 to tomorrow's \$1.01--but
21 not having to go as deep as Mr. Levy pointed out.

22 So when we saw these predatory pricing movements
23 and strategic initiatives in the market, I just -- there's
24 nothing that we could do to compete, and as I said in my
25 testimony, we had to either match the prices and lose

1 business, or we upset a customer. And so there were many
2 times where we were gonna take business, because of our own
3 reasons, and it may not be all financial, we're very
4 partnership-related company.

5 So our volumes really didn't change much, but
6 when we did have to meet those competitive prices for a
7 customer, even though they weren't as comfortable as we
8 would like for them to be, and certainly, they were better
9 than they were with the Chinese situation. But we were able
10 to improve our financial performance by not going as low.

11 So in other words, I could match a 5%, even
12 though it's not what I wanted -- they didn't like our
13 prices, they said, "You have to match the Chinese or the
14 nonsubject importers." So I would rather match a 5% below
15 the market nonsubject price than a subject price at 15%.
16 So, in essence, we are improving the profitability, but not
17 necessarily getting price increases as we would like to.

18 MS. OKUN: Commissioner Kearns, Deanna Okun. If
19 I could just add, just from an analytical or a legal
20 perspective. Because I think this is not the only case
21 where the Commission sees nonsubject imports in the market.
22 And I think Mr. Jones may talk about kind of the role of
23 nonsubjects even prior to the period of investigation, I
24 think that informs some of what we see.

25 What I think you hear from the witnesses is the

1 injury that they experienced by reason of very low-priced
2 Chinese imports, and that's what brought them there. And
3 that's the injury, material injury, that we see on the
4 record from the financials, and despite improvement, is a
5 reflection of everything you've heard from the industry
6 witnesses.

7 And I think, as the Commission has had a long
8 history of having cases going up to the federal circuit,
9 where nonsubjects were involved, the evolution of Gerald
10 Metals, Bratsk, Mittal, and for the newer Commissioners
11 welcome, and I'm sure you're already diving into this and we
12 can certainly brief it in our post-hearing brief, but the
13 Commission needs to do what you are doing, which is in your
14 analysis.

15 You need to look at other factors in the market,
16 including nonsubject. But you don't have to isolate the
17 injury that comes from the Chinese subject imports, and
18 there is no formula of it having to be a replacement
19 benefit, so even where the industry was not able to gain all
20 -- you know, gain market share in a growing market, the
21 improvements you see are related to the change in the
22 pricing behavior in the market and non-subjects have played
23 a historical role, and from our industry witnesses, we
24 believe we'll go back to playing historical role if the
25 Chinese are subject to orders. Thank you.

1 COMMISSIONER KEARNS: Okay, thank you. Just one
2 quick follow-up. Looking at the AUVs for U.S. shipments of
3 nonsubject imports in Table C, Turkey appears to be even
4 lower than China. How is Turkey's product perceived in the
5 market? Was that part of your consideration when bringing
6 the petitioners? And in light of the change in volume of
7 Turkish imports over the interim period, and the fact that
8 most purchasers reported that nonsubject merchandise was
9 comparable to domestic like product in all factors, do you
10 foresee Turkey being a problem in the future?

11 MR. LEVY: Thank you, Commissioner Kearns. I
12 think we'd like to address that post-hearing. You know,
13 AUVs are admittedly imperfect indicators of price, but I
14 think, suffice it to say that, no one is denying the
15 nonsubject imports are a competitive challenge in this
16 marketplace. It's just that, you know, the issue of whether
17 they are a cause of material injury is not before us today.

18 The issue is whether subject imports are a cause
19 of material injury. And we think on that front the answer
20 is clear, the answer is yes. And you know, we're certainly
21 not asking you to attribute to subject imports any injury by
22 reason of nonsubject imports. But we'll be sure to answer
23 that post-hearing.

24 COMMISSIONER KEARNS: Okay, thank you.

25 CHAIRMAN JOHANSON: Commissioner Stayin.

1 COMMISSIONER STAYIN: Thank you. Obviously, the
2 nonsubject imports kind of jump out at as you look at the
3 data. And we've talked about the difference in pricing, the
4 shipment differences between nonsubject Chinese and U.S.
5 You know, you look at the time frame, you know, '16 to '17,
6 the nonsubject were at least as much as the subject in terms
7 of the volume. And while the U.S. volume did increase over
8 the period, clearly the others increased more.

9 You get into the market share and, again, we have
10 it where the U.S. lost market share, but the greater amount
11 of market share gained was by the nonsubjects. Subject did
12 increase, but the nonsubject increased more. So I think
13 this is something that, going back and coming into the
14 post-hearing brief, it's very important to address this and
15 help us understand the role that nonsubject has played and
16 will be playing.

17 Going into some other areas, in terms of the 301,
18 let's talk about that a bit. I think that you mentioned in
19 your brief that the Chinese did some re-engineering to be
20 able to get around that and therefore maintain a threat in
21 the marketplace. Can you tell me about that, please?

22 MR. LEVY: Yes, thank you, Commissioner. I think
23 if we could start with Exhibit 11 just to get level-set.
24 This is just a simple timeline of Section 301 tariffs as
25 they apply to AWC.

1 Along the top is AWC without connectors. That's
2 the commercial product that had been seen throughout almost
3 the entirety of the POI, where tariffs began at 25% in July
4 of '18 and then the product was excluded entirely just last
5 month, retroactive to July.

6 And along the bottom is the AWC with connectors,
7 where a 10% tariff began in September and then transitioned
8 at the end of the POI to 25%.

9 So against that backdrop, if we could move to
10 Slide 12, what we saw in the marketplace prior to the filing
11 of the petitions is that we had never seen reels of AWC with
12 connectors. Didn't exist as a commercial fact until Section
13 301 came about. And then, from the first half of '18 to the
14 second half of '18, you could see in this chart, all of a
15 sudden, more than half of AWC imported into the United
16 States was coming in with connectors under this subheading.
17 And you can see some pictures of it over here on the right.

18 And it came along with these labels, which I
19 guess are advisories to the purchaser, saying, essentially,
20 these products have been outfitted with connectors that are
21 non-UL compliant, essentially saying, you know, this does
22 not comply with the electrical code. There's nothing to be
23 done with these except snip them off and then go about your
24 business.

25 I think, just to give a little more color, maybe

1 Mr. Kieffer, if you could talk about any feedback you
2 received in the industry around this time in terms of the
3 behavior and the attitudes of your competitors.

4 MR. KIEFFER: Yes, Kevin Kieffer with Encore
5 Wire. We were pretty excited to hear if any type of relief
6 in the market is--as I said, we've been dealing with this
7 for several years--so when the tariff talk came up, we were
8 pretty excited about it.

9 Although we really didn't see any improvement,
10 and some of this talk -- you know, we go to a lot of
11 industry meetings and our competitors who deal in the
12 Chinese imports, were almost bragging about a, "Hey, don't
13 worry about it," you know, because we're saying, "Hey,
14 there's potentially gonna be some improvement," because it
15 really affected the entire industry. But they were
16 shunning it off and said, hey, basically, "Don't worry about
17 it." And they were pretty bold about it, because we got a
18 lot of those stories coming back as we were telling our
19 story.

20 So, all of a sudden, you know, we start seeing
21 very soon after that, these connectors in the market. And
22 these are not connectors that belong on these conductors.
23 Everyone knows that. They know, immediately, when you get
24 these in and they're putting it up in inventory, you just,
25 as Mr. Levy said, you immediately clip those off, you throw

1 them in the trash. They're of no use to anybody in our
2 chain.

3 And by pointing out that it's not a UL-listed
4 connector, they're basically telling that story as well. So
5 it was tariff engineering at its finest and it was truly an
6 evasion of the tariffs and so, had the 301 really stuck and
7 not provided this loophole, I think it would've helped more,
8 but we did see volumes of the Chinese of the subject imports
9 increase during this time. So it was not necessarily seen
10 at my level.

11 COMMISSIONER STAYIN: It's a blatant use of
12 circumvention. Did they get with customs on this and try to
13 alert them to this? Did they take any action? Or was it
14 just too late by the time, you know, the 301 was not having
15 an impact?

16 MR. LEVY: To our knowledge, there's been no
17 action by CBP in this area.

18 COMMISSIONER STAYIN: It's just so obvious.
19 Going on, in terms of your customer base, are you dealing
20 directly with distributors or right directly with big-box
21 purchasers? What is the kind of range of people you're
22 actually dealing with in your sales?

23 MR. ASHER: We deal, mainly, we're selling to
24 mainly distributors who then resell to end users,
25 contractors and also to utilities. So the majority of our

1 sales out of stock to distributors and to some end users.

2 COMMISSIONER STAYIN: Earlier in the testimony,
3 it was mentioned that availability and price are important.
4 Tell me about availability. To what extent is that to your
5 advantage as opposed to some of your import competition.

6 MR. KIEFFER: Availability is very important, and
7 when we first -- we know that price and delivery are the two
8 things that drive the decisions of our customers to give us
9 business or not give us business. And our competitors who
10 deal in the Chinese imports knew this as well. And during
11 this time, we would see them--as I said, we had industry
12 meetings, we know who they are--and they were a smaller
13 player.

14 But as they found this outlet, or as the Chinese
15 found this outlet in the U.S., to partner up with this
16 importer, they started expanding. They were virtually
17 everywhere and had lots of inventory. And I think that
18 coupled the predatory pricing that we just simply
19 financially could not compete with, along with the
20 inventories that they were staging around the country, which
21 seemed at the time to all be with their Chinese partners.
22 That's really where the damage was done.

23 MR. LEVY: And Commissioner Stayin, if I could
24 just add, I think Mr. Kieffer testified that availability
25 was almost a threshold requirement, and that if the product

1 was available, you compete on the basis of price. I would
2 simply point out that while the coverage of purchaser
3 responses in this case, you know, might be a little less
4 than robust, the responses that we do have uniformly show
5 that--whether it's U.S. producers, subject imports or
6 nonsubject imports--that all sources of supply were
7 overwhelming comparable. And that's the record evidence is
8 here.

9 MR. ASHER: This is Aaron Asher, Southwire, just
10 to add to that. You know, Southwire's a very proud company
11 when it comes to our availability and our service, and I
12 know Encore is as well. Unfortunately, as we've all
13 mentioned earlier, when it comes to AWC products, our
14 service and availability does pale in comparison to price.
15 Again, it's a commodity product. Price usually wins and
16 holds out as the number one determining factor.

17 COMMISSIONER STAYIN: To what extent did the 232
18 have an impact in your favor?

19 MR. LEVY: Maybe Mr. Asher could answer that.

20 MR. ASHER: Actually, what 232 did was increase
21 the cost of aluminum domestically. So it created that
22 cost-price squeeze. Where our costs went up, our material
23 costs went up, and normally in a good economy, we'd be able
24 to recoup some of those costs by increasing our prices.
25 Unfortunately, during the period of investigation, because

1 of the low-priced Chinese AWC, we were unable to do that.
2 So our costs went up while the market pricing further went
3 down.

4 COMMISSIONER STAYIN: So you weren't able to pass
5 through these increased costs that you were experiencing?

6 MR. ASHER: No, sir. That was a lot of
7 profitability loss that we saw, was because of our inability
8 to do that during the period of investigation.

9 COMMISSIONER STAYIN: The average COGS to net
10 sales ratio went up from 2016 to 2018, but decreased by 4.3%
11 from '18 to '19, interim '19 -- interim '18, interim '19.
12 What is the significance of this for our price effects
13 analysis?

14 MR. LEVY: Thank you, Commissioner. I think we
15 would take the view, that from the period from '16 to '18,
16 subject imports were a cause of an adverse price effect,
17 price suppression and a cost-price squeeze. By contrast,
18 the improvement, that is to say, the decrease in the ratio
19 of COGS to net sales, evidences a post-petition effect,
20 which to say the pernicious effect of subject imports
21 moderated post-petition.

22 COMMISSIONER STAYIN: All right. I think I'm out
23 of time.

24 CHAIRMAN JOHANSON: Commissioner Karpel.

25 COMMISSIONER KARPEL: Thank you. Thank you for

1 being here today. I did wanna follow up a little bit on the
2 nonsubject discussion you were having with Commissioners
3 Kearns and Schmidtlein. I think I heard, in your
4 explanation of, how is it that domestic producers aren't
5 gaining market share in that interim period, that they're
6 losing that market share to the subject imports, but how are
7 we seeing any sort of increase improvement in the
8 financials?

9 And you described the scenario where prior to
10 imposition of the duties, you were seeing discounts as to
11 hypothetically 15%. But afterwards, you were seeing
12 discounts requested of 5% from nonsubject imports. But I'm
13 trying to square that with the commodity nature of the
14 product, that you're saying is always competing on the basis
15 of price.

16 And maybe you answered this in some part in
17 response to the other Commissioners' questions, but I'm
18 really trying to get my head around why would a purchaser
19 choose domestic product that's still higher-priced than the
20 nonsubject?

21 MR. KIEFFER: It's not necessarily that they are
22 choosing to pay a higher price than we are. We ultimately
23 had to match the Chinese prices or the nonsubject prices.
24 And what the nonsubject importers did was, it was a little
25 bit more of a level playing field. And so if I have to

1 match someone else's price, I'd rather match a 5% low price
2 than a 15% low price.

3 But part of the reasons we didn't increase in
4 volume, we're all very relationship-oriented, even though
5 it's a commodity market, I may only sell three distributors
6 in a market of ten. And so if they choose to do business
7 with us and they buy, say, three million pounds a year, I
8 may not gain any more, they may not gain any more, if we're
9 doing the same, if I'm making the same business decisions to
10 support that customer or to lose sales as I pointed out in
11 my testimony. But when we do take that business, it's just
12 taken at a -- we have to match it from a price standpoint at
13 a %5 off discount rather than 15%, so that's where the
14 improvement came in, but maybe not necessarily a margin
15 share increase.

16 COMMISSIONER KARPEL: But in that scenario,
17 purchasers are choosing to buy your product even though it's
18 not as discounted as much as -- or are you meeting that 5%,
19 is that what you're saying?

20 MR. KIEFFER: We are meeting that 5%, so that's
21 really where it comes in. Do I have to meet a 15% lower
22 than market price? Or do I have to meet a 5% lower?

23 MR. LEVY: Commissioner Karpel, if I could
24 provide -- you wanna go?

25 MR. MINTZER: Sorry, Sydney Mintzer from Mayer

1 Brown. I just wanted to make sure it was clear that, when
2 we're talking about AUVs, we're talking about an average
3 over many different SKUs, right? So those different
4 products on the table, and they'll have different prices
5 related to them, so the AUVs are amalgamating all those
6 things.

7 But if a customer is coming and seeking a price
8 on one of those producers, and the customer comes back and
9 says, "No, you must get that, in order to get the sale, you
10 have to match it 5%," that's what's happening. So the AUVs
11 in some sense mask what's going on, on a particular product
12 on a particular date. So it's inevitably a little bit less
13 precise than looking at specific products on a specific
14 date.

15 MR. LEVY: And just to add a little more color, I
16 think it was explained in the testimony that there are these
17 price lists. So if you were to look at a price list,
18 whether it's from Priority or Southwire, Encore, they all
19 look exactly alike, and, you know, they have literally
20 dozens of different products.

21 And so a purchaser, knowing that they have a
22 particular project need, will say, "I'm soliciting a quote.
23 I wanna know what your discount is off of these list
24 prices." They don't necessarily specify their building
25 materials and tell you which particular items they're gonna

1 be purchasing yet. They just wanna know your discount. And
2 so in that environment, in 2018, Mr. Kieffer might've had to
3 match a 15% Chinese discount. In 2019, if he wants the
4 business, he would need to match the hypothetical 5%
5 discount for nonsubject imports in order to get the
6 business.

7 It may turn out that as things come to a head,
8 there's a realization that nonsubject imports were lower,
9 you lose the sale, but you don't necessarily lose the
10 entirety of the sale, because it may be that on that
11 particular day and that particular location, the supplier
12 has five of the six SKUs and the sixth SKU only Encore has
13 in the warehouse. And so they buy from Encore.

14 Encore sells volume and Encore's price might've
15 been that % higher than nonsubjects, but it's what's
16 available. And so in that environment, Encore is gonna get
17 some volume, but at a depressed price, a price that had
18 already been lowered in an effort to meet import
19 competition.

20 COMMISSIONER KARPEL: Maybe I should back up and
21 try to understand a little bit more the pricing in your
22 industry. You talk about the published prices and then
23 there are these discounts that are offered off of those and
24 then you say there's transparency in the market about
25 pricing, in general. I assume you mean the price list, plus

1 the discounts. How are these discounts communicated to the
2 market? Are they published? Is it just word-of-mouth as
3 you will hear from the purchasers?

4 MR. KEIFFER: Thank you for the question. Yes,
5 we have a very -- I know when I started the industry 13
6 years ago I said this is really odd because everybody places
7 a published price list, and I've likened it before to an
8 airline industry. If the price is \$300 to Las Vegas and
9 that's -- you know five airlines are doing that everybody
10 knows what the basic price is, the market price is.

11 All of a sudden, somebody -- American Airlines comes in
12 and says, okay, here's a \$99 price and then it's up to
13 everyone else in the market to decide whether or not they
14 want to match that. Because everything is so public and
15 because people don't have loyalties, other than price, they
16 will typically switch to the 99 and all of a sudden the
17 airline that's at 300 has to move and change everything.
18 So, that's the way we basically operate.

19 If you look on our website, we have a published
20 list price and they're the same if you look at five
21 different manufacturers. And all day long what we try to do
22 is -- obviously, my job is to make the company as profitable
23 as we can possibly be, so I want higher prices than general
24 others in the market who don't have either the relationships
25 or the inventory or those kind of things. So, then we start

1 competing on price once everything is equal, but we have
2 customers and reps, so we're presented by independent
3 electrical reps who they go out and do the selling for us,
4 communicating with the customers.

5 The customers would call in or the reps will
6 call in and say, hey, I know your wire is \$100. I want it
7 for 95. I do everything I can to get it back up to 100, but
8 you start feeling a little pain and 95. And all of a
9 sudden, you get a phone call and say, hey, we've got a
10 competitor that's at 80. And you're going that's impossible
11 because the cost of the -- you know you go through the
12 general stuff. It's not hard to figure out what our costs
13 are in the spreads.

14 And so, ultimately, if this is one of my best
15 customers -- they give me 90 percent of their business -- I
16 have to decide now am I going to disappoint this customer
17 and tell them, sorry, our price is 100 or 95. I can do 95,
18 but I can't do 80. And they'll say, well, hey, if I don't
19 do 80, I'm not going to be able to compete with the folks
20 down the street who are buying from the folks who are 80,
21 and so it drags the entire market down.

22 So, it becomes at some point irrelevant what
23 Encore or Southwire are charging. We have to migrate to
24 that lowest-priced offer in the market and that then becomes
25 the market price. And so, all the things that we do to try

1 to maintain that just gets flushed out in a price play at
2 the end of the day.

3 COMMISSIONER KARPEL: So, those discounts are
4 really communicated through the market by purchasers telling
5 you I've got a better price from somebody else because they
6 gave me a bigger discount.

7 MR. KIEFFER: Yes.

8 COMMISSIONER KARPEL: And is that dynamic the
9 same when you are selling to a distributor as when you are
10 selling to maybe a retailer?

11 MR. KIEFFER: So, we only sell to electrical
12 distribution. I'd have to defer that question to Mr. Asher.

13 MR. ASHER: The majority of our sales for the
14 aluminum wire and cable at issue here are going to the
15 commercial and industrial customer, so that's mainly through
16 distributors, so very similar to what Encore has seen.

17 But to your question earlier about -- or comment
18 about transparency it's an incredibly transparent market.
19 We are given feedback via phone, text, and email without
20 actual concrete price sheets showing the prices that we need
21 to match and are very often showing who that competitor is.
22 So, we're very clear, and the market is very clear, on where
23 those pricing levels are, and on a
24 transaction-to-transaction basis what that specific price
25 needs to be to get that job.

1 COMMISSIONER KARPEL: Thank you. On page V-5 of
2 the staff report there's an indication that 7 out of 11
3 responding purchasers reported that they did not use these
4 price lists for setting prices. Can you explain what other
5 methods they might be using or what they might mean by that?
6 Were they using contracts or spot sales?

7 MR. LEVY: Commissioner Karpel, I think we could
8 give a more complete answer post-hearing, but our general
9 sense is that subject imports are concentrated -- subject
10 imports are concentrated on sales to distributors and
11 certainly, Encore is selling almost exclusively its sales to
12 distributors. This is where the head-to-head competition
13 is. You just heard that the lion's share of what Southwire
14 sells is to distributors, but there are other segments to
15 the market; most notably, utilities and sort of Big Boxes
16 like Lowe's and Home Depot.

17 And so, at least for Encore, we wouldn't dispute
18 that there might be different mechanisms for price
19 competition in those channels. We just have experience with
20 it, at least from Encore's part.

21 MR. ASHER: So, with regards to the utility and
22 the way pricing is done, as well as the retailers, just
23 because of the situation I'd prefer to answer that in a
24 post-conference brief.

25 CHAIRMAN JOHANSON: Alright, thank you again for

1 appearing here today.

2 Mr. Asher, you stated something this morning and
3 I'd appreciate it if you could give us a bit more
4 explanation. I believe you stated that copper wire is
5 usually used in residential markets due to building codes.
6 Could you discuss why that's the case? I don't recall
7 seeing any discussion of this in the staff report.

8 MR. ASHER: All I was trying to convey is that
9 there is a specific difference between most aluminum wiring
10 cable applications and copper wire applications. And, for
11 instance, copper wiring is dramatically the higher or the
12 most used wire and usually required by most municipalities
13 for in-house wiring. Your small, circuit-size wiring to
14 your light switches, your fans, things like that.

15 MR. JONES: Back in the seventies, late
16 seventies, there were some significant concerns with
17 aluminum product within the residential dwelling -- fires,
18 what have you. Codes changed in response. It had to do
19 with several things -- you know workmanship, connectors --
20 most connectors, receptacle switches in your house are made
21 of copper on the backside. You're terminating an aluminum
22 conductor. They expand, they contract at different rates.
23 The characteristics of the aluminum acts differently when
24 it's energized versus the way copper does. There's creep.
25 There's industry terms that come into play there, but

1 basically there is no residential, under the roof,
2 specifically, other than the panel -- electrical panel
3 supply that you can use aluminum product. So, within your
4 house, it should be copper, unless it was built prior to the
5 late seventies.

6 CHAIRMAN JOHANSON: There's safety reasons for
7 that?

8 MR. JONES: Yes, sir. It has to do again with
9 follow-up maintenance to pull the receptacles and switches
10 off, give the connector a quarter turn to tighten because
11 again the aluminum, 1350 series alloys versus an 8000 series
12 alloy. The 8000 would act or mimic the characteristics to
13 copper more closely, but not identically. But prior to the
14 2000's, 1350 alloy is what was used and it does not have the
15 same characteristics specifically to copper and so it would
16 cause loose connections basically, and that's a general
17 term, but loose connections could cause issues.

18 CHAIRMAN JOHANSON: Okay, thanks for the
19 explanation, Mr. Asher and Mr. Jones.

20 Regarding the Section 301 duties, on page 14 to
21 15 of Southwire's pre-hearing brief and pages 13 to 14 of
22 Encore's brief, Petitioners describes USTR as granting
23 exclusions to most AWC. Can you tell us a little bit more
24 as to why USTR provided these exclusions?

25 MR. LEVY: Sure, Commissioner Johanson. If we

1 move to Exhibit 11, when we say "most," we're talking about
2 the top here, 8544.49.90 AWC without connectors. You know I
3 think the Commission is thoroughly familiar with Section 232
4 exclusions and then how they look. There you have
5 particular companies requesting exclusions for very narrowly
6 defined products or very specific volumes. And in that
7 context, the Department of Commerce makes findings about
8 availability and other things and on that basis does or
9 doesn't grant exclusions.

10 Section 301, obviously, is very different in
11 terms of its structure and purpose, right? Section 232 is
12 about shoring up a domestic industry for national security
13 reasons and protecting them against injurious imports, in
14 part. Section 301 is entirely different in function, right?
15 It's a foreign policy and an economic policy tool in dealing
16 with Chinese cheating in a particular technology.

17 So, against that backdrop, the way in which USTR
18 administers Section 301 exclusions is they invite parties to
19 talk about their need for exclusion, but it would apply
20 equally to all importers under a particular tariff
21 subheading at the eight-digit level. And so, what happened
22 in the summer of last year was that American Wire Group,
23 which includes Classic, asked USTR for exclusion, and I
24 think their beef was twofold.

25 I think they said that if they couldn't source

1 cheap aluminum wire from China they would be forced to
2 source from non-subject suppliers who were higher priced and
3 they had a problem with paying a higher price. And they
4 went on to add that the domestic industry was none too eager
5 to supply them in the alternative because, obviously,
6 they're competitors of the domestic industry, competing for
7 sales to distributors.

8 And so, against that backdrop, Encore objected.
9 I believe Southwire also objected. I could certainly say
10 that in the context of the Encore submission we said, hey,
11 wait a minute. We absolutely are able and willing to supply
12 this product and we are extremely vulnerable to these very
13 imports. In fact, the ITC made a preliminary affirmative
14 finding that we were materially injured by reason of these
15 imports. And so, on that basis we objected.

16 When USTR made its exclusion decision in just
17 this last month, there was no rational or finding of fact
18 given. All that we know is the facts that were before the
19 301 Committee in terms of the request for exclusion and the
20 objections lodged. But it's also worth noting that the 301
21 Committee was made aware through our objection last year
22 about the pendency of this proceeding. So, it's possible as
23 well that USTR considered the pendency of this proceeding in
24 deciding whether or not to grant an exclusion.

25 CHAIRMAN JOHANSON: So just to ask again, USTR

1 was aware of this petition?

2 MR. LEVY: Yes. Again, just to recap the
3 history, in the summer of 2018 a request for Section 301
4 exclusion was filed. Encore and Southwire objected. In the
5 context of lodging our objection, we reaffirmed that we were
6 able and willing to supply product in the market generally.
7 So this wasn't certainly a shortage issue, and we emphasized
8 the vulnerability to the domestic industry to these imports.

9 On that point, we cited as evidence the ITC's
10 preliminary affirmative determination of this investigation.
11 So through that objection we made the USTR aware of the
12 pendency of this proceeding, which may have been a factor
13 that informed their exclusion determination. But we have no
14 clear information one way or another as to the rationale
15 underlying this exclusion decision.

16 CHAIRMAN JOHANSON: If USTR granted these
17 exclusions, what does that tell us about how USTR views
18 conditions in the U.S. market?

19 MR. LEVY: Again, I don't think we have any
20 clear insight. Unlike a Section 232 exclusion, where there
21 are specific findings of fact, there are none in this
22 Federal Register notice. It is one of hundreds of products
23 that are selected for exclusion, and again unlike Section
24 232, the purpose of 301 is not in the first instance to
25 afford protection to an injured domestic industry. It is,

1 as much as anything, to develop leverage in bringing China
2 to the table to solve for a problem relating to their
3 cheating and technology theft.

4 So you know, we're not in a position to infer
5 too much from the exclusion except to note that it's there
6 and it's condition of competition.

7 CHAIRMAN JOHANSON: Did you all ask USTR as to
8 why they did this?

9 MR. LEVY: We've not had any communication
10 with USTR since we learned of this.

11 CHAIRMAN JOHANSON: As far as you know, does
12 USTR typically grant Section 301 exemptions where there is
13 demonstrable domestic production of a product?

14 MR. LEVY: I'm not in a position to give a
15 complete answer. There is -- there have been hundreds of
16 exclusions granted, and I'm simply not steeped enough to
17 understand. I know that availability of the domestic supply
18 is a factor among others. But it is just one of many.

19 CHAIRMAN JOHANSON: And there is sufficient
20 domestic supply, right?

21 MR. LEVY: Yes. I think you've heard
22 testimony from Mr. Jones that if the price were right, he
23 could double output on short order, and I think you can see
24 in the public record there's significant unused capacity
25 from the domestic industry as a whole. So there's no issue

1 there. Just to go back to the exclusion request of American
2 Wire Group and Classic, their beef at bottom in writing, and
3 we can certainly provide you with that information
4 post-hearing and characterize it, was twofold.

5 One, that their most obvious alternate source,
6 non-subject imports, would be higher priced than the
7 Chinese. That was one of their complaints on why they
8 needed the exclusion and they needed that cheap Chinese
9 product. And their second complaint was that the Encores of
10 the world were not willing to supply them either, which
11 makes perfect sense of course because they are Encore's
12 competitor and competing for sales to distributors.

13 CHAIRMAN JOHANSON: Okay. Thanks for your
14 response here. My time has expired. Commissioner
15 Schmidtlein.

16 COMMISSIONER SCHMIDTLEIN: Okay, thank you
17 very much. I guess I wanted to -- some of this information
18 is confidential, but I wanted to understand a little bit
19 about the impact of the subject imports in 2018, which is
20 the year that the domestic industry as a whole has its worst
21 financial performance, right?

22 And so when I was sort of looking at trying to
23 parse the data, right, in terms of what's happening with
24 aluminum prices, the cost of raw materials and what's going
25 on with shipments and volume, shipments from China, if you

1 look at it, and this is Mr. Levy, Mr. Mintzer, these are
2 primarily -- maybe we can start with questions for you
3 because of the nature of the information, I see that U.S.
4 shipments, if you look at U.S. shipments AUVs, which are
5 not confidential, U.S. shipment AUVs go up ten cents, right?

6 If you look at unit COGS and unit SG&A and add
7 those together, again not confidential, on an AUV basis they
8 also go up by a total of ten cents, right, for the U.S.
9 industry. So it looks like for the domestic shipments, you
10 know, at least on an AUV basis they were able to cover that
11 increase from 2017 to 2018. Their shipments go up a little
12 bit, right, so price goes up at least on an AUV basis,
13 enough to cover that.

14 So you wonder okay, so why -- what happened to
15 their financial performance, right, given that? And then
16 this is confidential, but so maybe you won't be able to talk
17 about, although I'm hoping in generality you may be. If you
18 look at export shipments, you see a unit value drop from '17
19 to '18, but yet shipments of exports go up.

20 So it looks like or you could make the
21 argument that their financial performance being driven, at
22 least in 2018, to a large extent by what's going on with
23 their export shipments, right? When you look at the volume
24 of Chinese imports, it increases a little bit, from '17 to
25 '18 it's four percent, not confidential.

1 So I wonder if you could speak to that, you
2 know? How do we -- how do we separate that, you know? Are
3 subject imports having an impact on the pricing for export
4 shipments, or how do we separate what's causing this
5 negative financial performance in 2018, given the volume of
6 subject imports doesn't increase that much from '17 to '18,
7 and you see what's happening with the export shipments?

8 MR. LEVY: Thank you Commissioner Schmidtlein.
9 You've cited a number of numbers and factors, and obviously
10 we look forward to providing a very detailed and responsive
11 answer in our post-hearing submission. I was hesitant to
12 get into this in the hearing, but I guess just to preview,
13 you know, 2018 is a period where a lot is changing. In the
14 third quarter, petitions were filed and I think it's
15 important to understand that there are qualitative
16 differences in terms of what's happening in the market
17 pre-petition versus post-petition.

18 So I think in order for us to provide a
19 fulsome response post-hearing, we will actually obviously
20 respond to everything you've talked about in comparing 2017
21 to 2018, but there may actually be some value in
22 disaggregating 2018 and looking at what's happening between
23 the first and the second half of that year, because there's
24 a story to be told there in understanding what's happening.

25 We can't get into the specifics now, it's very

1 tedious. But I think it will shed some light on the
2 questions you raised.

3 COMMISSIONER SCHMIDTLEIN: Okay. So I assume
4 your position is that the domestic industry was being
5 injured in 2018, that all of the injury didn't come in 2017?

6 MR. LEVY: Yes, but I think our position would
7 also be that we began to witness mitigation of that injury
8 and particularly the price-based injury in the back half of
9 2018, but that the benefit of the pendency of the case was
10 much more fully pronounced in the first half of 2019. So
11 more details to follow, but I think that is a short answer
12 to your question.

13 COMMISSIONER SCHMIDTLEIN: Okay. Well and
14 just noting that, you know, in terms of the decline in the
15 financial performance, at least on margin basis, right,
16 operating income or net income, I mean they have the
17 greatest decrease from '17 to '18, and '18 was the year that
18 things started to moderate. So what else is going on there?
19 I guess that's really my question, right?

20 MR. LEVY: Yes, and to be clear, our position
21 has never been that there's one and only one factor that
22 explains the condition of the domestic industry. Simply
23 that without question, subject imports are an important
24 cause. So we will work to answer these questions
25 post-hearing, but also to reaffirm for you without question

1 that there is a cause and effect relationship between
2 subject imports on the one hand and the deteriorating
3 performance of the domestic industry on the other. Thank
4 you.

5 COMMISSIONER SCHMIDTLEIN: Okay. I'm not sure
6 if this question has been asked, sort of switching gears.
7 Is there a seasonality to this product? Maybe one of the
8 industry witnesses can answer that.

9 MR. KIEFFER: Basically, you know, it follows
10 the construction trends. So we see parts of the country
11 where there are floods or it stays colder and frozen and
12 they can't dig in the ground and those kind of things. So
13 it's seasonality that's basically related to those other
14 factors.

15 COMMISSIONER SCHMIDTLEIN: So warmer months
16 you see a bigger increase?

17 MR. KIEFFER: Yes. When construction
18 increases, the purchase and installation of this product
19 increases.

20 COMMISSIONER SCHMIDTLEIN: Okay. These are
21 sort of odds and ends questions. One other question I had,
22 which again I'm not sure if this has been discussed and
23 maybe you can't say much now. But one of the things I
24 noticed is that, you know, capital expenditures went up,
25 wages paid also went up, right, although the number of

1 employees, you know, hours worked, production workers
2 stayed relatively even, you know. A little bit of
3 fluctuation, a little bit.

4 So can you talk about, I guess sort of in
5 general, is that consistent with a claim of injury, with an
6 industry that's being injured, is able to increase their
7 wages for employees, able to increase capital expenditures
8 over the POI? Can anybody address that now, or is that
9 something that has to be addressed in the post-hearing?

10 MR. LEVY: I think we'll address it
11 post-hearing. Obviously, that question speaks to the
12 domestic industry as a whole, the companies here represent
13 only a fraction of the total. So I think the lawyers can
14 do a better job with that by reference to the APO record.

15 COMMISSIONER SCHMIDTLEIN: Okay, okay, all
16 right. Thank you. I have no further questions.

17 CHAIRMAN JOHANSON: Commissioner Kearns.

18 COMMISSIONER KEARNS: Yeah, just a couple of
19 questions here. One, I think this is for you, Mr. Levy. On
20 page 20 of your brief, you argue that the Commission should
21 have collected purchase costs for direct imports from those
22 importers that have also, that also serve as their own
23 distributor. You had expressed a similar concern in your
24 comments on draft questionnaires. But isn't it Commission
25 practice to only collect purchase cost data if there are

1 retail sales for internal consumption, and what data on the
2 record makes you think that there were significant imports,
3 you know, in terms of retail sales or internal consumption?

4 MR. LEVY: I would not dispute that that's the
5 Commission practice. We thought in our comments on the
6 questionnaires that it would be prudent to also have the
7 purchase costs of the importers, so that we could understand
8 the extent to which the comparison of shipment data provides
9 apples to apples comparisons. I think on this record, I
10 think it's clear that some of the comparisons likely are not
11 apples to apples. But that those comparisons are
12 nonetheless conservative, and what do you see on this
13 conservative record?

14 We think that, you know, considering the
15 adjustments to the data that are on the record but not yet
16 reflected on the prehearing report, you know, we only expect
17 that there will be pervasive underselling. So you know, on
18 some level we point it out as a matter of intellectual
19 honesty. But it shouldn't give the Commission any pause,
20 because making even the most conservative assumptions, the
21 evidence of adverse price effects from subject imports is
22 palpable.

23 COMMISSIONER KEARNS: Right. So you said for
24 some we may not have apples to apples. Are you basically
25 say would it be realistic to think that all sales between

1 this particular producer, U.S. producer and this particular
2 customer that you mentioned in your brief, this is
3 proprietary so I'm trying to be careful, that all of those
4 sales are probably not an apples to apples comparison?

5 MR. LEVY: It would appear that that is the
6 case, but only with respect to this particular fact pattern.
7 And so again, to the extent that's included in the analysis
8 and we're looking at things on a shipments to shipments
9 basis?

10 COMMISSIONER KEARNS: But that -- yeah. But
11 that fact pattern is all sales between those two parties,
12 right?

13 MR. LEVY: That's correct.

14 COMMISSIONER KEARNS: Yeah, okay.

15 MR. LEVY: And so again, we simply pointed out
16 as a matter of intellectual honesty. But we're not asking
17 the Commission or the staff to do anything with it at this
18 point.

19 COMMISSIONER KEARNS: Right, understood.
20 Maybe you're just suggesting going forward, we should be
21 asking ourselves whether or not it needs to be tied to
22 retail sales or it needs to be tied to internal consumption,
23 or if instead we should just be focused on an apples to
24 apples comparison, i.e. ensuring that we're looking at the
25 same level of trade with respect to U.S. prices and subject

1 import prices?

2 MR. LEVY: Yeah, and that's generally been our
3 view, is that independent of your past practice, you want to
4 ensure that you're analyzing sales of subject imports and
5 U.S. producers at the same level of trade. I think the past
6 practice has dealt with a particular fact pattern. Here, in
7 truth, you kind of have a hybrid.

8 And so our point was simply had you also
9 collected data on purchase costs, it would have allowed us
10 to maybe measure with more precision the nature of any
11 potential distortion that might exist on the record. But as
12 this record exists, regardless of whether the distortion is
13 small or large, it's immaterial to the conclusion that we
14 think is before the Commission, which is clearly there's
15 adverse price effects. And we're not, just to be clear,
16 we're not asking you to make any adjustments to the data
17 that are being developed by the staff.

18 We're perfectly satisfied with the way the
19 staff is compiling its data and continuing to scrub what's
20 still under assessment.

21 COMMISSIONER KEARNS: Right. Okay, thank you.
22 Shifting to Southwire, the prehearing staff report indicates
23 that eight purchasers listed Southwire as a price leader,
24 and the record is clear that AWC prices are publicly
25 available in price lists. Have you reconciled that with

1 your claims that subject imports drive prices in the U.S.
2 market?

3 MR. MINTZER: I think -- I'll start off the
4 answer. I think this was also an issue at the staff
5 conference in the preliminary phase. I think we are the
6 price leader to the extent we certainly try to raise prices
7 where we can. And so we'll, you know -- historically, we'll
8 have come out with price lists, and they will attempt to
9 increase prices, and I think what we've seen is -- so the
10 market sees that. But that doesn't mean that that's where
11 they're sustained. We're certainly not driving the prices
12 lower. Mr. Asher --

13 MR. ASHER: To Sydney's point, as we've discussed
14 prior, you know, there are list price sheets that more
15 importers or U.S. manufacturers post, and then we all
16 discount below that, or off that list price. And we try to
17 put out new price sheets whenever we can if the material
18 costs, i.e., the aluminum in this case, increases to, again,
19 try to recoup those increased costs on our end, so we can
20 sustain some profitability.

21 For instance, in 2018, we attempted to institute
22 seven price increases, or put out new price lists, none of
23 which were successful, but again, in the market, we pride
24 ourselves on being the ones that are always trying to push
25 that higher price, to raise that price in the market to get

1 that profitability back and to recoup our costs. I think,
2 to Sydney's point, we are just kind of a leader in the
3 effort to try to sustain a profitable and responsible price
4 within the market.

5 COMMISSIONER KEARNS: Okay, thank you. And, one
6 last question. And I can't remember which brief I read this
7 from. I think it might've been Encore's. But it actually
8 might -- I think you both have made the point, but I think
9 you all have proposed that an alternative and more
10 meaningful measure of price suppression is the price over
11 metal and I guess my question is, I mean, given that we, of
12 course, are looking at COGS and considering that as we would
13 any other case, is there any difference between doing that
14 and doing this? Mr. Levy or --

15 MR. LEVY: -- Yeah, Commissioner Kearns, you
16 know, there's always the way the industry sees it and the
17 way the Commission typically analyzes data. You know, when
18 industry witnesses are talking to you about the price spread
19 over metal, what they're really talking about is the ratio
20 of their unit raw materials cost, which is predominated by
21 aluminum metal on the one hand and their price.

22 Obviously, COGS to sales is much the same, the
23 only difference being it's capturing labor, energy and
24 factory overhead and qualitatively, I think, and then
25 directionally you see the same answer, whether you're

1 looking at one or the other.

2 So I think to the extent the Commission is
3 focused on COGS to sales, to understand price suppression,
4 that's your kind of tried-and-true tool, I think it does the
5 job perfectly fine. We're simply presenting testimony to
6 you that's consistent with the way the industry understands
7 its economics, but I don't think we have any issue with the
8 way in which your staff would analyze it through the lens of
9 COGS to sales.

10 COMMISSIONER KEARNS: Okay, thank you. And this
11 isn't a situation where, in the market, when you are talking
12 to your customers, rather than quoting the price of the
13 product, you say, "Can we get 10% over POM," right? It's
14 not that transparent?

15 MR. ASHER: No, absolutely not.

16 COMMISSIONER KEARNS: Okay. Okay, thank you very
17 much. That's all I have.

18 CHAIRMAN JOHANSON: Commissioner Stayin.

19 COMMISSIONER STAYIN: Thank you. Just a couple
20 questions. When the 232, when Canada was exempted from it,
21 did this have a positive impact on the -- did you then
22 source more from Canada in your aluminum requirements?

23 MR. JONES: We have sourced aluminum rod from
24 Canada from time to time. And during the period of
25 investigation, we continued to receive some from Canada, and

1 then we changed quite a bit of our volume over to another
2 supplier, waiting to see how the tariff would take effect on
3 rod as a raw material for us. And we were not subject to
4 the complete 25% charge. We ended up negotiating some
5 things.

6 MR. LEVY: Commissioner Stayin, just to be clear.
7 You know, it is the case that the Section 232 on primary
8 aluminum, which I think was 10% during most of the POI, it
9 obviously had the effect of constraining the supply of
10 aluminum, at least at historical prices.

11 Whether you source from an excluded supplier like
12 Canada, or from a domestic supplier, which obviously wasn't
13 paying tariffs, or whether you imported or purchased
14 imported product that was subject to the tariff, there's no
15 question that the Section 232 measure had an impact on the
16 overall market price of aluminum procured in the U.S.
17 market.

18 And I think it is fair to say in your
19 characterization that the exclusion of Canada was a factor
20 that sort of, all else being equal, if there were no other
21 factors in the analysis, ceteris paribus, it obviously
22 pointed to cheaper aluminum. But it was just one of many
23 competing factors that drove aluminum pricing throughout the
24 period of investigation.

25 COMMISSIONER STAYIN: Okay. On Table 5-11

1 dealing with the ranges of underselling and overselling, it
2 was somewhat surprising that prices for the product imported
3 from China were below those of the U.S.-produced product in
4 fifty-four of eighty-two instances and margins of
5 underselling were an average of 5.5%, and the remaining
6 twenty-eight instances, prices for the product from China
7 were an average of 6.4% above prices for the domestic
8 product.

9 Did that open a channel of products that you were
10 able to sell at your proper price? What impact did that
11 have on the overselling? We understand what the
12 underselling did, what effect did the overselling have?

13 MR. LEVY: Thank you, Commissioner. I think we'd
14 like to answer that post-hearing, in part because we believe
15 that the underselling data summarized in the prehearing
16 report, we think is superseded by subsequent events. We
17 think that there's been a clarification in the APO record
18 that warrants an updated table. We think the way the table
19 should look is the one summarized at Attachment A in our
20 brief, which is obviously proprietary, but by reference to
21 those data, we can obviously provide a more fulsome
22 response.

23 And, you know, it's our hope and expectation that
24 the final report will be consistent with our view of the
25 evolving facts, and we can reaffirm that in any final

1 comments. We're confident that Mr. Benedetto and Mr.
2 Boyland are aware of this issue and that they're addressing
3 it in a responsible fashion and so we would simply defer to
4 their good work and in the fullness of time, the record will
5 settle out.

6 COMMISSIONER STAYIN: Thank you. Can you tell me
7 what the capacity for production of these products, AWC, is?
8 We've seen a large volume of product coming, but what is the
9 overall capacity? When you think about the threat issue,
10 what does that have to do in terms of that issue?

11 MR. LEVY: Commission Stayin, if we look at this
12 from a threat of injury perspective, typically the
13 Commission would rely on foreign producer questionnaire
14 responses to understand the capacity and the production and
15 the incentive to divert more product to the U.S. market in
16 the absence of orders.

17 What we have on this final phase record is that
18 one, only a single foreign producer in China saw fit to
19 cooperate with the Commission in responding to a
20 questionnaire. So we have briefed to the best of our
21 ability, what we think would support an affirmative
22 determination, where the Commission to consider threat, but
23 obviously the decision of the Chinese industry, to thumb its
24 nose at the Commission, makes our job that much more
25 challenging.

1 And let us be clear. You had a number of Chinese
2 producers that spent hundreds of thousands of dollars
3 defending themselves aggressively before the Commerce
4 Department. But none of them could go through the trouble
5 to answer your, I think, five or six-page questionnaire. So
6 I think that tells you something in terms of their respect
7 for this institution and the inferences that should be drawn
8 and we hope that you will view our representation of the
9 facts in this threat section in the light most favorable to
10 the domestic industry.

11 COMMISSIONER STAYIN: Thank you. I think that's
12 all that I have. I think the other Commissioners have asked
13 the rest of my questions. Thank you.

14 CHAIRMAN JOHANSON: Commissioner Karpel?

15 COMMISSIONER KARPEL: Thank you. I wanted to
16 talk a little bit about pricing again. I'm looking at Page
17 213 of the staff report, and there's a note there that five
18 of eleven purchasers reported that they only sometimes
19 purchase the lowest price of AWC. Can you explain this?
20 And how is this consistent with your arguments on it being a
21 commodity product? We also see this in other -- well, I'll
22 stop there and let you answer that.

23 MR. LEVY: Commissioner Karpel, thank you for
24 that question. I think you heard in this morning's
25 testimony that customers care by and large about two things:

1 They care about, you know, availability of a quality product
2 and price.

3 And I think everyone agrees that this is a
4 commodity and the quality of everyone's product is
5 interchangeable. So there's a threshold requirement of
6 availability and, to the extent competing suppliers have
7 available product, then competition boils down to price.

8 It is the case that, on any given day, for any
9 given bid, depending on what part of the country you're in,
10 somebody might have product in inventory and somebody needs
11 to procure it. If you're a U.S. producer, you could produce
12 to order and -- I think you've heard testimony that in a
13 couple of days, it could be produced and delivered. If
14 you're an importer, you might have to order, you know, bring
15 it in from another warehouse or bring it in from overseas
16 with some lag.

17 So one could imagine situations that for a
18 particular SKU on a particular day, you do not have
19 availability from all sources. And under those
20 circumstances, there could be a situation in which a
21 particular supplier with the product is not driven to the
22 least common denominator in terms of price.

23 COMMISSIONER KARPEL: So, the answer to that is
24 essentially it's just availability. When they purchase
25 something, other than the lowest-priced product, it's an

1 availability issue.

2 MR. LEVY: In our experience, that's the common
3 answer to the question.

4 COMMISSIONER KARPEL: Okay, so moving on to a
5 different question, other than the 232 tariffs, have there
6 been other factors that are increasing raw material costs
7 and are foreign producers facing any upward pressure on raw
8 material costs?

9 MR. LEVY: So, maybe, Mr. Jones, you could
10 simply talk about aluminum metal costs in world markets
11 during the period.

12 MR. JONES: Yes, I think if you look at January
13 of '16 aluminum was around 76 cents a pound. LME, and
14 that's pre the Midwest premium of 17 to 18 cents in that
15 same timeframe per pound. It rose through the first half of
16 '18 up to around \$1.25 a pound without the Midwest premium
17 of 17 or 18.5 cents a pound. The second half of '18 it
18 started to drop on a per-pound basis and into the first half
19 of '19 on a per pound, worldwide basis aluminum had dropped
20 some.

21 COMMISSIONER KARPEL: Foreign producers would've
22 faced the same fluctuations, increase/decrease in aluminum
23 pricing that domestic producers faced, but domestic
24 producers also faced the impact of the 232 on aluminum
25 pricing.

1 MR. JONES: Yes, ma'am.

2 MR. LEVY: Commissioner Karpel, the only thing I
3 would add is that that is true of kind of the global
4 merchant market generally, but if you are a subject producer
5 in China and you had access to subsidized product it's a
6 different analysis. And, obviously, the Commerce Department
7 has made findings of subsidization in this case, which
8 speaks to a different cost structure that is not at issue
9 with the market -- you know at odds with the global market
10 economy.

11 COMMISSIONER KARPEL: I certainly understand
12 that. So, just following up on my last question, so if
13 we're to understand that subject imports didn't experience
14 the raw material price increase that domestic's did because
15 foreign producers weren't subject to the 232 duties, how can
16 we assured that we're not attributing injury to the domestic
17 industry from changes in raw material costs, which are
18 attributable, as you say, to the 232 tariffs, and not to
19 subject imports?

20 MR. LEVY: So, Commissioner Karpel, thank you
21 for that question. I think we've seen lots of cases where
22 there are changes to market conditions like increasing raw
23 materials costs where the U.S. industry's costs are
24 increasing. And if one were to look at that in isolation,
25 one could say, ah, that's the cause of your problem. Don't

1 blame imports. But the logical response -- and I think we
2 saw this in testimony from Mr. Asher earlier today -- is
3 that a U.S. producers response to increase in cost is to
4 pass that through to customers. And so, what Mr. Asher
5 testified, if I heard him correctly, was that he attempted
6 to raise prices to recoup these rising costs, but that
7 subject imports placed a ceiling on the price he could
8 charge and that is the cost price squeeze that he referred
9 to.

10 And so subject imports are not to blame for
11 rising costs. Subject imports are the blame for the failure
12 of the domestic industry to recoup those costs through price
13 suppression. I don't know if, Mr. Asher, you want to kind
14 of recap your testimony.

15 MR. ASHER: Yes, thank you. So, to your point,
16 you know as the results of 232 were such that our aluminum
17 or our raw materials costs did increase. Again, usually, we
18 have the opportunity to pass along or recoup some of that
19 through increased pricing. What we did see through the
20 period of investigation after 232 was implemented was as we
21 attempted to increase our costs just incrementally to cover
22 for those increased metal costs the pricing we were seeing
23 in the industry from the subject imports, especially, was
24 actually been driven lower, so you get the cost price
25 squeeze. Our costs are going up and the pricing we're able

1 to get in the market was actually declining, so our
2 profitability followed suit.

3 MR. MINTZER: Sorry, just one additional item,
4 and this is in our brief, but you'll note that although
5 aluminum prices started increasing in 2018, they did --
6 although they did begin to moderate a bit towards the end of
7 the period, they were so substantially higher than they were
8 in 2016. Yet, the industry -- domestic industry began to --
9 its condition began to improve as the subject imports began
10 to recede in the marketplace. So, even with those high,
11 elevated aluminum costs, they were able to begin recovery.

12 COMMISSIONER KARPEL: The aluminum costs also
13 went down in that interim period, so how are we not to view
14 that better position of the domestic industry in that
15 interim period being attributable to the decrease in cost
16 versus the decrease in subject imports?

17 MR. MINTZER: I mean I think if you look at the
18 pattern of costs over the entire period the injury which --
19 I mean 2016 to 2017 is an injurious period with lower costs,
20 so what the -- although they did begin to come down, you're
21 still in a situation where you have significantly elevated
22 costs and you have receding market share by the Chinese.
23 So, again, is there a significant, important relationship
24 between the Chinese imports and the health of the industry,
25 you know there may be multiple factors that you want to

1 consider, but I don't -- it's very difficult to conceive of
2 a fact pattern where the Chinese imports don't play a role
3 in the health of that -- beginning of that recovery in 2019,

4 MR. LEVY: So, Commissioner Karpel, if I could
5 just weigh in. I think it's worth calling out that the
6 lion's share of transaction in this marketplace are spot
7 transactions. And I think you heard testimony today that
8 Southwire and Encore are every day in the trenches fighting
9 to charge the highest possible price to their customers and
10 still keep the sale. So, what's changed in the interim
11 period in this environment is that, yes, raw material costs
12 have gone down, but nothing's changed in terms of their
13 willingness to pursue higher prices.

14 What has changed is their ability to achieve
15 higher prices in relation to metal costs. And so, you know
16 it's always looking at price in relation to costs. Buyers
17 are very mindful of what the metal costs is on any given day
18 and they expect to see discounts if the LME and U.S. Midwest
19 premium prices are lower and they expect to pay more if the
20 metal costs are going up. And so, against that backdrop
21 where the market has full knowledge, these companies are
22 competing to charge the highest possible price.

23 And I think what you've heard from the testimony
24 is that the cut-rate pricing from subject imports moderated
25 substantial as China receded from the market in the first

1 half of 2019 and that is what explains the mitigated,
2 adverse price effects, the reduction of the cost price
3 squeeze, the improved operating profit. It's always price
4 in relation to costs and the costs are a moving target.

5 And I don't know if either of the witnesses want
6 to speak to the extent to which metal is also a transparent
7 factor in any price negotiation.

8 MR. KIEFFER: Again, this is what we deal with
9 every single day. There's fluctuating costs on the metal
10 side which everyone has visibility to. So, every day we get
11 people calling in saying, hey, you know aluminum dropped two
12 cents, are you going to drop your prices, or they expect to
13 pay more, as Mr. Levy said. So, it's just a constant
14 movement on what people see in the market and expect and the
15 sentiment in the market and what we're allowed to charge or
16 what we think we can charge and that's where we ran into
17 issues with the Chinese.

18 On other, either non-subject importers or even
19 our competitors in this room, you're able to compete on more
20 of a playing field. The Chinese pricing took that
21 completely out of our hands. We were simply not able to
22 cover costs of any kind with the levels that we saw in the
23 market. So, regardless of the cost fluctuations, it was
24 simply a pricing matter that kept us out.

25 MR. ASHER: And I'll just add to that as just a

1 little bit of a further explanation, so what we see in the
2 market -- and it's been echoed just now -- is a direct
3 relationship between the aluminum prices and the market
4 price or the price we're able to exude for our products.
5 And over the last couple of years it kind of follows a
6 pretty even trend, right? And with the Chinese AWC in the
7 market that level that we could exude price was very low and
8 not profitable for us.

9 What we were able to see as the Chinese cede in
10 market share in the beginning of '19 is even as aluminum
11 prices began to drop and go down a little bit the different
12 between you know aluminum prices and what we were able to
13 exude from the market lessened. So, because there wasn't
14 that level of predatory pricing from Chinese AWU because
15 that cut-rate prices weren't as low we were able to recoup a
16 little bit more in that relationship between the metal cost
17 and our price in the market improved for us a little bit.

18 COMMISSIONER KARPEL: So, how much of the higher
19 raw material costs are you now able to pass on, given that
20 there are lower-priced non-subject imports in the market?
21 Is it a significant amount of these increased costs that
22 you're able to pass on or are you still going to be in a
23 difficult financial position, given this higher cost that
24 the domestic industry faces, but that your foreign
25 competitors do not?

1 MR. LEVY: Commissioner Karpel, if you'll
2 indulge us in our post-hearing, we can show you ratios of
3 unit raw materials costs to net sales values for the
4 domestic industry, both kind of pre- and post-petition which
5 I believe that trend should mirror the Cost-to-Sales ratio
6 which kind of goes to Commissioner Kearns' question, but I
7 think it'll be more directly responsive to your concerns.
8 And so, we'd like the opportunity to do that post-hearing.

9 CHAIRMAN JOHANSON: Mr. Jones, at the
10 preliminary staff conference, you stated that your company
11 begins your manufacturing process with aluminum wire rod,
12 but that Southwire self-produces their feedstock. Is there
13 any notable advantage for a company using either of these
14 manufacturing processes?

15 MR. JONES: There is some difference in cost
16 between the shape of the metal. I'm not sure of the exact
17 arrangement for Southwire, other than where they start and
18 where we start, but you know the difference of that would be
19 something that I would be happy to share privately. Don't
20 necessarily want to speak to that specific, but there is
21 some different. Yes.

22 CHAIRMAN JOHANSON: Yes, if you could do a
23 little write-up on that. And in particular, does being more
24 integrated make a firm more vulnerable to raw material price
25 swings? That's something I'm curious about.

1 MR. JONES: You know I think the easy answer to
2 that is yes. The economics that come into play there would
3 determine the level of entry of the raw material for the
4 production process. And again, I'd be more than happy to
5 cover more of what that means financially.

6 CHAIRMAN JOHANSON: Okay, thanks, Mr. Jones.

7 MR. JONES: Yes, sir.

8 CHAIRMAN JOHANSON: I look forward to seeing
9 that.

10 Since the imposition of the Section 232 duties
11 have you all been able to secure enough aluminum to make
12 AWC?

13 MR. JONES: Yes, sir. We do have ample
14 availability of aluminum rod from multiple suppliers to
15 support our capacity. And again, as stated earlier, we
16 could double our output pretty easily if the price was
17 right.

18 CHAIRMAN JOHANSON: Thanks.

19 MR. JONES: Yes, sir.

20 CHAIRMAN JOHANSON: During 2018, the U.S.
21 Department of Treasury announced sanctions on Russia's
22 largest aluminum producer, Rusal. Although these sanctions
23 were later revoked, they are believed to have lead to a
24 short-term rise in global aluminum prices and the U.S.
25 Midwest premium. Could Petitioners comment on the extent to

1 which the uncertainty surrounding these sanctions impacted
2 their supply chains and raw material costs during the
3 period of investigation?

4 MR. MINTZER: Sydney Mintzer, Mayer Brown. I
5 think we'd be happy to, but I think we -- that's probably
6 company-specific. I think we'd want to address that in
7 post-hearing.

8 CHAIRMAN JOHANSON: Okay, thanks Mr. Mintzer.
9 To what extent have U.S. aluminum wire producers reoriented
10 their supply chains to source materials, such as aluminum
11 wire rod, from Canada and other countries that have been
12 exempted from the ten percent national security tariff under
13 Section 232?

14 MR. JONES: Daniel Jones, Encore Wire. We
15 have multiple sources for the aluminum rod and we do buy
16 aluminum rod currently from Canada.

17 CHAIRMAN JOHANSON: Have you resourced your
18 materials at all due to the 232s?

19 MR. JONES: I couldn't give credit
20 specifically to the 232, but we have moved around some of
21 our supply.

22 CHAIRMAN JOHANSON: Okay Mr. Asher, go ahead.

23 MR. ASHER: Aaron Asher, Southwire. With
24 regards to Southwire, we self produce our aluminum rod and
25 the majority of our aluminum comes from down the street from

1 our rod production facility. So most of it is not sourced
2 outside of the country. Raw aluminum is sourced, but most
3 of the rod, the aluminum is coming from just down the
4 street. So anything really further than that we'd have to
5 --

6 CHAIRMAN JOHANSON: So you're not having
7 sourcing problems?

8 MR. ASHER: Absolutely no sourcing or capacity
9 problems.

10 CHAIRMAN JOHANSON: Okay. Thanks, Mr. Asher.

11 MR. LEVY: Commissioner Johanson, if I could
12 just add to this question, since you're very interested in
13 kind of the Canadian dimension. I think it's a matter of
14 public record that Prism and General Cable procure some of
15 this aluminum feedstock from Canada, where they have
16 relationships. So to the extent that is sort of a dedicated
17 supply, one might imagine that the exclusion was a factor
18 that all else being equal, supported better financial
19 performance for their U.S. production.

20 By contrast in the case of Encore, they've
21 obviously shifted sources of supply based on various
22 considerations. But you know at the end of the day, the
23 market price is the market price. Regardless of whether
24 you're sourcing from Canada or a U.S. supplier or Bahrain or
25 Argentina, the market price is going to be fundamentally

1 very close to the same.

2 CHAIRMAN JOHANSON: Thanks, Mr. Levy. We've
3 done quite a bit of work here in the past few years on
4 aluminum, so I wanted to delve a bit more into it. It's an
5 interesting subject. Are there any intellectual property
6 issues or trade secrets that are incorporated into your
7 products, and have your companies been able to use them to
8 protect market share to any extent?

9 MR. ASHER: Aaron Asher, Southwire. Not my
10 knowledge. The subject imports of AWC, as well as our
11 domestic production of AWC all meets the same national
12 electric code standards. It's all, as we've said before,
13 interchangeable.

14 CHAIRMAN JOHANSON: Okay, thanks. And this is
15 for Southwire. In the transcript of the preliminary staff
16 conference, Equador was mentioned several times as a leading
17 source of non-subject imports, and this is specifically
18 pages 99 to 100 of your brief. The staff report doesn't say
19 much about Equador, but the website of an Ecuadorean
20 company, Electrocables, states that it has a strategic
21 alliance with Southwire. Is this a company from which
22 imports from Equador are sourced?

23 MR. ASHER: Aaron Asher, Southwire. I'm not
24 aware of us sourcing any materials from Equador at this
25 point, subject imports from Equador at this point.

1 CHAIRMAN JOHANSON: Do the terms of the
2 strategic alliance address how imports from Electrocables
3 would compete in the U.S. market, and you can address this
4 in post-hearing if you'd like.

5 MR. ASHER: We can address them post-hearing.

6 CHAIRMAN JOHANSON: Okay. That's what I
7 assumed you'd do. Thanks. Finally, out of curiosity, is
8 there a replacement market? In other words, do these power
9 lines wear out or corrode? Do they need replacing, let's
10 say, after major storms?

11 MR. JONES: Daniel Jones, Encore Wire. There
12 is -- there's metal fatigue that's measured. Most of the
13 aluminum that's overhead has some type of steel
14 reinforcement helically wound. It depends on
15 product-specific uses and the codes, local codes and
16 standards. But for the most part, the metal does not wear
17 out.

18 CHAIRMAN JOHANSON: How long do these, do they
19 last?

20 MR. JONES: I don't have a specific answer to
21 that on how long. I just know that the electricity travels
22 on the surface of the metal. It doesn't travel through the
23 metal. It's on the surface of the metal, and so I don't
24 know that there's, other than physical damage of some type
25 from the specific use, the connectivity of the electricity

1 it does not wear out.

2 CHAIRMAN JOHANSON: Just out of curiosity,
3 does that make it a more reliable product than copper wire,
4 which does have a patent that was developed on it at some
5 time?

6 MR. JONES: No sir. Daniel Jones, Encore.
7 We're the -- there are just two separate products basically,
8 I mean, is the best way to put it. There's physical
9 properties that you can get the 8000 series aluminum today,
10 versus a 1350 from, you know, 40 or 50 years ago. The 8000
11 series properties are more similar to acting like copper
12 does under the same energy load, and again it's a 3 to 1 top
13 ratio as far as the surface area to cover, to carry this
14 same amount of electricity.

15 So it really is just not -- you just don't use
16 copper in the place of aluminum nor aluminum in place of
17 copper without some substantial changes.

18 CHAIRMAN JOHANSON: Okay, thanks Mr. Jones.
19 That concludes my questions. Do any other Commissioners
20 have questions? Commissioner Schmidtlein.

21 COMMISSIONER SCHMIDTLEIN: I'm not sure if
22 someone has asked this already, but we have had some cases
23 involving aluminum, and so we've talked about this Midwest
24 premium before. But I could not recall, does the Midwest
25 premium affect the price of imports?

1 MR. LEVY: Can you -- I'm not sure we even
2 understand the question. Can you maybe ask it a different
3 way?

4 COMMISSIONER SCHMIDTLEIN: Well, I guess I'm
5 thinking U.S. prices are based on the LME plus the Midwest
6 premium. My understanding, my recollection I guess, the
7 Midwest premium was something to do with the reason it's
8 there, the reason people are able to charge for that is it
9 has to do with storage and transportation from certain wire
10 houses?

11 I mean I think in one case we had, it referred
12 to as the Goldman Sachs premium, but I don't know if that
13 was, you know. The investment bank was stockpiling aluminum
14 and they were able to charge to release. I don't know. I
15 mean this is my recollection from the other case. So is
16 there any impact of that on -- I mean obviously import
17 prices are affected by the LME, right? Like all prices of
18 aluminum prices are affected by the index?

19 MR. LEVY: Well so I think with regard to
20 subject imports, I think the point we've made is that often,
21 we have seen situation where Chinese prices were lower than
22 the metal cost. But what's unique about subject imports in
23 China are these massive subsidies, which you know sort of
24 render their business totally different in terms of their
25 access to cheap aluminum.

1 So if the question is do subject imports act
2 in sort of rational, economic ways based on what's happening
3 in aluminum markets, I think the answer during the POI by
4 and large was no. What they seem to be responsive to was
5 the pendency of the case, and the imposition of AD/CVD
6 duties.

7 If the question more broadly is to what extent
8 does subject import behavior shift because of their
9 knowledge of changes in the cost structure of domestic
10 producers, of which the U.S. Midwest premium is one such
11 element, I think we can reflect on that and try to give you
12 a more thoughtful response post-hearing. But we're sort of
13 scratching our head a little bit.

14 COMMISSIONER SCHMIDTLEIN: Okay. Well I mean
15 I'm sure that part of it is my, you know, it's hard to
16 understand exactly what this Midwest premium is. I mean I'd
17 welcome just a refresher on that if you want to give one
18 now.

19 MR. JONES: Daniel Jones with Encore Wire. It
20 would take quite a bit of discussion, as you've mentioned,
21 to explain exactly what it is. The way that I understand
22 it, particularly as it relates to aluminum, LME is basically
23 a benchmark that's used worldwide as the basis, right? So
24 there are adders for the shapes and the deliveries of the
25 types of aluminum that you're going to buy or not buy. And

1 so getting a premium of one type or another does relate to
2 other folks that have an interest in that same unit volume,
3 and it's kind of like a -- it's just kind of tacked on, if
4 you will.

5 It depends on where the product ships, which
6 is relevant and the name being Midwest versus either coast.
7 There's things that are involved in it that become a little
8 bit complicated to give you an exact answer. But basically
9 it has to do with an adder for the shape and the location of
10 the product itself, and who owns the warrants to that
11 product.

12 COMMISSIONER SCHMIDTLEIN: Right, okay, okay.
13 Thank you very much.

14 MR. JONES: Yes ma'am.

15 CHAIRMAN JOHANSON: Do any other Commissioners
16 have questions? Commissioner Stayin.

17 COMMISSIONER STAYIN: Just one question. You
18 made want to respond to this in your post-hearing brief, but
19 in looking at the Tables IV-2, it shows a decline in the
20 imports between 2017 and '18 of the subject products. If
21 you go to Table IV-4, it shows that there's an increase
22 between '17 and '18 from China. You might be able to
23 respond to this discrepancy more fully in your post-hearing
24 brief, but if you have any opinion now, let let me know.

25 MR. LEVY: So Commissioner Stayin, I may have

1 misheard you, but I think you were saying in reference to
2 Table IV-2?

3 COMMISSIONER STAYIN: Yes.

4 MR. LEVY: That there was a decrease in
5 subject imports from '16 to '17, which I don't see in the
6 table.

7 COMMISSIONER STAYIN: I'm looking at II-2.

8 MR. LEVY: Oh, II-2. Okay, my apologies.

9 COMMISSIONER STAYIN: I'm sorry. It's Roman
10 IV-2. In '17, the quantity was 92,565 and '18 it was
11 84,952. That's a decline. On Table IV-4, the number is in
12 '17 it was 81,933, increased to 85 to 95.

13 MR. LEVY: Yes. So I'm mindful now of the
14 observation. It's obviously -- it's imports versus U.S.
15 commercial shipments of imported product. So thank you for
16 the question and we'll provide a response post-hearing.

17 COMMISSIONER STAYIN: Thank you.

18 MR. LEVY: Thank you.

19 CHAIRMAN JOHANSON: Are there any other
20 questions of Commissioners? Okay, Commissioner Karpel.

21 COMMISSIONER KARPEL: Thank you. I'm noting
22 page V-1 of the staff report, and it notes that AWC can be
23 made out of wire rod that is either sourced or made from
24 scrap, aluminum scrap or primary aluminum. Can you discuss
25 when you might use aluminum scrap to produce wire rod versus

1 primary aluminum, or is one more predominantly used than the
2 other? We've talked a lot about the prices of primary
3 aluminum, so I'm guessing that that is the driver here. But
4 given as mentioned about using aluminum scrap and what it's
5 also said about aluminum scrap prices, it has me wondering
6 about this.

7 MR. MINTZER: This is Sydney Mintzer from
8 Mayer Brown. I think that's mostly a Southwire issue, so I
9 think we'll just handle that in post-hearing if that's okay.

10 COMMISSIONER KARPEL: All right. Well so my
11 next question goes back to the 301 tariffs. So if I
12 understand correctly, the 301 tariffs apply to both HTS
13 categories that are within the scope of this investigation,
14 and for one of those, the 8544-4990, those tariffs applied
15 from July 2018 through September 2019, which essentially
16 gets us through the end of the Period of Investigation.

17 If a relatively small difference in price
18 between domestic product and subject merchandise can cause
19 purchasers to choose the lower-priced imports, which is I
20 think what you're maintaining, I'm trying to understand why
21 didn't the 25 percent duties on Chinese imports of AWC,
22 particularly given the level of underselling we see; it's
23 documented in Section 5 of the staff report, why didn't that
24 have -- why didn't these 25 percent duties have a positive
25 impact on the producers' market share?

1 MR. LEVY: So thank you Commissioner Karpel.
2 I think we'll also endeavor to give a complete answer
3 post-hearing. But I think what we've said thus far is that
4 following the imposition of a 25 percent tariff on AWC
5 without connectors, almost immediately the lion's shares of
6 the imports of AWC were coming with connectors, which for a
7 period of time was subject to zero percent, and then for a
8 period of time subject to ten percent.

9 It's also worth noting that even if, let's say
10 the weighted average of everything that was subject to duty
11 in this period was say ten percent, this was a fraction of
12 the magnitude of the total dumping and subsidization that
13 was going on in the marketplace. So did it have a change in
14 the pricing behavior of imported subject imports?

15 The answer is that we started to see
16 moderation in the behavior from China in the back half of
17 2018, but the full remedial benefit began to manifest itself
18 in 2019. Was there, you know, in terms of the volume
19 effects, I think we'd like to address that post-hearing,
20 because I think as you're well aware, the post-petition
21 volume effects in this case are, require a little more of a
22 nuanced explanation.

23 MR. MINTZER: And this is Sydney Mintzer,
24 Mayer Brown. I'd also note that there were government
25 policies put in place after -- as a result of -- by the

1 Chinese government as a result of 301, that allowed for
2 mitigation of some of the duties as well. So it was -- that
3 certainly allowed the Chinese to continue to penetrate the
4 U.S. market.

5 MR. LEVY: So for example in our prehearing
6 brief, we talk about the Chinese government's depreciation
7 of the yuan by seven percent. So if for example the
8 weighted average rate on all AWC in this time period were
9 ten percent, it's being offset by a depreciation of the
10 yuan. There are other government measures, whether it be
11 rebates or otherwise, to neutralize the effect of 301,
12 queering what net effect if any it's had in terms of Chinese
13 behavior during this period.

14 COMMISSIONER KARPEL: Thanks. But setting
15 aside whatever policies the Chinese government may be
16 putting in place to sort of offset this effect, you talked
17 about the foreign producers essentially adding these
18 connectors so they could avoid the 25 percent duties. But
19 then there were three -- there are 301 duties on AWC with
20 connectors, and as I understand those continue to the
21 present.

22 So if they just shifted to that product, again
23 shouldn't there be an impact of that duty that we're seeing?

24 MR. LEVY: So then there's no legitimate
25 commercial purpose to shipping AWC with connectors, only to

1 engineer around the standard subheading. So in the current
2 environment, where Section 301 tariffs have been lifted on
3 AWC without connectors, there's no commercial reason why you
4 would continue to ship AWC with connectors. As a practical
5 matter going forward, there are no 301 tariffs that should
6 apply to any Chinese AWC.

7 COMMISSIONER KARPEL: Well, would you argue or
8 is there evidence that most of the product, subject
9 merchandise coming in is coming in without connectors, and
10 therefore avoiding the 301 duties or --

11 MR. LEVY: So again I think our view would be
12 up until the summer of 2018, we were not aware of a single
13 reel in the U.S. market of AWC with connectors. That was a
14 phenomenon that was born entirely out of tariff engineering,
15 and by the second half of 2018 the law, you know, the
16 majority of AWC coming in from China suddenly had
17 connectors.

18 Now that AWC without connectors is entirely
19 excluded from 301, it stands to reason that all AWC from
20 China would be without connectors. There would be no
21 commercial reason to continue attaching those connectors,
22 because I think as you heard testimony from the witnesses,
23 purchasers are basically instructed to remove them prior to
24 use because they're not up to code.

25 COMMISSIONER KARPEL: But given the exclusion

1 only took effect in September 2019, and you mentioned just
2 earlier that you started to see Improvements in the back
3 half of 2018, but really didn't see them until the first
4 part of 2019. But given that the 301 duties are still in
5 place in that time period, how are we to sort of parse out
6 what's the impact of the 301 tariffs versus the preliminary
7 duties or the pendency of the investigation?

8 MR. LEVY: Sure, and that's a fair question.
9 What you see in the second half of 2018 in an environment
10 where some Section 301 tariffs are obviously in effect, as
11 you correctly note, what happens to the volume of imports
12 from China in the second half of 2018, relative to the first
13 half of 2018? It's actually higher.

14 To be sure, the U.S. industry starts to see
15 the beginnings of some price improvement, but they are
16 modest in relation to the full improvement that's realized
17 in 2019. Why is there such material improvement in the
18 first half of 2019? Because in that period of time, the
19 volume from China recedes from the market, and it's also
20 clear from the quarterly pricing data that the frequency and
21 the depth of underselling from subject imports moderates.

22 So we think that it's clear that even if the
23 Section 301 tariffs had some effect during this period, one
24 can discern that the pendency of the case and the receding
25 of China from the market in 2019 clearly had more of an

1 effect. But we're not, we're not disavowing that Section
2 301 might have had some positive effect. It was just very
3 hard for the people at this table to discern what it was.

4 COMMISSIONER KARPEL: Just to be clear about what
5 your argument is, in terms of the improvements we're seeing
6 in 2019, is that improvements you're attributing to the
7 imposition of the preliminary duties, which were really only
8 in April and June of 2019 when the POI's ending June of
9 2019? Are you attributing that bump-up in the condition of
10 the domestic industry to just the filing of the case or --

11 MR. LEVY: So this issue of post-petition
12 effects, you know, comes up in many cases. And sometimes
13 it's the mere filing of the petition that has this chilling
14 effect on the market and begins to result in effects. In
15 other cases, it's the imposition of cash deposits is when
16 things start to really make a difference. In other cases,
17 and this, I think is one, even ninety days before the
18 imposition of cash deposits, the chilling effect of possible
19 critical circumstances, leads to changes in the market.

20 It's worth noting that in this particular case,
21 in addition to the critical circumstances point, the
22 preliminary determination CVD was originally scheduled for
23 February of 2019. It wasn't until the government -- because
24 of the government closure, it was ultimately delayed by a
25 couple of months.

1 But, you know, put yourselves in the shoes of,
2 say, Priority, who was the most prominent master distributor
3 of subject imports during the POI. For them, the writing
4 was on the wall, that they were going to have a problem in
5 terms of continuity of supply of cheap imports from China.
6 And so in the second half of 2018, they were likely
7 scrambling to find new sources of supply from the likes of
8 Ecuador and Turkey.

9 And so, not knowing exactly when they would be on
10 the hook for more duties, it became clear that they started
11 transitioning to other product, sooner rather than later in
12 2019, and so there's not this perfect precision between the
13 date that cash deposits take effect on the one hand, and the
14 beginning of the post-petition effect.

15 Our view is that the post-petition effect began
16 to take root following the petition, and really began to
17 take hold in the first half of 2019, as Chinese imports
18 receded from the market, as the frequency and depth of
19 subject import underselling moderated.

20 COMMISSIONER KARPEL: I have a few more, which
21 are hopefully just clean-up questions and we can move
22 through these quickly. So the first is on demand. You note
23 the demand for AWC is driven primarily by demand in the
24 construction sector. I'm just trying to square that a bit
25 with your discussion that AWC is used in power distribution

1 and in what you call the intermediate market, which I
2 understand is that connection to the home. So is
3 construction driving this power distribution segment of the
4 demand that's attributable to that?

5 MR. KIEFFER: Typically, at least for Encore, we
6 don't really play in the utility market, which is more the
7 power generation. Ours is sold through electrical
8 distribution, so not as familiar with what drives those
9 products, but in ours, it is construction related.

10 MR. ASHER: Yes, to Kevin's point, you know, as
11 the economy grows, people build more, and there's more
12 construction, whether it be data centers, mixed-use,
13 commercial buildings, all those type of things grow, and
14 with so does the demand for aluminum wire and cable. So,
15 again, it's mainly construction-driven. As the economy
16 grows, our opportunity and the demand grows within the
17 market.

18 MR. LEVY: And Commissioner Karpel, just as a
19 point of clarification. When you're talking about sort of
20 transmission of electricity from one pole to another that we
21 see, that--by and large--that is uninsulated aluminum wire
22 and cable, so that's outside the scope of this case.

23 And so when Mr. Jones talks about the feeder
24 segment, he's really talking about the insulated product
25 from the pole on your street to the house or the pole on the

1 street to the commercial office building, or the junction
2 box underground in the street to a new Facebook compound
3 that's being constructed. That's the meter base, as he
4 referred to it.

5 COMMISSIONER KARPEL: Thank you. I think
6 Commissioner Stayin asked this question, but if you could
7 just also make sure you address in your post-hearing brief
8 the margins of underselling that we see in Pricing Products
9 3 and 6, and particularly for 2018, there seems to be some
10 differences between what's going on between Products 3 and 6
11 versus the others, if you could, in addressing that
12 underselling question Commissioner Stayin had, if you could
13 be sure to focus on those aspects, too.

14 You know, sorry, there's a typo in my notes
15 actually. It's the overselling that we're seeing on Pricing
16 Products 3 and 6 for 2018, not the underselling.

17 Just to confirm what I heard earlier, I had a
18 question about what's causing the increased unit values of
19 U.S. shipments. What I heard you saying was that was the
20 rising raw material costs for the primary driver of that and
21 not different product mix?

22 MR. LEVY: I'm sorry. Could you repeat that?

23 COMMISSIONER KARPEL: What is the -- my question
24 was, what is the cause of increasing unit values of U.S.
25 shipments? My understanding, based on what is said today,

1 that is really being driven by an effort to pass on some of
2 the increased raw material costs, and that we don't have an
3 issue of different product mix occurring over the POI.

4 MR. LEVY: So, Commissioner Karpel, I think we
5 would agree with the point that changes in unit values are
6 not being driven by fundamental changes in product mix for
7 the U.S. industry. In terms of how we would characterize,
8 you know, changes in unit prices and what's driving that, I
9 think it's every day a fight to get prices as high as they
10 can be to earn a return on investment, and the remuneration
11 is a function of costs, in the first instance, metal cost.
12 But I think we'll be in a position to describe that more
13 fully post-hearing.

14 COMMISSIONER KARPEL: Also, in post-hearing,
15 could you discuss the domestic industry's capital
16 expenditures that we see in 2018? Yes? Okay. And that's
17 it for me, thank you.

18 CHAIRMAN JOHANSON: Do any other Commissioners
19 have questions? No Commissioners do. Do staff have any
20 questions for this panel?

21 MS. MARTINEZ: Keysha Martinez, Office of
22 Investigations. Staff has no questions.

23 CHAIRMAN JOHANSON: Okay, thank you. Then this
24 panel is dismissed, and let's go ahead and prepare for the
25 petitioner closing.

1 MR. GETLAN: Good afternoon, Commissioner
2 Johanson. This is Myles Getlan from Cassidy Levy Kent on
3 behalf of Encore. I don't feel the need to -- I'm perfectly
4 comfortable to do closing surrounded by the industry
5 witnesses and co-counsel here. So if it pleases you, I'll
6 just proceed with closing comments right now.

7 CHAIRMAN JOHANSON: Okay, let me just tell you
8 that you all have five minutes for closing, for a total of
9 five minutes.

10 MR. GETLAN: Does that mean we're unable to use
11 any of the unused time during affirmative?

12 CHAIRMAN JOHANSON: Um --

13 MR. GETLAN: Although I don't expect to take much
14 more than a few minutes.

15 CHAIRMAN JOHANSON: Thirty minutes then. How's
16 that?

17 MR. GETLAN: From five to thirty-five. I'll take
18 it.

19 CHAIRMAN JOHANSON: All right, very good.

20 CLOSING STATEMENT OF MYLES S. GETLAN

21 MR. GETLAN: Well, first of all, thank you. We
22 all very much appreciate your time and interest in this
23 case. We know how busy a time this is at the Commission.
24 And we appreciate your questions and look forward to the
25 opportunity to provide more information post-hearing.

1 Also wanna thank the staff for doing a great job
2 in putting together a robust prehearing report. And we
3 think that report tells a compelling story on why and how
4 subject imports caused material injury to the U.S. AWC
5 industry.

6 Obviously, Q&A session hits necessarily on lots
7 of different issues, lots of different points. I thought
8 I'd take just a few minutes to summarize what we think are
9 the key points that are in the record, establishing that
10 subject imports from China were a cause of material injury
11 to the domestic industry.

12 And I say a cause of material injury -- Subject
13 imports need not be the only reason for material injury to
14 the domestic industry and Ms. Okun referred to the
15 Commission standard for considering other factors that may
16 be apparent in the record as it relates to the condition of
17 the domestic industry.

18 And I looked through just determination after
19 determination from this Commission and the legal standards
20 are always written there. It's always established. But
21 sometimes it's worth revisiting those. And paying close
22 attention, particularly in a case like this where the
23 Commission has rightly observed that other factors such as
24 nonsubject imports may play a role in terms of the condition
25 of the domestic industry.

1 So I am gonna take a moment here and reading from
2 the Commission's standard language in the determination, in
3 terms of how it considers factors other than subject
4 imports. So reading from, actually the preliminary
5 determination in this case. "The Commission need not
6 isolate the injury caused by other factors from injury
7 caused by unfairly-traded imports. Nor does the
8 by-reason-of standard require that unfairly-traded imports
9 be the principle cause of injury or contemplate that injury
10 from unfairly-traded imports be weighed against other
11 factors such as nonsubject imports, which may be
12 contributing to overall injury to an industry. It is clear
13 that the existence of injury caused by other factors does
14 not compel a negative determination."

15 I think that's helpful context for reviewing the
16 record in this case and the data in the prehearing report.
17 To be clear, we think the prehearing report provides a
18 compelling and a clear picture that subject imports are a
19 significant reason for the material injury suffered by the
20 domestic industry. And that story is reflected, largely in
21 the data that Mr. Levy presented at the opening of our
22 panel, and that our witnesses testified to.

23 But let me summarize briefly here. In terms of
24 volume, you had significant presence of subject imports in
25 the U.S. market. And those imports increased from the

1 period 2016 to 2018, and subject imports captured market
2 share at the expense of the domestic industry. Clearly,
3 subject imports under the statute were significant.

4 And those significant volumes of subject imports
5 had adverse price effects and here we talked quite a bit
6 about record of underselling. But the prehearing report
7 contains other evidence of adverse price effects.

8 Certainly the pervasive underselling that we
9 spoke of, is a significant factor here and, as Mr. Levy
10 spoke to, we think that the record will be clarified to show
11 that the underselling record that's in the prehearing report
12 actually will show pervasive underselling throughout the
13 period by subject imports with significant margins of
14 underselling, and we think this is particularly significant
15 in an industry like this where you have a commodity product
16 that is sold primarily on the basis of price. So this
17 underselling record is important.

18 And there's also evidence of price suppression by
19 reference to the industry's increasing ratios of cost of
20 goods sold to net sales values year over year from 2016 to
21 2018.

22 And you also have purchasers confirming that they
23 purchased subject imports instead of domestically-produced
24 product on the basis of the lower prices of subject imports.
25 And there's also evidence, some purchasers speaking to

1 domestic producers reducing prices to meet the competition
2 presented by low-priced subject imports.

3 So we think there is robust record evidence here
4 from 2016 to 2018 showing that subject imports had adverse
5 price effects. And the result of that is undoubtedly
6 material injury endured by the domestic AWC industry. There
7 was some growth in production and sales volumes during this
8 period, but that lagged significantly, relative to the
9 demand growth and what you would expect in this environment.

10 U.S. producers lost share, the capacity
11 utilization figures in the prehearing report indicate that
12 production was depressed. Capacity utilization was
13 depressed throughout the period. And employment was
14 virtually stagnant during this period. Again, in a period
15 of significant market growth.

16 And financial performance declined materially.
17 You had declining gross margins, operating profit and net
18 income throughout this period. And all of this had a
19 negative effect on investment, notwithstanding certain
20 trends that you see in CapX, which as we said, we'll address
21 further in post-hearing.

22 To be sure, there was a post-hearing effect
23 that's reflected in certain improving trends across the
24 interim periods. Whether that post-petition effect is tied
25 to the possibility of critical circumstances and retroactive

1 duties being posed or the preliminary duties themselves
2 being imposed, there was a clear chilling effect that you
3 saw subject imports receding from the market in H1 2019 and
4 with that development, you saw the domestic industry began
5 to improve. So we believe that the prehearing report shows
6 a clear post-petition effect with respect to subject
7 imports and how that plays out across the interim periods.

8 There was certainly this morning, a lot of
9 discussion, as we expected, and we were happy to take your
10 questions on issues of nonsubject imports. And they were a
11 factor in the market, no doubt. And a competitive factor
12 with respect to the domestic industry, but we don't -- the
13 presence of nonsubject imports, whether in volume or price,
14 simply does not undermine what I just described in terms of
15 the impact of subject imports on the domestic industry. It
16 doesn't take away or wipe away the underselling and the
17 market share growth of subject imports and the damage that
18 caused the domestic industry.

19 Nonsubject pricing data on this record is very
20 thin. But you do see in the AUVs, and we will certainly
21 endeavor to parse these data more carefully in post-hearing,
22 but at a high level, what you can see is that subject
23 imports, relative to nonsubject imports, were the low-priced
24 leader in 2017 and 2018, and that is a time when the
25 domestic industry, the industry's financial performance

1 declined significantly.

2 Nonsubject imports, by contrast, were the
3 low-priced leader in interim 2019, in H1 2019, and that's
4 when the domestic industry began to improve. And so, you
5 know, we certainly don't think the record indicates that the
6 domestic industry was injured by reason of nonsubject
7 imports, certainly not alone. What we've discussed and what
8 we see here with nonsubject import data show that they're a
9 factor, but overwhelmingly subject imports from China were a
10 distinct and important factor in the material injury
11 suffered by this industry.

12 There's some discussion of 301. We will delve
13 into that in more detail in post-hearing. But again, it's
14 difficult to assign any sort of real impact the 301 had on
15 the industry in its condition. Certainly in the second half
16 of 2018, it had no volume effect. And moving forward, you
17 see that 301 is really a non-issue.

18 So absent orders, the only protection that this
19 industry will have is through -- without 301, the only
20 protection that this industry would have from low-priced
21 subject imports is the orders that we're asking to be
22 imposed.

23 This, again, was an industry that should've
24 thrived during the period of investigation. The market grew
25 significantly. Encore had bet big. They invested big in

1 their aluminum wire and cable facility, doubling the size of
2 their operations, and were receiving healthy returns on that
3 investment until Chinese imports crashed the market.
4 Southwire described the injury it endured as a result of
5 subject imports.

6 And the record, as discussed, shows that the
7 domestic industry as a whole was materially injured by
8 reason of subject imports. And so on that basis, we urge
9 the Commission to issue affirmative determinations. And we
10 thank you for your time.

11 CHAIRMAN JOHANSON: Thank you all again for
12 appearing here today. I will now make the closing
13 statement. Post-hearing briefs, statements responsive to
14 questions and requests of the Commission and corrections to
15 the transcript must be filed by October 24th, 2019. Closing
16 of the record and final release of data to parties occurs on
17 November 13th. And final comments are due on November 15th.
18 With that, this hearing is adjourned.

19 (Whereupon the hearing was adjourned at 12:20 p.m.)
20
21
22
23
24
25

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Aluminum Wire and Cable from China

INVESTIGATION NOS.: 701-TA-611 and 731-TA-1428

HEARING DATE: 10-17-19

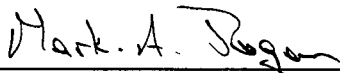
LOCATION: Washington, D.C.

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: 10-17-19

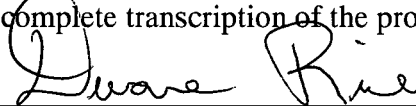
SIGNED:



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.

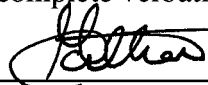
SIGNED:



Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED:



Signature of Court Reporter

