UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
CERTAIN TOW-BEHIND LAWN	)	701-TA-457 and
GROOMERS, AND PARTS THEREOF,	)	731-TA-1153
FROM CHINA	)	(Preliminary)

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Main Hearing Room 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

Tuesday,
July 15, 2008

The conference commenced, pursuant to notice, at 9:31 a.m., before the United States International Trade Commission, the Honorable ROBERT CARPENTER, Director of Investigations, presiding.

APPEARANCES:

On Behalf of the International Trade Commission:

Staff:

JIM MCCLURE, SUPERVISORY INVESTIGATOR
RUSSELL DUNCAN, INVESTIGATOR
KARL VON SCHRILTZ, ATTORNEY/ADVISOR
NANCY BRYAN, ECONOMIST
JOHN ASCIENZO, AUDITOR
LINDA WHITE, INDUSTRY ANALYST

APPEARANCES: (Cont'd.)

Organization and Witness:

On Behalf of Agri-Fab, Inc.:

RONALD HARSHAMN, President and Chairman, AF Holding Co.
MICHAEL COHAN, President, Agri-Fab, Inc.
GARY HARVEY, Vice President, Finance, Agri-Fab, Inc.
MARK ZOLNO, Of Counsel
KAZUMUNE KZNO, Of Counsel
JOHN SMIRNOW, Of Counsel

On Behalf of Jiashan Superpower Tools Co., Ltd.:

WAYNE SWISHER, President and CEO, Swisher Mower and Machine Co.
BOB LUSTY, Director, Tri Global Enterprises, Inc.
DAVID CRAVEN, Of Counsel
LIZBETH LEVINSON, Gary Schubert Barer

I N D E X

P R O C E E D I N G S

(9:31 a.m.)

MR. CARPENTER: Good morning, and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of Countervailing Duty Investigation No. 701-TA-457, and Antidumping Investigation No. 731-TA-1153, concerning imports of tow behind lawn groomers from China.

My name is Robert Carpenter, I'm the Commission's Director of Investigations, and I will preside at this conference. Among those present from the Commission staff are from my far right Jim McClure, the Supervisory Investigator; Russell Duncan, the Investigator.

On my left, Karl von Schriltz, the Attorney/Advisor; Nancy Bryan, the Economist; John Ascienzo, the auditor; and Linda White, the Industry Analyst. I understand the parties are aware of the time allocations. I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphone.

We also ask that you state your name and affiliation for the record before beginning your presentation. Are there any questions?

(No response.)

MR. CARPENTER: If not, welcome, Mr. Zolno. Please proceed with your opening statement.

MR. ZOLNO: Thank you. Good morning, Mr. Chairman, and members of the International Trade Commission's investigative staff. We welcome the opportunity to present our testimony before you today. My name is Mark Zolno. I'm an attorney with the law firm of Katten Muchin Rosenman in Chicago.

We represent Agri-Fab, the Petitioner in this case, and the leading domestic producer of tow behind lawn groomers, also referred to in our petition as PTLGs, or simply as lawn groomers.

With me today are Ronald Harshamn, President and Chairman of AF Holding Company, the parent company of Agri-Fab; Mike Cohan, President of Agri-Fab; Gary Harvey, Vice President, Finance, of Agri-Fab; and Kaz Kano and John Smirnow, both attorneys with Katten Muchin Rosenman.

We are here today on behalf of a long-established privately held business from the heartland of rural America to request that the International Trade Commission issue a determination that imports of law groomers from China have caused, or are threatening to cause, material injury to the domestic lawn groomer industry.

The volume of lawn groomers imported from China has increased dramatically since 2005, and especially in the most recent 12 months. These imports are being artificially supported by the government of China in the form of subsidies, and they are entered into the United States at prices that are at less than fair value.

These imports have forced Agri-Fab and other members of the domestic industry to sell their products at suppressed and depressed prices in the face of skyrocketing material costs. In some cases, Chinese unfairly traded lawn groomers have meant a total loss of a customer's business.

As a result, Agri-Fab has been forced to reduce production and employees, eliminate shifts, suffer declines in profit, and otherwise suffered material injury. You will hear presentations today from Ron Harshamn of Agri-Fab Holding Company who will provide a brief history of Agri-Fab and its place in the domestic industry and the importance of his company to the local economy in Sullivan, Illinois.

Ron will also talk about how Agri-Fab's efforts to provide innovative products and maximize efficiency of its production process have been of no use against these unfairly priced and subsidized

Chinese imports. You will also hear from Mike Cohan, Agri-Fab's President, who will talk about the effects that the recent surge of Chinese lawn groomers have had on the company and the domestic industry.

Mike will explain for you what his sales representatives have faced when they approach customers in the United States and are told to match prices of imported Chinese lawn groomers that do not even cover Agri-Fab's costs.

Mike will also relate for you his visits to Chinese manufacturing facilities where he encountered firsthand the kind of unfair business practices that have prompted Agri-Fab to seek relief from the Commission. Finally, you will hear from Gary Harvey, Agri-Fab's CFO, who will focus on the financial impact that Chinese imports have had on Agri-Fab's production, sales volume, pricing and employment.

Gary will describe to you how these Chinese imports are the cause of Agri-Fab's financial difficulties. He will also demonstrate how Agri-Fab has been unable to price its merchandise to account for rising costs of steel and other raw materials and how Agri-Fab's profits and overall financial health have deteriorated as a result.

We look forward to assisting the Commission in making this critical decision and would be pleased to provide you with any follow-up questions, either in today's testimony or in our postconference brief. Thank you very much again for the opportunity to appear before you.

MR. CARPENTER: Thank you, Mr. Zolno. Mr. Craven, please.

MR. CRAVEN: Good morning. My name is David Craven. I'm with the law firm of Riggle & Craven in Chicago, Illinois. I'm appearing today on behalf of Jiashan Superpower Tools in opposition to the imposition of antidumping and countervailing duties on tow behind lawn groomers and parts from the Peoples Republic of China.

Also appearing today on behalf of the Respondents will be Mr. Wayne Swisher of Swisher Mower Company and his counsel, Ms. Lizbeth Levinson of Garvey Schubert Barer.

As will be discussed today in the Respondent's presentation in chief, the petition filed by the domestic industry certainly raises a number of interesting and significant issues which the Commission should address in considering whether there's injury or a threat of injury to the domestic industry.

We believe, however, that an examination of all of these factors will establish without question that there's no possibility of material injury or threat of injury to the domestic industry, but rather that there are within the context of the conditions of the business cycle reasons for what's going on that are not related to imports and the price of imports.

In particular, the Respondents are going to discuss the nature of the products, their applications, uses and ties of these products to the sale of other related products. The staff should remember that attachments are often sold when the lawn tractor is first sold, and if sales of the lawn tractors are in a decline, so, too, are sales of these attachments.

We're also going to discuss the changes in demand for lawn tractors and the attachments for those tractors resulting from new technology, most particularly, for example, the zero turning radius mower. We're also going to discuss the changes in demographics, geography and climate, both the economic and the mid-aerological climate, in the U.S.

As the Commission is undoubtedly aware, the lawn tractor market has been significantly impacted by both the graying of the user and the browning of the grass. If the U.S. industry is in fact injured or threatened by injury this threat of injury or injury is tied to these other factors and not to imports.

Now I would just like to move on to our presentation in chief, and we look forward to answering any questions that the Commission staff may have, either now or in our posthearing brief. Thank you very much.

MR. CARPENTER: Thank you, Mr. Craven. Mr. Zolno, please bring your panel forward at this time.

MR. ZOLNO: Before the witnesses from Agri-Fab testify today, John Smirnow of our firm is going to discuss like product issues and the products which are properly included in the scope of our petition and those which are excluded. John?

MR. SMIRNOW: Good morning, Mr. Carpenter, Commission staff. My name is John Smirnow, and I'm an attorney with the law firm of Katten Muchin Rosenman. As Mark indicated, before turning to our discussion of injury, we would first like to address the domestic like product issue.

As we will demonstrate, application of the Commission's six factor like product analysis makes clear that there is but one domestic like product in this investigation co-extensive with the proposed scope: Tow behind lawn groomers, comprised of sweepers, aerators, dethatchers, spreaders and certain parts thereof, otherwise referred to as lawn groomers.

With respect to the first like product factor, physical characteristics and uses, individual lawn groomers share a number of common physical characteristics, including a steel frame, a tow hitch, an engage/disengage transport handle, and in most cases, two wheels and a single axle.

Lawn groomers are also similar in size and share several common components, such as washers, screws, bolts and nuts, which in the customs world is referred to as parts of general use. As compared to other agricultural implements, however, such as push or motorized products, the physical characteristics of tow behind lawn groomers are distinct.

For example, most other agricultural implements are generally larger and more durable than lawn groomers. Other implements are also generally constructed of a heavier gauge or thicker steel. With regard to push groomers, which are generally smaller, the key physical difference is that push groomers have a handle rather than a hitch.

Push products have no physical feature which allows them to be attached to a residential law vehicle. As to use, lawn groomers are designed to be attached to a residential lawn tractor, all terrain vehicle, utility type vehicle or similar vehicle for use in residential lawn grooming.

While individual categories of lawn groomers, sweepers, aerators, dethatchers or spreaders perform specific functions, the overarching use of each category is lawn grooming. Ideally, an end user would possess each one of these, a sweeper, aerator, dethatcher and spreader.

In contrast, ground engaging agricultural implements, for example, do not share the same use as lawn groomers. Ground engaging implements are used to break up the soil, not groom lawns. If you used a harrow or a cultivator on your lawn, you would destroy it.

Similarly, motorized products use an engine to power the device while lawn groomers rely on the vehicle to which it is attached. With regard to common manufacturing facilities and production employees, Agri-Fab's lawn groomers are produced within the same facilities and by the same production employees, which I believe the Commission confirmed during its recent visit to Agri-Fab's production facilities.

Each groomer utilizes steel that is stamped, cut, pressed, drilled or milled using the same machinery. Tubing for the various items is also bent on the same machinery. As noted above, many of the bolts, nuts, washers and other materials used to assemble lawn groomers are interchangeable.

In addition, various lawn groomer subcomponents are painted on the same paint line. Agri-Fab's production employees are generalists. They know how and are expected to both produce and pack each of the four categories we've described. With respect to interchangeability, as we have indicated, each category of lawn groomers performs a unique function.

Nonetheless, this function is complimentary and works toward the common goal of lawn grooming. Specifically, sweepers collect lawn debris, such as grass clippings and leaves; spreaders distribute grass and fertilizer; aerators penetrate turf to allow fertilizer, seed, water and nutrients to absorb into the soil; and dethatchers bring matted layers of grass to the surface for removal.

These functions compliment one another toward the common purpose of maintaining a healthy lawn. In addition, a number of lawn groomers are multifunction, such as a combination spreader/aerator or a sweeper/dethatcher. And for comparisons between lawn groomers and other products, as a practical matter, we believe there are no products which are directly interchangeable with lawn groomers.

You cannot interchange, for example, as I described above, a harrow or cultivator with a lawn groomer for obvious reasons. You would also not interchange a motorized groomer for a lawn groomer. Motorized groomers are usually meant for commercial use or as heavy-duty rentals for residential use.

Because of that, they weigh and cost considerably more than lawn groomers. For example, a subject lawn groomer would be priced in the area of $60 to $400, whereas a motorized aerator, the entry price for that type of unit would probably start in the area of $1,000.

Because of that, these motorized products weigh and cost more than lawn groomers which makes it unlikely in practical terms that the two products would be interchangeable to the consumer. On the other end of the product spectrum, tow behind lawn groomers and push products are also not interchangeable as a practical matter.

And this is best explained by comparing lawn groomers to lawn mowers. Generally, the type of person who purchases a riding lawn mower has a large yard where a push mower would not be practical. Similarly, if you have a small yard, you have no need for riding a mower.

So if you have a large yard, you're going to use a tow product, you're not going to use the push product. In the city, if you have a small yard, you're not going to get out there on your riding tractor. Turning to customer and producer perceptions.

And speaking on behalf of the largest domestic groomer manufacturer, while it's clear to us that lawn groomers are one like product, our customers also perceive lawn groomers as a single like product distinct from pushed or motorized products. When our sales representatives meet with customers to discuss product orders the sales reps will nearly always present lawn groomers as a single product family.

Think that's me. Let me put this out of the reach here. The fact that they meet with the customers, present the products as one family, this is largely driven by the fact that most of our customers have separate buyers dedicated for tow versus buyers dedicated for push products, thus indicating that customers view tow behind lawn groomers as a separate and distinct category.

Channels of distribution. With regard to the channels of distribution, this factor goes hand in hand with customer and producer perceptions. Part of the reason lawn groomers are viewed as one like product is because lawn groomers are sold alongside one another in the same sections of the same home improvement retail stores.

You would not, for example, need to go to one store to purchase an aerator and another store to purchase a dethatcher or a spreader and a sweeper. You would get all four of those in the same area within the same stores. You would, however, need to go to a different store to get motorized products, as the retailers who sell those products typically sell to a different market, primarily the rental market.

For example, you're unlikely to see a motorized aerator for sale at Lowe's or Sears. If you do see a motorized aerator at a large home improvement retailer, the product will likely only be available in their rental section, which generally targets the commercial sector.

Likewise, you would not see groomers at a store specializing in motorized lawn and garden equipment. Price. With regard to price, lawn groomers generally fall within a narrow price range from approximately $60 to $400.

Within this range there are significant overlaps between categories. In general, dethatchers are the least expensive lawn groomers ranging in price from $60 to $100 retail. While the price for spreaders and aerators also start at $60, prices for these items can range up to around $300 retail, which at $300 then overlaps with sweepers which are generally priced in the $170 to $400 range.

In general, push products are less expensive than tow behind groomers since they are smaller and have fewer components than tow behind products. Motorized products, on the other hand, as I indicated previously, are typically more expensive than lawn groomers. Much more expensive.

Again, as I noted above, although we do not manufacture motorized groomers, we understand that they are priced well in excess of $1,000 per unit. This is because motorized groomers are generally much larger than lawn groomers and incorporate a motor or engine which adds significantly to cost.

Finally, it would be nearly impossible to provide a rational comparison for lawn groomers versus ground engaging agricultural equipment largely because of the vast differences in use and purpose and the fact that ground engaging products are considerably larger and heavy than lawn groomers.

Given the foregoing, the Commission should find one domestic like product comprised of lawn groomers. Turning to lawn groomer parts, the Commission should also define the domestic like product to include the parts identified within the scope.

As discussed within the petition, the described parts are dedicated exclusively for use with lawn groomers and are not used in any finished product other than lawn groomers. In addition, lawn groomers cannot perform their intended function without these parts. These parts also serve no function independent of their function within lawn groomers.

Accordingly, for these reasons, and for the reasons set forth within the petition, and we go through the Commission's semifinished product analysis within the petition, the described parts should be included within the domestic like product.

In summary, the Commission should find that there is a single domestic like product and one domestic industry consisting of all domestic producers of lawn groomers and lawn groomer parts. As described in the proposed scope of the investigation, like product co-extensive with the scope. This concludes our domestic like product discussion.

I would now like to introduce one of the founders of Agri-Fab, Ron Harshamn. Thank you.

MR. HARSHAMN: Good morning, Mr. Chairman, and members of the Commission's investigative staff. I'd like to thank you for giving us the opportunity to appear before you today on behalf of Agri-Fab's antidumping and countervailing duty petitions. My name is Ron Harshamn, and I am President and Chairman of AF Holding Company, the parent company of Agri-Fab incorporated.

I was an original founder of Agri-Fab and was President of the company from 1975 through 1999. Agri-Fab is located on 20 acres, which was originally my great grandparents' dairy farm and home. Agri-Fab is the leading producer of lawn groomers in the United States.

Along with our joint venture company, Hydra Gear, we are the largest employers in the town of Sullivan, Illinois, where are headquarters and manufacturing facilities are located. To this day, nearly all of our lawn groomers are produced in

Sullivan.

During its 30 years in existence, Agri-Fab has stayed in the forefront of industry by always expanding and reinvesting in our plant and equipment to improve our products and processes. Agri-Fab has also focused on providing employment for the community. Something that has carried over from related businesses formed during the Great Depression.

Indeed, maintaining and creating local jobs is a bedrock principal of our company. In the absence of Agri-Fab, Sullivan, Illinois, would suffer a devastating economic blow. We currently employ over 300 people on both a full and part-time basis, although this number is quite a bit lower than it was just a few years ago.

We are also important to Sullivan in ways other than providing employment. We have been donating money to area organizations continually since 1977. In the last 10 years, we have given over $2 million in grants, scholarships and other donations. In addition, in 1989, Agri-Fab established an on site childcare facility to use of our employees.

These are just examples of how our company has built on a foundation of working hard and giving back to our employees and those in the local community who have helped us along the way. The Commission should also recognize that in fostering ties to our community the majority of our raw material purchases are from domestic suppliers.

In addition, we helped found a steel service center in the neighboring town of Arcola, Illinois. I now want to describe for the Commission what lawn groomers are and what they do. Lawn sweepers collect leaves, grass clippings and other debris. Aerators penetrate the turf to allow fertilizer, seed, water and nutrients to absorb into the soil.

Dethatchers bring matted layers of grass to the surface for removal. Spreaders distribute grass, seed and fertilizer. Our constant focus on improving both the lawn groomer product line and our production processes using lean manufacturing techniques has allowed us to maintain our position as an industry leader.

Hard work and striving to improve our character qualities that are employees are share with us and is a source of pride to me. Use of computer technology, powder coating, painting methods and technological advancements regarding assembly line operations are among our state of the art and environmentally friendly production process innovations.

However, everything we have worked for has been severely threatened by a flood of dumped and subsidized Chinese imports. In many cases, Chinese producers are exporting products to the United States that are direct copies of our product which Agri-Fab has developed are sold at less than Agri-Fab's cost of production.

You will hear a little more about this subject from Mike Cohan in a few minutes. As we have done whenever we have faced a challenge, we look within ourselves and within our company to try to improve our situation. We improved our production methods, we improved the way which our personnel are used during production and assembly of our lawn groomers.

Agri-Fab has, without a doubt, the most efficient production processes in the industry. However, Agri-Fab simply cannot compete with Chinese lawn groomer imports when the playing field is so uneven, no matter what efficient our product methods

We also have tried to keep coming up with innovative products; however, we find that being innovative is no advantage to us because our new products are copied in China and sold back to the

United States at prices that do not even cover our material costs, not to mention any costs associated with researching and designing the new products.

We're essentially competing against ourselves, and that's not right, especially when our competition is benefitting from subsidies from the Chinese government and selling its product to the United States at less than fair value.

With all this, we request the International Trade Commission issue a preliminary determination stating that there is a reasonable indication that the domestic industry has suffered material injury and is threatened with material injury as the result of dumped and subsidized imports from China.

Thank you. I will now let Mr. Cohan give you some more details about the adverse affects of our business from dumped and subsidized Chinese imports.

MR. COHAN: Good morning. Like Ron, I'd like to thank the Commission for hosting us and allowing us to present testimony on behalf of our antidumping and countervailing duty petitions. My name is Mike Cohan, and I am the President of Agri-Fab, a position that I've held since August of last year.

I have 30 years of experience in this

industry, all of them with Agri-Fab. Prior to becoming the President of Agri-Fab, I was the Plant Manager and Vice President of Operations. The recent onslaught of Chinese imports has had a severe adverse impact on our business.

I want to start by giving you a historical anecdote. Until 2003, we did not see much activity coming from China. We first started seeing the Chinese knock-offs of our products in 2003. We were very curious about who was doing this and to what extent our products were being copied.

At the invitation of one manufacturer we went to China to view their manufacturing facility and observed the company copying our products. We later found that this producer had taken pictures from our website and obtained samples of our products which they used to reverse engineer our products.

At the time we thought we could limit these products from flooding the U.S. market by entering into an agreement with this company. We therefore entered into a manufacturing and supply agreement to purchase several nonlawn groomer products in exchange for the promise that this company would not sell lawn groomers directly to our customers and competitors.

This company broke the agreement and started selling lawn groomers directly to our customers and competitors. I'm not relating this to you simply to accuse Chinese producers of having stolen our designs and products.

Rather, it became clear to us that Chinese lawn groomer producers have established and expanded their businesses by taking lawn groomer designs, including our own products, reproducing them in China and exporting vast quantities to the United States at prices against which we cannot compete. We've seen the volume and variety of low priced Chinese imports increase substantially over the past three years, and this trend has skyrocketed in 2007 and this year.

We are seeing this increase with all of the products that are the subject of our petition. As Ron mentioned, we pride ourselves on working hard and striving to create efficient production methods and innovative products, but even this innovation cannot protect us from unfair imports from China.

The Chinese industry got its start by taking our products, reverse engineering them, copying them and selling them back in the United States at an unfair price. This copying was blatant. Even our manuals were copied word for word and picture for picture. This strategy results in the Chinese producers avoiding the high costs of research and development of the subject products.

As President of Agri-Fab, I meet with our sales representatives on a regular basis. They are the people at the front lines of our company and they have the most direct knowledge of how we have lost sales and lost customers because of low priced Chinese imports. Two instances which come to mind occurred in the third quarter of 2007 where two major accounts switched from Agri-Fab products to low priced Chinese imports.

Most lawn groomer manufacturers, including Agri-Fab, do very little direct selling to the public. The vast majority of our sales are to home improvement retailers, and a good number of these sales are to a few large national or regional retail chains. These customers are very important to us and we try to make sure that we keep them happy.

That is why I can tell you that the game has changed. Price has become the factor above all others. Chinese lawn groomers have significantly changed the conditions of competition in the U.S. market. Before the arrival of Chinese imports, we were able to stand out by presenting a complete package of services and quality to our customers.

Customers used to purchase from us based on factors such as technical and warranty support, customer service, product availability and product range. Now the focus of competition is price to the exclusion of just about everything else.

On several occasions our sales representatives have gone to a customer, demonstrated our product lines, touted all of the advantages that our company and our products can offer and are simply told in response that the customer got a low price quote from China and that we need to match that price. More often than not that price is less than our cost of production.

In some instances, the Chinese price is below our material costs. As a result, we simply lost sales with a number of our customers, whether large or small, new or longstanding. As Gary Harvey will tell you, the impact has been so extreme that we do not even have the opportunity to present a lower priced offer to our customers.

In short, we're being overrun with unfairly priced lawn groomers from China. While Gary can give you a better idea of the extent of injury that we have suffered, I can tell you that based on my experiences, talking and meeting with our sales reps, we have seen, and are seeing, significant sales erosion, particularly within the past 12 months.

We simply cannot compete at this level without the U.S. government assessing antidumping and countervailing duties on Chinese lawn groomer exports to the United States. We are here because this investigation represents our best, and possibly last, hope at leveling the playing field and remaining competitive in this industry.

Without relief, the migration of lawn groomer production from the United States to China will continue with even Agri-Fab considering subject imports. With that, I'd like to introduce Agri-Fab's Vice President of Finance, Gary Harvey. Thank you.

MR. HARVEY: Good morning. My name is Gary Harvey, I am the Vice President of Finance for Agri-Fab. My testimony today will focus on the financial impact that has resulted from the explosion of Chinese lawn groomer imports entering the U.S. in recent years.

We have taken a severe hit on our financial performance as a result of the increase in Chinese imports. Our profits have declined, capital investment has declined, working capital has been reduced, and we now have excess capacity in our manufacturing facility.

In addition, our vendor purchases have been reduced which has the potential affect of increasing purchase prices from these vendors. We have also been forced to reduce our workforce because of the flood of Chinese imports into the U.S. Ron mentioned earlier that we employ about 300 workers, and that number is less than it was in recent years.

These numbers will certainly go down if an antidumping and countervailing duty order is not put in place on Chinese lawn groomers. I would also like to discuss the affect Chinese imports have had on pricing of our products. You will notice from our questionnaire response that prices from our products have remained relatively flat.

These prices, however, do not tell the whole story, and there are two main explanations for this. First, there are a few accounts where penetration of Chinese imports have not been overwhelming as of yet. Those instances are certainly shrinking and it will not be long before they disappear.

In other cases the prices do not reflect the case that we've simply lost the sales altogether. As Mike mentioned, for several large accounts we did not have the opportunity to present lower counteroffers, we simply lost the business. You do not see this just by looking at the prices.

Second, when you factor in the dramatic increase in the price of steel in the past year, any increases that we've been able to negotiate in our prices are completely consumed with these increased material costs. The price of steel, which is our main material input, has increased during the POI, and this trend has accelerated greatly since the beginning of the year.

At the same time, we understand according to the findings of the Department of Commerce and other countervailing duty cases that the Chinese government maintains control over its steel industry and is able to subsidize the cost of steel purchased by Chinese lawn groomer producers. This is just one of the subsidies that we believe is providing unfair benefits to the Chinese producers.

Make no mistake. The loss of business we have suffered is due to dumped and subsidized imports. The lawn groomer industry does correlate with the housing market to a certain extent. Clearly, the housing market is not as strong at this time. It is not, however, the cause of our troubles.

The lawn grooming industry undergoes

cyclical patterns and has been around long enough to weather previous downturns in the housing industry. The current weak housing market is not the reason why we are being told by our customers to match prices that in some instances don't even cover our material costs.

At worst, the housing situation compressed the market for lawn groomers but not as much as you would think. The current housing market is a classic buyer's market. A lot of people are trying to sell their homes, trying to get out of their mortgages and there are relatively few buyers out there.

People who are looking to buy a house have a lot of options available. This means they have the luxury of being very choosy about what they want to see in a house and any imperfections are magnified. Sellers have every incentive to make their properties stand out, and a great way to do this is by improving the first thing that buyers see when they come to a property, the yard.

The difference between a properly groomed lawn and a lawn that is badly taken care of can make a significant difference in the amount a buyer is willing to pay or even determine whether the buyer is willing to step inside the front door. In short, all the weak housing market does is make the problem we are facing from Chinese imports more acute.

We have suffered a triple whammy. The decrease in overall demand is compounded by an increase in Chinese imports and rising material costs. So not only is the pie getting smaller, the share of the pie being eaten up by dumped and subsidized Chinese imports continues to grow.

Chinese imports have also eliminated our ability to raise prices in response to rising material costs. In conclusion, like my colleagues before me, I respectfully request the Commission issue an affirmative determination. Thank you for your time. I would be happy to answer any questions at this time.

Our response to some of your questions are likely to cover business proprietary information. While I cannot answer those at this time, we will make sure that I answer those in our postconference brief. Thank you.

MR. ZOLNO: That's the end of our prepared statements, and we would be glad to answer any questions that the staff may have.

MR. CARPENTER: Thank you, panel, very much for your testimony. We appreciate it. It has been very informative.

I would like to start with a couple of general questions. Mr. Harshamn, you indicated that you were the founder of Agri-Fab and I believe you and Mr. Cohan, both, have been with the company for some 30 years or so. Did you develop this product of lawn groomers originally or were lawn groomers already on the market before you entered the business?

MR. HARSHAMN: The lawn groomers basically, I think, started I guess probably in the 1980s maybe, the late 1980s. I can't say that we were the first to think up a lawn groomer. I think that what we've done is taken that process that you need to do the job on your yard, enhanced it to the point of where it became a market, you might say. Because, normally, I think in the past or in the earlier years of the market, you just -- there wasn't, say, the importance place on the lawns that you see today and it just gradually over the years created that market, I believe. As far as the sweeper is concerned, we definitely brought in innovation to the market that did enhance the product to the point of where it was capable of sweeping without causing injury to your lawn. In other words, the bag and the products that were available before we brought ours out in the early 1980s had wheels on the frame that held the bag or supported the bag. And as a result of that, those wheels were on a type of a -- a dolly-type mount, you might say, mounted in a dolly-type situation, so that when you've got the bag filled with the debris and the weight of the bag, it would cause those wheels to turn sideways and then they would just cut a groove in your lawn. So, we came up with this the canned levered approach to the bags, so that it is self supported by the frame of the -- the bag is self supported by the frame or the sweeper or the housing of the sweeper and, consequently, you don't have that problem. Also, you couldn't back your tractor up without doing the same -- having the same problem of grooving your lawn.

So, I think that probably we've had more innovation in the area of the sweeper than maybe in the area of the dethatchers or the aerators. But, we did come up with some unique items on both of those products, also, that are available in our catalogue and one of those is a spatial plug-type point that we developed, ourselves, and that works very well on the plugger-type aerator. I don't know whether that answer your questions.

MR. CARPENTER: Yes, it does. It's very good. Could you tell us a little bit more about your ultimate customers? All the discussions so far seem to be centered on home owners. Do you, also, sell to, for example, golf courses?

MR. HARSHAMN: Our market does not include gulf courses as a separate item, I guess you would say. Some people on the golf courses will buy from our distributor side of our business. We not only sell to the mass merchandisers; but, we, also, sell through distributors and dealers and also we private label products. So, we, also, do some commercial, in other words, sell to customer dealers and some of those products do end up in the form of -- to those types of -- to the golf course type people, but, they're not necessarily just unique to a golf course.

MR. CARPENTER: Do those larger users, such as golf courses or perhaps very large -- on some very large estates. Would they tend to use heavier equipment or would they tend to use products like your products?

MR. HARSHAMN: Well, it really varies. We think that our products pretty much fit into the level like a five-acre property. When you get into larger than that, you'll see the larger -- get into the larger tractors. We are limited to strictly the lawn garden tractor or a lawn tractor. The distinction is ground engaging. A garden tractor -- ground engages has ground engaging attachments. A lawn tractor is primarily not used for ground engaging type products. And ours, we do have some ground engaging and we have lawn ground engaging. But, normally, they go behind lawn tractors or garden tractors.

We have in recent years developed some things for the UTV and ATV markets, which is a little bit unique, because it's not -- you can pull a lawn mower with an ATV and I guess if you're looking for an excuse for your -- to give your wife to go buy one, that would be the reason to enhance your ATV by using one of these products. The other thing is, is that there is a certain number of these products that will go into for the hunters and those type of people. But, these are not lawn groomers. I'm talking about a whole general product line now when I'm talking about those things. Lawn groomers are strictly pretty much for the garden tractor or the lawn tractor market.

MR. CARPENTER: But for the lawn groomers, you indicated that the upper range in terms of the size of the lawn would typically be somewhere around five acres?

MR. HARSHAMN: I would say that that would be a fair -- what I would say, that if you get more than that, it probably isn't very practical to --

well, the time involved in sweeping would be -- for instance, you could probably aerate larger than that; but I would say in sweeping, that would be kind of the upper end. I wouldn't want to use the product, myself.

MR. CARPENTER: What about the lower end, would you say like a half acre? An acre?

MR. HARSHAMN: Actually, it would surprise you, but people buy these and use them on very small plots. It's the same kind of a situation that you have in the riding mower, itself. It's amazing how small a lawn you will see a riding mower -- a guy riding a riding mower. I mean, you know, most people would just have a push mower for that. But, it's amazing how some guys or some people just want to have something that they don't have to push. We call "push" a four-letter word, but that's -- so, I think that's why they go on small plots like that.

MR. CARPENTER: Okay. Are there other domestic competitors that sell products similar to yours and do they tend to target the same type of end use customers as you do?

MR. HARSHAMN: Yes.

MR. CARPENTER: You concentrated on the influx of the lower-cost Chinese product into the market. Mr. Harvey, you indicated -- you talked some about the cyclical nature of demand. What are the principle factors that affect demand in this market and how would you say they have changed over the last few years?

MR. HARVEY: Well, I think, you know, clearly, like I said in the testimony, housing has an impact and up until just very recently, I think the housing market has been generally very strong. It's just been latter 2007 and early 2008 that housing has really dipped and had a negative effect on the market, to some degree.

MR. CARPENTER: When a homeowner purchases a new house, would they typically buy your product soon after the purchase or is this something they might buy a few years later? Do you have any sense as to whether you know what would be closely tied to fluctuations in the housing market or whether it might be somewhat independent of that?

MR. HARVEY: Well, I'm sure there are many reasons that people decide to buy one of our products. But, you know, I think there are clearly times when people either are changing homes or buying a new home, they'll make this type of purchase to take care of their new lawn. Or, maybe, they don't want to go through the hassle of moving their equipment from one house to another, so they'll sell it with the old house and just buy new at the new house, that sort of thing. But, again, it's hard to say how much is relative to that type of situation and just someone's, I guess, development, in terms of deciding they want to take better care of their lawn than they did before.

MR. CARPENTER: Would you describe the market for this product as a mature market, in the sense that demand has increased over a period of time and then more or less leveled off and then since that time fluctuated with the housing market and general economic conditions or is there kind of a general upward pattern of growth?

MR. HARVEY: I think we've recently not seen a strong upward pattern of growth, although even though these products have been around, like Ron said, since maybe the early 1980s, early- to mid-1980s. There was quite a bit of growth through the 1990s and early 2000s, in terms of both housing and the home improvement, in general. You know, it wasn't just because these products were new on the scene. They continued to grow because of other factors. But, recently, I'd say it's been fairly flat.

MR. CARPENTER: Just one last question on supply and demand. Mr. Smirnow, you're making the argument in the petition that the lower-priced Chinese product has taken away sales from you. And I don't know what the Respondents are going to argue, but how would you respond to a hypothetical argument that the Chinese product is coming in at a lower price and that has actually increased demand for the product because it has allowed perhaps lower income purchasers to be able to buy this product that would not otherwise have been able to buy the product in the past? Is there any validity to that argument?

MR. SMIRNOW: You guys maybe can confirm this, but I think that would be confirmed by changes in retail pricing, which you guys haven't seen. Retail prices have been relatively stable.

MR. HARVEY: That's correct. We haven't experienced a lot of real reduction in retail prices. They've remained relatively flat. Again, they haven't been increasing, as I said in my testimony, relative to the material increases we've had. But, we haven't seen large reductions in retail prices that would drive that sort of increase in demand that you're talking about.

MR. CARPENTER: Thank you, very much, for your responses. It's been very helpful. I am going to turn now to Russell Duncan, the investigator.

MR. DUNCAN: Morning and welcome, panel. I have several questions. Some of them are follow-up on questions that Bob Carpenter has already asked. My first one relates to the product subject to these investigations and the discussion of agricultural implements. The lawn groomers or the TBLGs, is my understanding, do not cover agricultural implements yet. I believe some products, such as spreaders and aerators, are used in agricultural purposes. Is there something in the scope that would limit the coverage of such merchandise from being subject to these investigations, such as the weight limit? I am trying to better understand this product.

MR. KANO: Sir, this is Kaz Kano from Katten Muchin Rosenman. Yes, the weight limits would exclude from the scope very large agricultural type; for example, spreaders or very large spreaders and there weight limitations in the current scope, which would limit that.

MR. DUNCAN: Bob Carpenter discussed whether the market was a growth market or a mature market. But more generally, how large is the LG market?

MR. SMIRNOW: Off the top of my head, I

think it's in -- somewhat unit range of 400,000 units most recently, I think. We can confirm that.

MR. HARSHAMN: You're asking about the total market, right?

MR. DUNCAN: Yes, the total market.

MR. HARSHAMN: That's the total market. What you're going to see is just in this category that we're talking about, which is the groomer category, this would not be the total market for all attachments.

MR. SMIRNOW: Yes, just giving you a general range, in the petition, if you look at -- and I guess we would defer to the petition on that, where we've identified a BPI, what we think the units were, total sales, and value, rather than kind of giving you something in public, an estimate of that --

MR. DUNCAN: Okay.

MR. SMIRNOW: -- because a lot of that information, market information is based on Agri-Fab's intellectual property of the data that our sales folks collect in dealing with customers. So, we would prefer to keep that confidential. And if you look at Exhibit 2 and 3, 3 in particular, you'll see -- where we're talking about, I think in that context, it was what portion of the domestic industry do we represent in the standing context and we go through the market and what our share of the market is.

MR. DUNCAN: If you put that together with the volume of imports, that would give you basically the total market?

MR. SMIRNOW: Yes. Exhibit 3 is just domestic, so then you would add imports to that.

MR. DUNCAN: Yes, I've seen those figures. So, I was wondering more in terms of a public number, which I think you've already indicated was --

MR. SMIRNOW: Yeah. I mean, 400 is probably safe, you know, maybe on the lower end more recently.

MR. DUNCAN: In terms of non-domestic sources of supply, the petition identifies Mexico and China. Are those, according to you, the only sources of non-U.S. supply, to your knowledge, in the U.S. market?

MR. HARVEY: Yes; yes, other than domestic.

MR. SMIRNOW: You know, in the post-conference, I will narrow it down. I will get a better public number, because that 400 is off the top of my head. So, we will put something on the public record in our post-conference that is what we think we are comfortable giving as a public number.

MR. DUNCAN: I appreciate that. Thank you.

I would like to turn to a discussion of channels of distribution. I just want to discuss this issue a little more fully, to get a better understanding of how a product will leave the facility and end up in someone's garage or utility shed.

MR. HARSHAMN: Well, there are three, I guess, different ways that they would do that. Number one would be, we sell direct to the mass merchandiser or home center type people and that would be one way. That would go directly from that home center to an individual user. It could be purchased on the Internet from several different mass merchandisers and some of the Internet transaction people. It could go through a distributor and then to a dealer. It could go directly -- and then to the individual. It could go direct to a dealer and then to the customer. It could go -- we could private label something. It would go to a private label for another manufacturer, go from that manufacturer -- all of these different situations. So, there's a lot of different ways this product could end up --

MR. DUNCAN: On a percentage basis, what would be clearly the largest --

MR. HARSHAMN: Oh, clearly the largest would be the mass merchandiser, home center type pretty much today.

MR. DUNCAN: When you talk about this firm of a mass merchandiser, what type of firms specifically would fall into that category?

MR. HARSHAMN: A mass merchandiser, the type of firm would be anywhere like a Lowe's, Home Depot. There's a lot of the individual home center group, which is covered under what they call the Mid States Group and in Minneapolis, that would be the centers, those types of people. And Sears is another one of them that would actually -- the home side of their business.

MR. DUNCAN: I think based on John's follow-up question, this has already been discussed a little bit, but could you describe the difference in the volumes at the wholesale level, this mass merchandiser, versus the other channels described? Roughly, ballpark, 80-20? 90-10?

MR. SMIRNOW: Maybe -- Gary, can you answer that a little better than me? Let us put that in the post-hearing. We will give you a good, hard number for that, for the percentage. For our sales, we are far and away the largest domestic producer, so we think our number would be pretty representative of the industry.

MR. DUNCAN: As a follow-on question to that, is there, in your opinion, a difference in pricing between the channels?

MR. HARSHAMN: Difference in pricing? Yes, there's definitely a difference in the pricing and there are some differences in the products. In other words, some -- I mean, there are definitely multiple models in these different products. So, the models would be changed for the lower price.

MR. DUNCAN: You discussed in your testimony briefly that some models or some varieties of these products do not face the competition from China's imports, but the share of those type of products is shrinking. In your post-conference submission, can you discuss that in greater detail?

MR. SMIRNOW: Sure. I think we said the effects haven't been overwhelming yet. I don't think we said they're not facing competition. But, we will address that in more detail.

MR. DUNCAN: Thank you for your testimony on the domestic like product issue. That will be very helpful for us, as we go forward in these investigations.

I have a follow-up for one of the factors that go into our domestic like product analysis, the characteristic. From your testimony today, it's my sense that in terms of our analysis of uses, you want us to look at a sort of overarching use of lawn groomers and place less emphasis on the actual use for category.

MR. SMIRNOW: At a minimum, recognize that the overarching is lawn grooming. The products complement that overarching function and there are some products that have multiple uses. So, kind of those three --

MR. DUNCAN: So, those overlap in terms of some of the products that will have multiple attachments?

MR. SMIRNOW: Well, you can have an aerator spreader, for example, in a single unit. You can have a sweeper dethatcher in a single unit. So, it's sweeping, it's dethatching. The purpose of that is lawn grooming at the end of the day. Lawn grooming is the commonality of these items.

MR. DUNCAN: And then in terms of the pricing differences, while there might be some pricing differences between certain of the four product categories that make up the lawn groomers, but they all overlap with each other on some level.

MR. SMIRNOW: We believe on some level. An exception to that would be like a dethatcher priced from 60 to 100 and a sweeper, sweepers are more in the 170 and above range. That would be an exception. But, spreaders, sweepers, aerators, they're all going to -- there's going to be some overlapping there.

MR. DUNCAN: In the petition, you brought up arguments related to a semi-finished product analysis. At that point in time, you had a proposed scope language that I understand has subsequently changed. Based on Commerce's initiation scope language, what semi-finished product analysis should the Commission conduct, if any?

MR. SMIRNOW: In that context on parts, I don't believe the parts have changed.

MR. KANO: The scope of the concerning parts imported individually has not changed. There are only three categories of parts: the sweeper, brush housing, and then the weight trays for the aerator or the dethatcher. The specific -- the descriptions have changed a little bit, but those are the three basic products that are -- the three basic parts that are covered.

MR. DUNCAN: In particular, when we look at a semi-finished product analysis, we look to see if there is actual markets for the upstream articles.

It's my understanding that there are not currently markets for these upstream articles. Is that true?

MR. SMIRNOW: Yes, that's correct.

MR. DUNCAN: In your post-conference brief, can you, please, address the issue of the semi-finished product analysis in more detail, including the five factors the Commission looks at? Also, in the post-conference brief, can you, please, address whether any U.S. producer should be excluded from the definition of the domestic industry, as of there being no related party?

MR. SMIRNOW: We will. I believe we haven't seen all the questionnaire responses that would pertain to that. Hopefully, we would see all of those Wednesday, but I know there's at least one. Where we have seen their response, that would be an issue.

MR. DUNCAN: Thank you. That's all the questions I have at this time.

MR. CARPENTER: Mr. Von Schriltz?

MR. VON SCHRILTZ: Good morning. I have just a few questions for you. I am wondering, in terms of like product and the physical characteristics and usage and also the interchangeability factors that the Commission considers, would a consumer ever purchase only one of the four types of tow behind lawn groomers?

MR. HARSHAMN: Yeah, that's possible.

MR. VON SCHRILTZ: So, it's possible that there are consumers out there, who are only -- who decide to only use one type of groomer to groom their lawns?

MR. HARSHAMN: Yes.

MR. VON SCHRILTZ: And how frequent is that?

MR. HARSHAMN: That's a little difficult to say. I think that probably when you look at the overall market, you would conclude that most people would probably buy a sweeper, as opposed to the aerator and the dethatcher side of things. But, that's just my opinion.

MR. ZOLNO: It's also difficult to say, of course, because the end user, the consumer is purchasing most of these, as the testimony has indicated, from mass merchandisers and Agri-Fab does not monitor those sales, as to whether they're an individual, TBLGs, or more than one TBLG.

MR. VON SCHRILTZ: And the combination units that you've discussed, what share of the market do they have, would you say, for the tow behind lawn groomers?

MR. HARSHAMN: There, again, that would be difficult to say. I think that we would have to have those numbers available by separating that out of our documents that we've submitted, if that's what you need, so that you could tell the difference. But, I can't tell you off the top of my head.

MR. VON SCHRILTZ: It might be helpful in the most conference, if you could estimate the percentage of your sales that consist of the combination units. And, also, the new -- if you are aware of any sales of the sort of tow behind lawn groomers that you sort of plug in components, so that you've got a hitch that works with multiple components, if there are any sales of those, if you could estimate the extent of those sales, that would be helpful, as well.

MR. HARSHAMN: Okay.

MR. VON SCHRILTZ: You talked about how you're constantly struggling to increase your productivity and efficiency at the plant through use of automation and computer equipment and that kind of thing. To what extent, and maybe you want to address this post-conference, to what extent have layoffs and the reduction in your employee headcount been related to productivity improvements versus declining sales, I think that would be helpful, over the past several years, of course.

MR. SMIRNOW: Yeah, we will address that in the post-conference brief.

MR. VON SCHRILTZ: Thank you. Now, the Respondents' opening remarks raised a few questions for me. I am wondering, are there substitute products out there that have arisen over the past several years, that are eating into your market for tow behind lawn groomers?

MR. HARSHAMN: I think basically the fact that we are being copied would indicate that there haven't been that many innovations. I think that's really what you have to say. Now, there are -- of course, you're always working on different things. But, I can't say that there is anything new and revolutionary that has hit the market, to my knowledge, that would cause that situation. But, the fact that we're being copied, I think, indicates that there isn't that much out there.

MR. VON SCHRILTZ: And what about the impact of climate change and demographic changes on the market for tow behind lawn groomers, to what extent have the graying of users and the browning of grass affected the sales of tow behind lawn groomers?

MR. HARSHAMN: That happens every year, I believe. And depending upon the location in the country, the population -- if you're in a population area, a high population area, and you have dry conditions, for instance, it will definitely affect the sales in that area. But, you know, that's totally dependent. Each year you have conditions somewhere in the country that are different that affect that. So, I can't say that that's really a large overall factor.

MR. VON SCHRILTZ: Has it been a larger factor since the period of investigation, in other words, 2005 through first-quarter -- the first six months of 2008, has it been more of a factor than in previous years?

MR. HARSHAMN: Well, I can't say that it has, myself. Everyone knows that definitely in the southeast, there's been a considerable drought down there and that's a pretty good market for the products. But, like I say, when you look at -- that's more in the last year, I believe, in the 2007 time frame. I don't think that previous years to that, that there was that much of a problem in the southeast. And when you talk about the far west, we don't really have a high number of sales in the far west anyway, so --

MR. SMIRNOW: I would add that the Chinese don't seem very concerned with that, based on surging import volumes, particularly in 2007 and I think you're going to see, at least in a couple of the questionnaires we reviewed, projections for 2008 kind of undercuts that they think there's -- it's a declining market.

MR. VON SCHRILTZ: What about the demographic changes, do your customers tend to be older Americans? I mean, is there kind of a generation gap between younger Americans, who don't like to use tow behind lawn groomers, than older Americans, who are more receptive to using tow behind lawn groomers?

MR. HARSHAMN: There, again, that's difficult for me to say that that's a factor. The one thing that I do believe is that you do see a lot of younger people today taking a lot of pride in the appearance of their lawns and so forth. And probably it's been more than -- you know, I'm the old guy here, so I've been around a long time and I would say that it is greater today than it has been probably in the -- before a lot of this stuff was available. Otherwise, I don't think it would have been available or we wouldn't have had the market that we've had, had the younger people not taking pride into their lawns, notwithstanding the baby boomers. Definitely, the baby boomers had an effect on the market.

MR. VON SCHRILTZ: And can you discuss the relationship between sales of lawn tractors and sales of tow behind lawn groomers, also addressing whether tow behind lawn groomers can be used with riding lawn mowers?

MR. HARSHAMN: They are used with riding lawn mowers. They're pulled behind their riding lawn mowers. I don't know that I can answer the other --

MR. HARVEY: I"m sorry, what else?

MR. VON SCHRILTZ: To clarify, in the past, have you seen a direct relationship between sales of lawn tractors and riding lawn mowers and sales of tow behind lawn groomers, so that when a consumer goes into a store, retailer, he might buy both a lawn tractor and a tow behind lawn groomer to go with it?

MR. HARVEY: I think, again, there's some correlation there, but there's just -- the availability of market data in this industry is so hard to find. It's so difficult to come across, really, a lot of good hard correlations. You know, we believe that happens, but to what degree, it's hard to say.

MR. HARSHAMN: One factor is that definitely the zero turn products have had an effect on products that are used. But, there are products available for zero turns, also, but it's more difficult to attach something that you pull behind a zero turn product. Of course, there's a standard lawn tractor or garden tractor.

MR. VON SCHRILTZ: What is a zero turn product exactly?

MR. HARSHAMN: What is a zero turn product?

MR. VON SCHRILTZ: Yes, sir.

MR. HARSHAMN: It is a lawn mower. Basically, it's more used in the commercial world. And just recently in the last probably three to four years, the lawn mower companies have come up with models for the home motor -- what we would call the home motor product and those products are reduced somewhat in size and in stature; in other words, not as heavy duty. And the reason why they're used -- what it really means by "zero turn," it means that you can actually turn in a circle without moving forward. And so when you're going around a tree or you're going around any kind of a -- anything in your yard or whatever, you can go around that and not back up or make a big turn and that makes it possible to mow your yard in approximately probably 20 percent less time. And so, as everybody knows, some people like to mow yards and some people don't and so they want to get it over quickly. And that's basically why we use them. The one thing I will say, they are higher priced and so the majority of those products are a minimum of $2,000-$2,500 and up. And so, when you get into the commercial units, of course it's a lot more expensive.

MR. VON SCHRILTZ: When you say it's harder to hitch a tow behind lawn groomer to one of these --

MR. HARSHAMN: Because of the nature of how -- if you think about hitching something and turning sharply with it, if you've ever pulled a trailer, it's the same issue, or tried to back up a trailer.

MR. VON SCHRILTZ: Changing the subject a bit -- thank you for your answers. They're very helpful. I am wondering about the nature of your contract negotiations with your major customers, do you hold annual contract negotiations around the same time every year with your major customers?

MR. HARSHAMN: Yes.

MR. VON SCHRILTZ: And during your negotiations, is it common for the retailers to reveal competing prices and producers, too?

MR. COHAN: Common might not be the correct word. What we've been running into is showing our product line, giving our pricing, and then being handed a sheet that says, if you can't match this, we're importing it. As far as saying that company A is supplying it at this price, that's really not how it's done. And it's been more lately like that. It is often revealed that they have a price from China that we would need to meet.

MR. VON SCHRILTZ: So, you will make your presentation to the customer and them sometime later the customer will come back to you with competing prices of your competitors?

MR. COHAN: Yes, that's normally how it is worked.

MR. VON SCHRILTZ: And you will sometimes be given an opportunity to beat those prices or reduce your prices sufficiently that the customer will stay with you?

MR. COHAN: There is periodically an opportunity to try to meet that. And if they are -- if we're not talking about China, if we're talking about the fact that they've got a price from another domestic manufacturer, then there may be something there that can be done, whether it's with features or promotions or whatever. But, in this last year, it's been a situation where the pricing that we're being asked to match could not be done with domestic parts.

MR. VON SCHRILTZ: Just to clarify, if you decided to lose money and match that price, you retain the business or keep the business?

MR. COHAN: You bet. They will be more than willing to let us sell it at a loss.

MR. VON SCHRILTZ: And are these annual contracts that you negotiate with your customers?

MR. COHAN: Yes, sir.

MR. VON SCHRILTZ: And do they contain typically so called meter release clauses?

MR. COHAN: No. A typical contract would show a price that we will be selling the product for and an estimated volume. As far as a meter release, that's not normally part of what we're looking at. It's just a comment that is made or a piece of paper that's handed over that said you need to be here.

MR. VON SCHRILTZ: Is it possible that even after you enter into an annual contract, your customer might switch to another supplier and maybe not purchase the volume, the estimated volume that is set forth in the contract? Has that ever happened, to your knowledge?

MR. COHAN: I think that possibility is

always there. The volumes may go up or down. That would depend upon what the consumer winds up eventually doing. Switching to another supplier -- normally, most customers are pretty good about staying with you for a season and giving you some notice that they're going to change.

MR. VON SCHRILTZ: Thank you for answering all of my questions. I have no more questions at this time.

MR. CARPENTER: Ms. Bryan?

MS. BRYAN: Thank you. I'm Nancy Bryan from the Office of Economics. It's a pleasure meeting you all. I do have several questions. Hopefully, we can get through them fairly quickly.

I first just wanted to touch briefly on the issue of seasonality in the market. It sounds like most of the contracts are annual. I was just wondering if the seasonal nature of lawn grooming ever affects the prices charged in the contracts.

MR. COHAN: On the pricing, seasonality is a big issue in the lawn and garden. Obviously, a large percentage of the product goes out into the stores for January through May for them to be selling. And then summer is quite a bit slower and then the fall, then you see specific items like the sweepers pick up then.

Pricing is based on what we are forecasting steel to be, wheels, corrugated, whatever that might be, and anticipated volumes that are supplied to us by the customer.

MS. BRYAN: Okay. But, throughout the year, the price is pretty stable?

MR. COHAN: The price to the customer?

MS. BRYAN: Right.

MR. COHAN: They're not real good about letting you change it.

MS. BRYAN: Right, okay.

MR. COHAN: That's true.

MS. BRYAN: Okay.

MR. COHAN: That's a very difficult thing to get pushed through.

MS. BRYAN: Okay, thank you. Also, could you kind of go through some of the factors that determine what a customer would consider high quality in this product? Would it be the materials used, like more metal versus plastic, or the gears are -- stuff like that?

MR. COHAN: Through some customer research, the perception in the end user area is that a lot of times, the wheel is the perceived quality. A customer may not notice a welded unit versus a bolted unit, but they're notice bigger wheels and think that's a good thing. With our buyers, with the people buying our product, we try to stress the quality of the manufacturing, the quality of the raw material that goes in, the quality of the production process, to ensure that the fitting function is there, that the gears on a sweeper are heat treated gears, things like that are taking place to make sure that they've got a durable product. For a consumer, for the end consumer, they're looking at it a little differently, so it's an education process there.

MS. BRYAN: Okay, interesting. Thank you. Can you comment briefly on your impression of the Chinese quality versus your quality of your product?

MR. COHAN: I can. I would say that some of the first units that we saw come across were really, really inferior. Some of the copies couldn't hold up to the minimum test that we might run our product through. Over the years, they've gotten a lot better at copying exactly what we do and finding the right materials. So, again, for a consumer on a floor in a retail store, they might not be able to tell the difference on some of these units now and some of them are much better than they were a few years ago. I still would say we have the best ones on the market.

MS. BRYAN: Okay, thank you. And kind of related to that, are you familiar at all with the manufacturing processes of the Chinese producers, whether they're similar to yours or if they're less automated or if they're getting more automated over time?

MR. COHAN: Some of the companies over there are getting more automated. It's been a few years since I've been over there. The ones that I've witnessed were pretty rough, as far as manual labor, welders sitting on the floor just holding parts together, things like that. Over the years, some of these manufacturers have improved that. But, as compared to some of our proprietary information that you'll find in the documents, the people we believe that we've been competing against were not using processes nearly as sophisticated and efficient as what we are.

MS. BRYAN: Okay. And, also, could you touch briefly on the quality of the other source we touched on earlier, from Mexico, how do their quality compare with both yours and the Chinese imports?

MR. COHAN: The Mexican imports have gone through the same learning curve. It's the same learning curve that American producers went through

100 years ago and some of the Mexican companies are going through that now. On the plastic side, they're very good at their injection molding. It's first rate in a lot of areas. Some of the assembly is still very manual. Some of the punch press operations to building things like that are still labor intensive. But, it is continually improving.

MR. ZOLNO: Do you see competition from Mexican manufacturers in all of the TBLG line or just some?

MR. COHAN: No, we're not really seeing Mexico being a factor on tow behind lawn groomers.

MS. BRYAN: Okay, thank you. I think we've covered a lot of the issues about demand. I guess I just have some more kind of specific questions. What is the typical life span of one of these products? How often would a customer need to replace them?

MR. COHAN: I think we can furnish that in the post-briefing based on the testing that we've put our product through, as far as the life cycle that we expect.

MS. BRYAN: Okay.

MR. COHAN: Because, we think it's different than what a lot of competitors are doing.

MS. BRYAN: Okay.

MR. COHAN: So, we would prefer to show that post-conference.

MS. BRYAN: That would be helpful, thanks. Also, just a thought I had about when we were talking about the tow behind versus the push groomers. I am assuming, I guess, that the lawn tractors and the -- I don't know, the other kind of vehicles that you use are using some sort of gasoline or fuel. With fuel prices increasing, do you maybe see a trend towards people saying, hey, I'm just going to use a push groomer, because it saves on fuel costs?

MR. COHAN: I don't have anything to be able to answer that right now.

MR. HARVEY: Well, again, the first thing I would say is, again, that's pretty recent and the period we're looking at is longer than that. So, I don't -- it's too soon to say that that's having an effect right now. So, I don't think it does in the information we've looked at so far.

MS. BRYAN: Have you ever seen that in the past where fuel prices have gone up?

MR. HARVEY: No.

MS. BRYAN: Okay, thank you.

MR. COHAN: I think I have to differentiate between the push that uses fuel and the push -- you've got an old fashioned push lawn mower --

MS. BRYAN: Definitely, definitely.

MR. COHAN: -- and it's going to be irrelevant. But, from one to mow his ground with that kind of push lawn mower, when you have an acre to, let's say, to five acres is going to be very, very difficult.

MS. BRYAN: Thank you. This is just another -- if this is maybe business proprietary, you can comment on this in your post-conference brief. But, do you sell replacement parts separately and if so, are they priced differently or they go through the same channels of distribution? Or is that not an issue?

MR. COHAN: Well, again, we will cover that in the post-conference brief.

MS. BRYAN: Okay, thank you. Turning to raw materials, have you had any trouble actually obtaining supply of any of your raw materials over the period?

MR. COHAN: Steel, cardboard, tubing has not been much of an issue. Probably, we're not getting into too much detail. About the only issue we really had would be wheels. For a domestic supplier that is importing their rubber, that might have caused us a few problems. But, overall, steel is coming from the

Midwest out of Chicago and our coal is. So, that's not being -- as long as you'll pay what they're asking, they will find a way to get it for you.

MS. BRYAN: Okay, thank you. And I guess this would be a question for -- I don't know if it would be the mass retailers or the actual end user, individual customers, but how important is brand loyalty or brand recognition, the customer that always want to buy the same type of product because they're familiar with the brand?

MR. HARSHAMN: Basically, focus groups that we've done indicate that there are only two brands in our industry, regardless of the fact there are a lot of brands. Craftsman and John Deere are the only two that are recognized by the individual customers. So, I guess that makes it difficult, if you're depending on branding for pricing.

MS. BRYAN: Okay, thank you. This is another question I had, the pricing product that we're collecting data on, for instance, like we have two different sizes of sweeper, like a 38-inch and a 42-inch. Is there anything you can touch on, like why a customer may demand one over the other or prefer to use one over the other or is there any actual physical limitation in using one or the other?

MR. HARSHAMN: Well, basically, it depends on the size of the mower deck. If they want to sweep as they mow, then they might buy the wider one, if they've got a 42-inch mower deck, or they might buy -- they've got a 30-inch mower deck, why they might buy the smaller one. But, if they actually mow and then sweep, you know, it just depends on how fast you want to get it done.

MS. BRYAN: Okay, okay. I guess this is kind of going back to the sales contracts, the annual sales contract, are the different product types, like sweepers and aerators and spreaders, are they sort of sold together under the same contract or is there a separate sales contract for each type to the same customer buying multiple types?

MR. COHAN: It would be in one contract covering everything that we're selling them.

MS. BRYAN: Okay. And so for the rest of your bigger customers, do you see them typically buying your full range of all the different products or do they pick or choose here and there?

MR. COHAN: Cherry pick would be the term that we use.

MS. BRYAN: Yes.

MR. COHAN: We shoot for the full line.

There are some that are a little more selective about taking limited items.

MS. BRYAN: Okay. And kind of following that same line, as far as product ranges, do you see your company offering the same product range as the import suppliers or is there a certain size or grade that you produce that they don't produce?

MR. COHAN: You mentioned the 38 and 42, those were the first copies to come across. What else -- we have 46s, now there's going to be 46s, 44s, 48s. There's always new innovation domestically. There are some that are just dead on copied, size, weight, the whole thing. I'm not sure I answered what you were asking, but --

MS. BRYAN: I guess if there's an end of the spectrum, a certain size that you don't see the imports coming and competing under.

MR. COHAN: I think we just have to go through that --

MS. BRYAN: Okay. Okay. In the post-conference brief, if you want to touch on that, that would be great. And then leading to transportation costs, sort of out of curiosity, I was wondering how these products are typically transported, truck or rail? Both?

MR. COHAN: Our product or their product?
MS. BRYAN: Your product.
MR. COHAN: Our product is normally trucked.
MS. BRYAN: Okay. Can you kind of touch on how important transportation costs are? how important proximity is to your customers in this market?
MR. COHAN: We feel like it's fairly important and we'll try to use that as a negotiation tool. For a lot of our customers, we are less than a day away by truck to get the product to them. So, we stress it, but the cost and the proximity are both in their favor using a domestic supplier.
MS. BRYAN: Okay. And what do you hear from your customers, do they agree with that, on the transportation cost issue?
MR. COHAN: A lot of times, they'll agree with what you're saying, but they've got a spreadsheet that has numbers on it that don't factor in what some of those benefits are. And, occasionally, you might get a comment that I buy the product, traffic has to handle those costs, it's not part of what I am graded on. My bonus is not reflected on the transportation.
MS. BRYAN: Okay, thank you. Also, are you aware of any of your customers that purchase both from you and Chinese suppliers and, if so, do you know why

they would choose to do so?
MR. COHAN: We would probably put that in the brief.
MS. BRYAN: Okay, thank you. And, also, touching very briefly on the exchange rates, has the weakness of the U.S. dollar, I mean, have you seen any impact on that from that on the prices of the Chinese imports coming in?
MR. HARVEY: I think there's been some affect on the recent affect from the change in the Chinese currency against the dollar. Is that what you're asking?
MS. BRYAN: Yes.
MR. HARVEY: Okay. There's been some recent impact on pricing that we've seen, but I don't know how much is related to currency.
MS. BRYAN: Okay. In general, would you say you've seen prices of the subject imports trending one way or another?
MR. HARVEY: Trending higher.
MS. BRYAN: Okay. And related to the exchange rate issue, has this maybe positively affected your sales to export markets, if there are any?
MR. HARVEY: The currency with -- U.S.

currency with other countries?

MS. BRYAN: Yes.

MR. HARVEY: Okay. I think we have seen some recent increase in business in Europe and we can attribute, I think, some of that to the change in U.S. currency.

MS. BRYAN: Okay.

MR. HARVEY: But, again, it's been recent.

MS. BRYAN: Okay, good, thank you. That's all I have.

MR. CARPENTER: Mr. Ascienzo?

MR. ASCIENZO: Thank you. Good morning. This is John Ascienzo. I am filling in for Mary Clear, who is out of the area today. You have probably answered some of her questions already.

I think my first question was already touched on, but I just wanted to make sure, and this might be business proprietary. You do sell, Agri-Fab do sell combination TBLGs and, if you do, you can tell me now or in the post-conference brief approximately what percentage? You know, is it three percent of your sales, six, eight, ten, whatever the number is?

MR. SMIRNOW: Yeah, they definitely do sell those products --

MR. ASCIENZO: Okay.

MR. SMIRNOW: -- and we'll get the percentage. I think the question earlier was what percentage of those make up our total sales.

MR. ASCIENZO: Okay.

MR. SMIRNOW: We will address that in the post-conference.

MR. ASCIENZO: Thank you. And actually I think my second question was already touched on. It seems to me, and I think this was touched on, like I said, there's some sort of progression for production and sales for aerators versus dethatchers versus spreaders. I think you said -- someone said that the sweepers are more sold or the actual end customer buys more sweepers towards the fall. Is that right? Are they all produced at the same time and then shipped out at the same time and then the actual end customer goes and buys it for a Lowe's or Home Depot in the fall? Or how does that work?

MR. COHAN: The sales of this particular group of product happen throughout. Our biggest shipping would be in the spring for the initial run through. Sweepers for leaves have a step back up again in the fall. We would build those year round. We would build all of these products year round based on the customer demand.

MR. ASCIENZO: Okay. Do you have a feel for how many lawn tractors are out there in America pulling these TBLGs?

MR. HARSHAMN: The only thing I can say is that roughly, there is around a million, four riding tractors of the different kinds built per year, but I can't tell you the life of all of those.

MR. ASCIENZO: So, a million, four built per year?

MR. HARSHAMN: I can go into that are actually sold. Historically, that hasn't really changed a lot over the last five years. But, the only exception to that might be -- is the industry reporting group, which was the OPEI, the Outdoor Pyro Equipment Institute are the people that report on that. And if you want information there, you can contact them and they can give you a background on that. But, I don't know if they can tell you how many are still living out in the field.

MR. ASCIENZO: Thank you. And I think my next question was touched on, also. Just a minute, I'll let the fire engine go by. Certain parts thereof included within your -- do you produce certain parts thereof?

MR. KANO: Yes.

MR. ASCIENZO: Okay. And then -- okay, I'm sorry.

MR. KANO: Just for the -- those are -- well, we can get into that in our post-conference brief, but those are basically just for warranty and replacement purposes.

MR. ASCIENZO: Okay. And then if you could, for each -- well, I guess for the total for 2007, at least, please indicate what percentage of your sales they were, three percent, five percent, 10 percent, whatever they were --

MR. KANO: Sure, we can do that.

MR. ASCIENZO: Okay, thank you. And I'm sorry if this was explained in the petition, but I missed it. Do you sell as Agri-Fab when your products go into Lowe's or Home Depot or wherever they go? Are they Agri-Fab or are they badged as something else?

MR. HARSHAMN: Well, like I say, we, also, private label and so you might see it as Agri-Fab or you might see it as Craftsman and then there's a lot of other different names out there that we actually private label for. But, we do have a category called Agri-Fab that is sold in a lot of the home stores, home-type stores.

MR. ASCIENZO: And I think you indicated --

somebody indicated, I'm sorry, that the two names that the customers attach some value to are Craftsman and Deere. So, you produce Craftsman, I think you just said. How about Deere, who makes John Deere?

MR. HARSHAMN: One of our competitors make John Deere, although we do some Deere products, also.

MR. ASCIENZO: Okay. And you might want to respond to this in the post-conference brief, but if you're selling some products as Agri-Fab and some as Craftsman, is there any real difference? Input? Quality-wise? Cost-wise? You can respond to that in the post-conference brief.

MR. HARSHAMN: Yeah, I think we'll look at that.

MR. ASCIENZO: Okay. Thank you, very much. And my last question, do you or any other domestic manufacturers that make the tow behind lawn groomers also make the more commercial size self-propelled lawn groomers? I'm thinking like, for instance, the dethatcher or any one of them, I guess, but certainly the dethatcher or an aerator? Do you know offhand?

MR. HARSHAMN: I don't know of anybody that interchanges the two, off the top of my head.

MR. ASCIENZO: Okay.

MR. SMIRNOW: Yeah, that would include Agri-

Fab. So, we don't -- we're not aware of anyone that does overlaps in both areas.

MR. ASCIENZO: Okay. Thank you, very much. I have no further questions.

MR. CARPENTER: Ms. White?

MS. WHITE: Thank you. I'm Linda White, Office of Industries. I just need to kind of clarify in my mind some of the like product issues and the common manufacturing facility. In the petition, you mentioned that these tow behind lawn groomers can be made of any material, but they're made primarily of steel. When you say "made of any material," would that like include the hitch and the frame maybe being made of plastic or are those always steel?

MR. COHAN: The hitch has historically been steel and I think when we talked about the fact that some of these things can be made of any material, you can make them, but they're probably not going to function properly, if you aren't making those particular components out of steel.

MS. WHITE: Okay.

MR. KANO: But, I think the important thing to remember is -- you might preface it by saying, historically. As technology advances -- currently, you couldn't make something, for example, out of plastic. But within four or five years, advancements in polymer technology, it would be possible. It would be the same product with just a different material.

MS. WHITE: Okay. Then, following on to that, say if a manufacturer, then, were to be able to -- well, if the product were made of different material, then would one manufacturer make both products of the two material, say, would Agri-Fab make the product of steel and maybe also the product of plastic or would there be separate facilities?

MR. SMIRNOW: That's really hypothetical.

MS. WHITE: Okay.

MR. SMIRNOW: I'm not sure we'd be comfortable. That's something we could address in the post-conference.

MS. WHITE: Hypothetically; that's not generally the situation here.

MR. SMIRNOW: The reason, as Kaz indicated, as technology develops, we seen the Chinese, any new development, they jump on it.

So part of the reason why the scope of phrased as it is and not limited to just what's currently available is that hopefully an order goes into place, and the Chinese try to circumvent by shift to plastic kits or something. The scope would cover any technological advancements. So that's the reason for any other materials in the scope as it is.

MS. WHITE: Okay.

MR. SMIRNOW: We're not aware currently of anyone who's developing a plastic hitch or using other materials in the spreader for example, as the bucket is usually made of polyethylene.

MS. WHITE: Right.

MR. SMIRNOW: So I think anything beyond that, we'd just be guessing.

MS. WHITE: Okay, you mentioned the buckets for the spreader and those are plastic. Does Agri-Fab also make the steel one? You purchase the plastic. Do you make steel buckets or bins for the spreader?

MR. HARSHAMN: At the present time, we don't have any steel spreaders in our line.

MS. WHITE: Okay.

MR. HARSHAMN: Well, yes, the job spreaders, I guess, would be steel. I think we used to have some that are steel. But I think we've totally converted to plastic on the hoppers for all of our spreaders.

MS. WHITE: Okay, let me see then. Do you make both of your own aerator disks? I know I remember you make one of them. Do you make both of them; the two kinds?

MR. COHAN: Yes, we do; the spiker and the plug; we manufacture both.

MS. WHITE: Okay, and I know the motorized equipment has been discussed; but I'm somewhat confused. Well, first of all can a tow-behind lawn groomer also be motorized? Is there such a thing?

MR. HARSHAMN: I guess, to my knowledge, I don't know of anybody that's doing that.

MS. WHITE: Okay.

MR. HARSHAMN: We have a motorized tiller. But that's a ground engaging type product.

MS. WHITE: Okay.

MR. HARSHAMN: So I think that if you try to mow at any kind of a speed with a motorized thatcher, it could be more damage than what you'd really want, in that particular case.

MS. WHITE: So when you say motorized, that's to propel the whole unit. It wouldn't be a motor that just drives the main action gear like the axles for the aerator.

MR. HARSHAMN: In the case of the tiller, it is an attachment that pulls behind the tractor; and that's what I'm talking about. It would be anything that's motorized that actually is pulled, also. The motorized self-propelled type units you're talking about are the units that are in the commercial area, I think.

MR. COHAN: All of which are outside the scope.

MS. WHITE: Okay, thank you, that's all I have.

MR. CARPENTER: Mr. McClure?

MR. MCCLURE: Jim McClure, Office of Investigations -- taking the four products separately, are sweepers in general for the U.S. industry, as well as what's coming in from China and Mexico, the larger seller?

MR. ZOLNO: We'll answer that in the post-conference brief.

MR. MCCLURE: Okay, can you comment on what's coming in from China and Mexico; any sense of that? Is it all four as a group, or is it largely sweepers?

MR. ZOLNO: Mexico is limited to one specific model during the period, one model.

MR. MCCLURE: Is that a sweeper?

MR. ZOLNO: Yes, that's BPR.

MR. MCCLURE: Okay, fine.

MR. ZOLNO: It's in the petition. We'll highlight it in the post-conference.

MR. MCCLURE: Okay, okay.

MR. ZOLNO: China, all categories, we're seeing products coming in across the board -- dethatchers, aerators, sweepers and spreaders; sweepers, 38, 42, 42 heavy duty.

MR. MCCLURE: Okay, are any of the purchasers buying some domestic? You know, they might buy a domestic sweeper, but an imported dethatcher; or do they tend to just cluster the whole package when they're making their purchasing decision?

MR. COHAN: They have been instances of both cases, and we could spell that out for you on some specific customers who have done it each way.

MR. MCCLURE: Okay, but the preponderance is that they choose to buy the whole package from either the U.S.; or if they buy imported, is that the most common experience.

MR. COHAN: We've actually lived through both.

MR. MCCLURE: Okay.

MR. COHAN: We could give specifics to you on what that is.

MR. MCCLURE: Okay, one thing I'd like to ask counsel to do in the post-conference submission -- and this goes for Respondents, as well -- please comment on <u>Bratsk</u>, our old friend; in particular, of the non-subject source imports. From what you've said, Mexico would be the prime non-subject source. Are there any other countries who are sending product in here.

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

MR. MCCLURE: All right, thank you; that's all the questions I have. Thanks for your testimony.

MR. CARPENTER: Thank you very much, panel, for your responses to our questions. We very much appreciate all the information you've given us this morning. At this point, we'll take a 10 minute break, and at that point we'll resume the conference with the Respondents; thank you.

(Whereupon, a short recess was taken.)

MR. CARPENTER: Could we resume the conference now, please? Please proceed whenever you're ready.

MR. CRAVEN: Good morning; shall I wait for Mr. Duncan to return?

MR. CARPENTER: You can go ahead. I'm sure he'll be here any second now.

MR. CRAVEN: No problem -- good morning, my name is David Craven. As I said earlier, I'm with Riggle & Craven. I'm appearing today on behalf of

Jiashan Superpower Tools.

I was to be accompanied today by Mr. Bob Lusty of Tri Global Enterprises. However, Mr. Lusty fell victim to the vagaries of the U.S. air transport industry, and will be unable to join us today at the conference.

He has assured me that if the Commission has any questions that he can address, he will be happy to answer them in some way in a post-hearing submission.

As the Commission staff no doubt wishes to hear from the members of the industry and not the lawyers, I will be very brief. However, before I turn over the microphone, I would want to raise a point that the Commission may want to consider in examining injury.

I also want to note parenthetically, by the way, that the confidential information only arrived in my Chicago office yesterday; and as I had already arrived in Washington, all of my comments are made solely from discussions with my client and other members of the industry, and I have not actually seen any of the business proprietary information. So I will not be revealing any BPI here.

We think the Commission should carefully consider the nature of the customers to whom the domestic industry sells the product, and their health and ability to compete in the marketplace. To the extent that a producer's success is tied directly or indirectly to the skill or ability of a particular retailer, you should consider whether unsuccessful retail may result in loss in sales for the producer for reasons wholly unrelated to the actions of the producer.

For example, one of Agri-Fab's well known customers is Sears and Roebuck and their highly regarded Craftsman line of products. It is also, however, known that Sears, the historic leader in lawn tractor and accessories, has been facing major challenges in the marketplace, and is believed to have experienced a significant loss in sales due to many factors; some in the control of Sears and others outside of the control of Sears.

But any sales that may have been lost as a result of a decline in sales by Sears would be related to the skill and ability of Sears to make sales, and not related to the actions or pricing of the foreign or domestic producers.

I will be happy to answer any other questions the Commission may have; and as I said, I will be happy to direct any questions to either my client or to Tri Global. I am not representing Tri Global. They are only simply a witness that I am facilitating their testimony.

I would now like to turn over the microphone to Lizbeth Levinson of Garvey Schubert and her client, Wayne Swisher of Swisher Mower and Machine Company.

MS. LEVINSON: Thank you, David; good afternoon, Mr. Carpenter and the rest of the investigative staff. I'm Lizbeth Levinson. I'm with the law firm of Garvey Schubert Bear, and I'm here today with my client Swisher Mower and Machine. The President and CEO of that company is to my right, Mr. Wayne Swisher.

We put in a Notice of Appearance late yesterday; not in time for the calendar of the public conference to reflect that Garvey Schubert is representing Swisher Company. We want to make clear that Wayne Swisher is not associated in any way with Jiashan Superpower Tool Company. The way the calendar reads, it's perhaps a little ambiguous. With that, I'll hand the microphone over to Mr. Swisher.

MR. SWISHER: Good morning, my name is Wayne Swisher, and I am President and CEO of Swisher Mower and Machine Company. Swisher is a leading manufacturer and distributor of power and non-power yard equipment, including attachments. The company was founded by my father in 1945, and is located in Warrensburg, Missouri.

Swisher manufacturers in the U.S. riding mowers; zero turn mowers that we refer to as ZTRs; string trimmer mowers; trail mowers, which is essentially a cutting deck towable device used along with lawn tractors or ATVs; and heavy trail cutters, which is also a towable attachment that's used to cut brush.

Our other products include log splitters, lawn vacuums, dump carts, lawn sweepers, aerators, and other lawn/garden attachments, and the largest variety of ATV/UTV attachments on the market.

Swisher produces products under its own brand, as well as several private labels. The Swisher brand is distributed worldwide through an extensive network of dealers, distributors, and retailers.

While we do not currently produce the precise products that are subject to this investigation, we have manufactured products that are similar in scope and function in the past.

So I'm personally very familiar with both the manufacture and importation of these products. In fact, we at Swisher have a unique perspective to bring to the Commission. Because we are the only U.S. company that we know of that manufacturers or provides both the tow-behind attachments and the vehicles they are used with. So we have a first-hand knowledge of the relationship of the sales and attachments of both types of products.

We began importing the subject merchandise beginning in 2005. We had a choice at the time to either begin manufacturing the lawn groomers ourselves, or to import the product. We decided to proceed cautiously, and to import the product from China rather than investing in new production for several reasons.

First, the year 2004 was an unprecedented year in terms of volatility in steel prices and questionable availability in the U.S. We feared further unpredictability associated with this major input, and saw that other countries were not experiencing the same level of uncertainty.

Second, at the time, we were planning the opening of a new plant in Lawrenceburg, Tennessee, and were not eager to undertake additional investments at that time. We therefore opted to import, rather than manufacture, lawn groomers ourselves.

Our entry into the lawn grooming product line was motivated by several factors. Several of our long-time customers had been asking us to consider this category. We always tried to listen closely to our customers.

We heard stories of leading manufacturers not providing the innovation, top notch quality, and excellent service in brand that customers demanded. We studied the industry closely, and developed novel ideas about branding, advertising, merchandising, and product improvements.

For example, we chose to sell our products in striking white boxes, sporting four color labels, great graphics, often with action pictures that contrasted sharply to the drab brown boxes with two color line art printing on the package that our competitors offered.

Customers loved the additional silent salesmen in their stores that this merchandising provided. Consumers were quickly drawn to our product, with our major emphasis on service. Along with our major emphasis on service, we were able to both attract and retain customers.

An important consideration in the marketplace is brand versus commodity-type products. More and more retailers are positioning their product selection based upon a concise brand strategy. Many of Swisher's long-time customers have asked about how to broaden the Swisher offering to assist them in making a brand statement.

Swisher had established the number one brand in ATV/UTV attachments for several years prior to broadening its offering into the lawn tractor attachment category, including lawn groomers. It was a natural extension to the Swisher product line and one that retailers saw as a better marketing mix for their objectives, as Swisher offers a broader basket than its competition.

Sales for Swisher immediately took off and continued to be strong as a result of listening to the customer, the marketplace, and applying basic marketing principles to differentiate from the commoditization that's been previously experienced in the market.

As a U.S. manufacturer in the lawn and garden industry, I recognize times are tough. There's no question that both lawn and garden tractor sales are down; and that as a result, sales of lawn groomers are also down. The slump that the U.S. manufacturers are now experiencing has little to do with imports, however, as I will explain.

The sales of lawn groomers are impacted most dramatically by sales of lawn tractors. Statistics from the Outdoor Power Equipment Institute, or OPEI, demonstrate that the sales of lawn tractors have been under pressure for the past four years. It is estimated that in 2008 alone, sales have declined at least 14 percent on lawn tractors and nine percent on garden tractors.

Let's put that in perspective. In a normal year, roughly 1,000,000 to 1,400,000 tractors would be sold. Well, in that case, a 14 percent decline is roughly 200,000 units that have been displaced.

Given that many lawn groomers are sold along with the purchase of the lawn tractors, this alone explains much of the market erosion to the lawn groomer category.

The decline in the sales of lawn and garden tractors, and hence the decline in lawn groomers, were caused by two major factors: the economy and the weather. The economy has caused a well-documented housing slump. The decline in single family homes has caused the demand for lawn equipment to erode, as there are fewer lawns to care for.

The credit crisis, gasoline prices, and job security, are also all influencing consumer's discretionary spending. These are clearly contributing to the slower retail sales for the category.

In the past two years, the U.S. market has been severely crippled by adverse weather conditions. Most prominently, the long-term drought that has devastated the southeast United States, prolonged drought conditions in the western states, and the 2008 flooding in the midwest have all caused sales of lawn equipment to decline.

In the northern states this year, a sudden Spring in the early months prevented many homeowners from aerating their lawns, as they typically would have done in the pre-season.

Now as America ages, more consumers are turning to commercial lawn services that typically do not utilize the lawn groomers. Also, zero turn technology has proliferated in the same timeframe. This year, it's expected that nearly 200,000 zero turn units will be sold to the consumer space in the United States alone. This is clearly a substantial percentage of the overall market.

Zero turns, as mentioned earlier, do not lend themselves, given their maneuverability characteristics, to the use of traditional lawn grooming products.

Another notable change in the market trend is people are mulching their grass versus bagging their grass. It's been proven that mulching one's grass, rather than collecting the clippings, promotes a healthier, more vibrant and disease-resistant turf.

Some states have banned the dumping of grass clippings into landfills, due to capacity constraints. As a result, some lawn tractors are sold with mulching kits as a standard feature; and after-market sales of mulching blades continue to grow.

All this leads to reduced lawn grooming demand, as clippings no longer need to be collected and healthier lawns need less fertilizer or other additive that may be used or applied by spreaders.

In summary, there's a long laundry list, well beyond Chinese imports, that have contributed to the changes in the lawn groomer market. Products are not sold on an island or on price alone. A complete marketing mix is needed to continually successfully sell products. This includes the right price, the right product, the right place, and the right brand, along with the appropriate support through merchandising, after-sales support and service, overall brand positioning, and more.

Items such as the economy, weather, demographics, consumer preferences, and changes in retailers' strategies, all combine to create a set of unique circumstances; in essence, a perfect storm, seldom experienced in the U.S. marketplace.

I thank you for having the opportunity to speak today, and look forward to your questions.

MS. LEVINSON: That concludes our direct presentation, and we welcome your questions.

MR. CARPENTER: Thank you very much, panel. We'll begin the questions with Mr. Duncan.

MR. DUNCAN: Thank you for your testimony this morning, shortly to be afternoon. When you discuss these products subject to the current anti-dumping and countervailing duty investigations, the subject of this conference, are discretionary, has that, Mr. Swisher, been your experience with your firm with the recent downturn in the housing market; that your firm has experienced decreased sales due to the current market condition?

MR. SWISHER: I think it's safe to say that all of our categories have been affected by the economic conditions.

MR. DUNCAN: How large of a factor do you think the downturn is in the housing market, versus some of these other factors you've raised, like a switching of preferences to mulching of grass versus collecting and disposing?

MR. SWISHER: Well, it's very difficult to clearly define which factor is more important, because they would overlap at some point and that sort of thing. So it would be very difficult to know that number.

MR. DUNCAN: Fair enough -- in terms of some of the acronyms that you threw out, just help me with understanding your testimony. What exactly does ATV and UTV stand for?

MR. SWISHER: I'm sorry; ATV is for all terrain vehicle, like a four wheeler -- you know, Polaris, Kawasaki, Honda -- some of these things that are very, very popular nowadays.

A UTV is the cousin of that product, basically. It's a utility vehicle; such as, it's more of a side-by-side seating, almost like a golf cart; but more of a utility version. Kawasaki, Mule, John Deere, Gator may be some of the products you may be familiar with in that category.

MR. DUNCAN: Thank you, that helps -- now when you discuss these ATVs and UTVs and other vehicles that tow these products subject to these investigations, and their sales, the markets for those products being correlated with the products subject to these investigations, lawn groomers, what is your sense of those sales in those markets? How many of the end users that purchase those products also then purchase these products? Is it a third of those sales, usually, that gets you down into sales for the tow-behinds?

MR. SWISHER: And you're relating that to ATV/UTV? It's much different. There are some similarities in the purchasing patterns. But I would suggest that it's a different enough purchase, that it's very tough to find a direct correlation. I just don't know that there's information available on that.

MS. LEVINSON: Mr. Duncan, I just want to clarify that I think when Mr. Swisher is talking about ATV/UTV attachments, he's not talking about the subject merchandise.

MR. SWISHER: Yes, mostly I was framing that we have a leading position in that market space, because I'm trying to define who we are and what we do and that sort of thing.

MR. DUNCAN: Oh, okay.

MR. SWISHER: But also important to that is, that leads us to the logical extension of that particular product line, which was to get into the lawn and tractor, and lawn and garden tractor attachments, which the lawn groomers are part of.

MR. DUNCAN: Well, that helps me understand your testimony. I have a question for David Craven. In your opening remark, you discuss how concentration in a firm's customers can cause injury or a loss of revenue to a firm, based on factor unrelated to imports.

But doesn't such an argument, to put on the hat of counsel, cut both ways; in that if a single big client switches the imports, that that would cause a loss of U.S. market share and increase of subject imports, and would be not likely analyzed as injurious, therefore?

MR. CRAVEN: Perhaps; but the issue, I think, we're talking about isn't a shift of a customer to imports; but rather, simply a major customer whose sales decline because the customer is, for various reasons, no longer able to sell. Whereas, another customer that, for other reasons, happens to use a different supplier, whether it's an import supplier or another domestic supplier. It has a superior marketing and sales strategy; and the result is, their sales go up.

The fact is that the tie there is not anything to do with the price of the imports. But rather has a relationship with the impact of the seller in the marketplace. I think the example specifically that we raised in discussing Sears is that it is well reported in the press that Sears has been experiencing significant financial difficulties for the last several years, and it certainly has had an impact on their ability to sell product.

MR. DUNCAN: So were we to look at compiled data on the U.S. industry -- and you've offered like a Sears; but there might be other firms that are out there -- that have a different story behind it, like what I was discussing earlier, how would we desegregate the effect of injury of the scenario you're talking about with Sears?

MR. CRAVEN: Well, I think ultimately that's going to result simply by looking at the data, and seeing how the data itself can be resolved.

I think even if we had the data, I don't think it's necessarily something we could really go into in a lot of detail here in the open investigation.

I would suggest that this is a sufficiently complex issue; that if the Commission should decide to make an affirmative preliminary determination, that this is an issue that would certainly be a useful and fruitful avenue for the Commission to examine and gather the data for a final investigation. But I would be honest, I don't think I can tell you today how I would look at adjusting the data.

MR. DUNCAN: Will you be submitting a post-conference brief for your client?

MR. CRAVEN: It's our intention to submit a post-conference brief.

MR. DUNCAN: In that, can you discuss further this issue, and your ability to look at the BPI data that you have access to and to elaborate on that train of thought?

MR. CRAVEN: Sure, absolutely.

MR. DUNCAN: I have a question for you, Mr. Swisher. We heard testimony this morning that Agri-Fab officials believe that only Chinese and Mexican lawn groomer products are foreign products available in the U.S. market. Is that your understanding, as well, or do you know of other product?

MR. SWISHER: I'm not aware of any other countries participating.

MR. DUNCAN: We also heard this morning a discussion of domestic like product, to the extent that it is interest of your client, could you comment on those issues?

MS. LEVINSON: Yes, we certainly will.

MR. DUNCAN: All right, going back and forth here, back to Mr. Swisher -- can you describe, compare, and contrast the channels of distribution for product that your firm sells, the imported product, versus the experience of a U.S. manufacturer? Are they similar channels; or do you, as an importer face different channels?

MR. SWISHER: I'd say they're very similar, very similar.

MR. DUNCAN: So you would sell both to mass merchandisers primarily and, in some instances, on a direct retail level?

MR. SWISHER: Can you repeat that, please?

MR. DUNCAN: I'm just confirming the same question in different terms; that you said that your channels of distribution are very similar to those of U.S. producers. I'm saying that, therefore, you have sales both to mass merchandisers and directly on a retail level.

MR. SWISHER: Yes, we do. We have some mass merchant offering. We do sell to Internet type, website type stores and storefronts, as well as dealers and distributors, as well.

MR. DUNCAN: Is it your experience that based on those channels, there are price differences for the same product?

MR. SWISHER: At retail?

MR. DUNCAN: Yes, between the different channels -- your sales, not the eventual retail stores -- your selling to a mass merchandiser versus your sales to an on line firm of all the same product, is there a price differential?

MR. CRAVEN: I think we'll direct that one to the post-conference information, if we may.

MR. DUNCAN: That will be acceptable. Also, just to get a general sense, if you have a number you feel comfortable sharing, what percentage do you estimate the sales to mass merchandiser in the market. That seems to be predominant share; but I still haven't gotten a clear idea of what the percentage is.

MR. SWISHER: Well, that information is very difficult to get your hands on. You know, in our business, I think we segment our business slightly differently. We consider the mass merchandiser to be the very, very large firms such as Sears, and Lowe's, and things like that.

Most of our customers are most of the second tier type customers, that we don't really consider mass; certainly, on the scale of those others that were mentioned. So at any rate, any of the numbers are pretty closely held by any one of the retailers as to how they perform in the marketplace and are very difficult to access on a global basis.

MR. DUNCAN: Well, that's no fault of your own. But thank you, and I have no further questions.

MR. CARPENTER: Mr. von Schriltz?

MR. VON SCHRILTZ: Good afternoon; thanks for attending the conference. I have just a few questions. Mr. Swisher, when you determined that you wanted to offer tow-behind lawn groomers, I guess you said some time around 2004, you say that it was sort of at the request of your customers?

MR. SWISHER: Absolutely.

MR. VON SCHRILTZ: Then you made the determination that it wouldn't make sense for you to manufacturer the tow-behind lawn groomers yourself, because you didn't have the capital. I guess you just established a plant to produce mowers?

MR. SWISHER: Well, actually, we had some fairly large projects underway at that time. So we felt like to stay focused, it would make more sense to take that project and outsource it.

MR. VON SCHRILTZ: Have you produced tow-behind lawn groomers in the past domestically?

MR. SWISHER: Domestically, we have produced products that are very similar in function and scope. You know, would they fall under the veil of the definition within this investigation? Some probably would; some would not. It's been several years since we've done that.

MR. VON SCHRILTZ: How exactly did you go about finding an outside supplier for your tow-behind lawn groomers?

MR. SWISHER: We used a third party sourcing agent.

MR. VON SCHRILTZ: How does that work exactly? I'm not familiar with those.

MR. SWISHER: Well, there seems to be several folks that claim to be import experts out there. We, I guess, vetted the group somewhat, and came up with who we thought was a good partner, and worked with them. They used their contacts and so on to bring various products to offer us.

MR. VON SCHRILTZ: So they presented you with several options, several different possible suppliers to chose from.

MR. SWISHER: You know, I wasn't as directly involved with much of that process. I would have to assume that the purchasing and sales group that was on that team would be able to answer that.

MR. VON SCHRILTZ: I guess we heard testimony this morning from Agri-Fab that they produce a lot of private label tow-behind lawn groomers. Did you consider a domestic supplier?

MR. SWISHER: Sure, I think the general nature of the competitive world that we live in, we did not feel that there was going to be a domestic supplier that would even consider making them for us.

MR. VON SCHRILTZ: And why would that be?

MR. SWISHER: We have some other categories that are in direct competition with most of the major suppliers in this category.

MR. VON SCHRILTZ: So in other words, products other than tow-behind lawn groomers compete with the products of other domestic manufacturers who you might have purchased tow-behind lawn groomers from, on a private label basis.

MR. SWISHER: Exactly.

MR. VON SCHRILTZ: To what extend did price motivate your sourcing decision?

MR. SWISHER: Well, I think in any business decision, you have to consider price. I don't think you can make your decision without considering it. You know, as to what percentage it influenced it, I guess that's tough to measure.

I think that, you know, we looked at the overall price value equation for our entire product line, and how this fit into our product line, and how it's met the demands and needs that our customers were expressing, and made the decision.

MR. VON SCHRILTZ: Maybe post-conference, if you could sort of discuss how the price of the tow-behind lawn groomers from China sort of compares to your cost of producing similar products in the past, if you have access to that information any longer. You say it's been several years since you produced similar products domestically.

MR. SWISHER: We can look into that.

MR. VON SCHRILTZ: I appreciate that. I don't have any more questions at this time. Thank you for your answers.

MS. LEVINSON: Can you hear me? I just wanted to add that you had had a question before about whether our argument was that the graying of America meant that older Americans were having a preference for this equipment.

I think actually the argument is that as

Americans get older, they don't want this equipment because they don't want to be out mowing the lawn. They're more likely to hire commercial services that don't use this kind of equipment.

MR. VON SCHRILTZ: Yes, thank you for that clarification.

MS. LEVINSON: Then also, I wanted to mention that Mr. Swisher has the data from, what's the name of the organization -- Outdoor?

MR. SWISHER: Outdoor Power Equipment Institute.

MS. LEVINSON: Yes, regarding tractors, and we'd be happy to provide that in the post-conference brief.

MR. VON SCHRILTZ: Terrific; thank you.

MR. CARPENTER: Ms. Bryan?

MS. BRYAN: Thank you; Nancy Bryan, again, Office of Economics -- my first question would be just sort of to characterize your customer base over the period in general. Has the number of mass merchandisers and retailers grown for this product, or remained fairly stable?

MR. SWISHER: Has the number of customers grown?

MS. BRYAN: Yes.

MR. SWISHER: In general for the marketplace, I'd say that the number of customers has stayed fairly static. You know, some customers add stores or destinations, locations, or whatever, for their particular storefront. But other than that, I would say the actual retail channels themselves have stayed reasonably stable.

MS. BRYAN: Okay, great, thank you; do you have any comments on the effect of the U.S. dollar exchange rate and how it's been weakening lately -- how that has affected your prices of the goods you're importing?

MR. SWISHER: It has made a significant difference. The changes in the RNB has definitely substantially changed our costing.

MS. BRYAN: Do you have a time period on when it kind of started actually impacting your prices?

MR. SWISHER: I think that that information, I'm just guessing. I'm sure we could find it on the Internet when the RNB really started changing. It seemed like it was the beginning of 2007, when it kind of started -- not necessarily pegging it to the U.S. dollar; but how they've kind of changed their currency valuation. But it started kind of changing, I want to say, early 2007 or late 2006, in that timeframe.

MS. BRYAN: Okay, and do you have a sense for also how the rising raw material costs, pretty much throughout the world, but specifically how it has affected the Chinese producers and their prices?

MR. SWISHER: Well, I mean, steel is the predominant input here on all these devices and a worldwide commodity. It has just taken off like a rocket ship last year. It seems to be consistent, whether it's from China, from the U.S., or whatever. Steel prices are largely inflated over the last certainly year and-a-half.

After the 2004 explosion and volatility in the market, it moderated somewhat for a couple of years. It started getting a little rocky again. Then particularly in the last year to 18 months, it's been fairly unpredictable.

MS. BRYAN: Okay, and do you get a sense that the prices of the Chinese imports very closely track the changes in raw material prices?

MR. SWISHER: Well, we try to watch that. I think the best we can determine from, you know, information on the Internet and so on, it seems like they seem to mirror what we see as steel costs and even steel availability from China. There have been instances where there have been availability issues, as well.

MS. BRYAN: Right, right, okay, thank you; also, would you like to touch at all on your impression of the quality of your products, and compare them to the quality of the domestic product?

MR. SWISHER: Sure, I think, in our case, we've worked closely with the supplier to create a specification that's worthy of what our retailers desire and so on. In fact, I think that's represented by them continuing to order products from us and so on, and re-ordering and so on.

I think it's very comparable quality and, in some cases, superior. I mean, every company, every product, has its good and bad, positive and negatives. They have some good attributes. We have some good attributes. But in total, we think we have a very, very good quality product, and worthy of the marketplace.

MS. BRYAN: Okay, thank you; also, I don't know who would maybe be best suited to answer this question. But are you aware of any purchasers that buy both domestic product and the Chinese imports; or have you heard about any purchasers doing this and why they might be doing so?

MR. SWISHER: Definitely, we're aware that there are some that do that. As to why they do that, I mean, I couldn't say. I could speculate. But I don't know exactly why.

MS. BRYAN: Okay, thank you; also, do you have a sense if your customers know whether the lawn groomers are manufactured domestically or imported, and whether they care, if they do know?

MR. SWISHER: I think the customers, the buyers that we deal with at retail, absolutely know the country of origin. Do they care? I'd have to say no, really. I mean, they're looking for ultimately what they feel their customer wants. If their customer is not saying they care, then they're not going to care. Because they're trying to provide ultimately what their customer wants.

MS. BRYAN: Okay, also, just in the transportation costs, it sounded like in the testimony this morning, Petitioner was saying that their transportation costs are lower than most import sources. Do you agree with that; and if so, why would that be the case?

MR. SWISHER: I mean, I guess the obvious reason is the distance. But you know, I guess retailers are being more savvy about how they slice and dice their data, and looking at landed costs of products.

There's obviously a lot of things that go into that, sometimes beyond the obvious with, you know, diesel fuel and whatever; and they look at all kinds of different things. Some of them look at a different set of inputs than others.

But you know, domestic suppliers should have obviously less freight costs in terms of rolling miles to deliver a product. But in total, any retailer is going to look at a landed cost, all in, what's this going to cost me to get.

MS. BRYAN: In terms of proximity to customers, would you say you're farther away from your customers than domestic producers, or relatively similar in proximity?

MR. SWISHER: Swisher?

MS. BRYAN: Yes.

MR. SWISHER: Well, we have a distribution center in Missouri, near Kansas City; and Tennessee, south of Nashville. So, you know, many of our customers are very regional in scope. Therefore, we have an advantageous position there, in both places.

Then the more national chains, if you will, the true mass merchants, typically have their own distribution centers scattered in various zip codes. As to whether we would have an advantage in that or not, I think kind of depends on the retailer.

MS. BRYAN: Right, also, if you did ever happen to decide to switch your supplier, either to another import source or a domestic source, how easily could you make that switch or how quickly, if at all?

MR. SWISHER: Well, that would probably depend a little bit on how advanced that particular supplier was in their processes and so on. It always sounds easier than it really is.

I think we certainly consider that. Because when we outsource, we have to look for the best possible arrangement within a particular supplier; what's the value added they bring to us, et cetera, all the different little things that go into that equation.

So how simply could we do it and how much time, I don't know that to put my finger directly on it. But we try to plan for those kinds of contingencies on an ongoing basis.

MS. BRYAN: Okay, also, we heard this morning that most of the contacts are annual. If you want to comment on it now or post-conference, that would be fine. But do you have similar annual contracts; or is it your understanding that there's more sort of a spot market going on with imports, or if it's all annual?

MR. SWISHER: Well, sometimes the contracts are a little one sided, I think. But they are very similar. I mean, they are typically annual in theory. Then sometimes because some of these products are more or less commodities, in the spot market, an unknown vendor or even a known vendor can come in and sometimes acquire some of the market mid-year, mid-season, mid-contract, what have you.

MS. BRYAN: Right, I guess that is going to lead in to my next question. Yes, I mean, if a retailer orders an approximate volume from a supplier, are there time when they need more extra volume all of a sudden and they would go to a spot market?

MR. SWISHER: Absolutely; it happens nearly every year at one time or another. More retailers are scrutinizing their inventory investments more and more every year. As a result, they'll have shortages from time to time.

Again, in the case of these types of commodities, they'll often pick up the phone and call all the domestic suppliers. Well, I've heard stories that they would call several of the domestic suppliers or known suppliers, just to see if they had inventory available.

MS. BRYAN: Okay, thank you; that's all I have.

MR. CARPENTER: Mr. Ascienzo?

MR. ASCIENZO: I have no questions.

MR. CARPENTER: Ms. White?

MS. WHITE: I have no questions, either.

MR. CARPENTER: Mr. McClure?

MR. MCCLURE: As a graying lawn mower pusher, who grew up 60 miles from Warrensberg, I have just one quick question, reminding the two of you, if you have anything to say about Bratsk, please do so in the post-conference brief. Mr. Swisher, are you aware of any presence in the market of Mexican imports?

MR. SWISHER: Not directly -- I've heard of instances, or at least one instance that we believe a competitor is bringing some products in, or plans to bring products in from Mexico.

MR. MCCLURE: Do you have any sense in the Mexican industry; is there one producer, end producers, any notion of how large it might be?

MR. SWISHER: I could tell you that we do have some sense. I think for any detail, I'd prefer to deal with it later.

MR. MCCLURE: Sure, sure, okay, that's all I have; thank you.

MR. CARPENTER: I have just a couple of follow-up questions. First of all, for Mr. Craven and Ms. Levinson, forgive me if I've missed this. But if you have a position with regard to the domestic like product, that you'd either like to comment on now or in your post-conference briefs, please do that.

MS. LEVINSON: This is Lizbeth Levinson. I think we responded to one of Mr. Duncan's questions, saying that we would brief this in our post-conference brief.

We think there are genuine problems with the like product definition being suggested by the Petitioners. But we haven't had a chance to look the questionnaires and really examine the situation.

MR. CARPENTER: Also, when you've had a chance to look at the questionnaires, could you give us your thoughts as to whether you believe there are appropriate circumstance to exclude any related parties from the domestic industry.

MS. LEVINSON: Yes, we'll do that.

MR. CARPENTER: Finally, I have just one question for Mr. Swisher. You had mentioned a number of factors that you indicated have, in recent years, hurt sales of lawn groomers.

MR. SWISHER: Yes.

MR. CARPENTER: I think I understood most of them. One of them, I was wondering if you could help me with a little bit. That's how the greater use of mulching lawn mowers would result in decreased sales of lawn groomers for the four different categories.

Because I thought intuitively, it sounded to me like it might be just the opposite for some of them. I don't know that much about the product. So maybe you could help me understand that.

MR. SWISHER: Okay, well, certainly mulching is becoming more and more popular. As a result, as I mentioned, it's even seen at retail, at the lawn tractor level, with the configurations and specifications.

When you properly mulch your grass, you can essentially, using the nutrients from your grass clippings to basically decompose into your soil naturally, give the grass the nutrients it needs to flourish. That typically reduces the need for some of the fertilizers and things that you might typically use; thus, less need for a spreader, or less use of applications of spreaders. That would be one good example.

Because you're mulching your grass and letting the grass lay, you're clearly not collecting your clippings any longer. Therefore, sweepers are no longer needed; or certainly not needed as much. Sometimes you maybe let the grass get too tall to mulch and you might want to collect it; and therefore, you might need one around.

In terms of de-thatching and so on, if you properly mulch your grass, it should decompose in most climates in an appropriate way, to where you wouldn't have a thatch build-up; and thus, you would not need the de-thatching device.

With the aerator, studies show that a properly maintained and healthy lawn should keep the soil in a condition that's conducive for continued healthy grass and turf. As I understand it, that would somewhat vary with the types of soil; and, of course, there's all types of soil we're dealing with, which may not impact aerators as closely as maybe some of the other, more obvious impacts.

MR. CARPENTER: Thank you, that's very helpful. Are there any other staff questions; Mr. van Schriltz?

MR. VON SCHRILTZ: I have one more follow-up question, kind of similar to Mr. Carpenter's question, but about the zero turn mowers.

How would someone who purchases a zero turn mower groom their lawn? Would they just use the mulcher attachment then, that would reduce the need for at least three of the four tow-behind lawn groomers? Is that a possibility for the zero turn? Is that the only possibility, the only option, or are there options for grooming your lawn with a zero turn mower?

MR. SWISHER: Well, your options at this point in the market are very limited. You know, many of the zero turns have bagging attachments that are available, similar to what the lawn tractor might have. But the general nature of the lawn groomers, as described in this petition, just make them impractical almost under any context with use of a zero turn mower.

You can use them behind a zero turn. It's not that you cannot. The point is that you end up losing the opportunity or the ability to turn on a dime and come back, basically in your footprint, that a zero turn provides. So there would be no need to buy the zero turn. The zero turn is little more expensive than a conventional lawn tractor. So most people buy it for a different reason.

Now as a result though, in terms of spreaders, a total spreader would again probably make no sense with a zero turn rate, or little sense anyway. But there are a variety of tractor or zero turn bumper mounted or even front or rear mounted spreaders that are available, showing the shift in technology from the towable, more conventional spreaders that are mentioned in this petition, versus what's happening in the marketplace with an obvious trend that's taking place.

MR. VON SCHRILTZ: What about the mulching attachment? Would it have the same problem as the tow-behind lawn groomers?

MR. SWISHER: Well, mulching attachments are typically a different set of blades, and possibly a cover for the discharge chute on the zero turn itself. So if you were mulching the grass, you would need the sweeper because of the mulching characteristics of the re-cut grass, right?

So it would have the same performance as a lawn tractor that was mulching. So it would have the same influence in terms of the impact of sales of lawn groomers. Does that make any sense?

MR. VON SCHRILTZ: So to be clear, you could use mulching with a zero turn mower, in lieu of traditional tow-behind lawn grooming equipment.

MR. SWISHER: Yes, yes.

MR. VON SCHRILTZ: Okay, thank you.

MR. CARPENTER: Again, thank you very much, panel, for appearing here today and for your responses to our questions. At this point, we'll take a short break of about five minutes or so, to allow you to collect your thoughts for your closing and rebuttal statements, and we'll begin those with the Petitioners.

(Whereupon, a short recess was taken.)

MR. CARPENTER: Welcome back, Mr. Zolno.

MR. ZOLNO: Basically, we're somewhat confused by the testimony of those in opposition to our anti-dumping and countervailing duty petitions. There seems to be inconsistent testimony, and it frankly doesn't answer our allegations.

The allegations, when it comes down to the crux of our arguments, are with respect to material injury and threat of material injury; that there have been sales lost by our client, and those sales were as a direct correlation of Chinese competition in the lawn groomer area.

As far as whether or not other factors that have been mentioned -- the aging of the population, the fact that some states have banned grass clippings and mulchers now are in vogue, and that being somehow related to lost sales -- we not only haven't seen that; but the same witness who testified to that, Mr. Swisher, also said that the market remains steady, the market for products within the scope of our petitions. So that makes no sense to us.

Basically, it boils down to the fact that Agri-Fab is losing sales to Chinese competitors. You heard the testimony, especially the testimony of David Cohan today, who is in direct contact with the sales persons who are out there, selling to mass merchandisers and others; and the prices that are being quoted by companies, I imagine like Swisher, even though the mass merchandisers haven't named Swisher per say. But Swisher is an importer of these goods from China. So companies like Swisher are offering the tow-behind lawn groomers at prices much less than, in some instances, Agri-Fab can even produce those articles for; in other words, less than below their cost of production.

So the testimony of those in opposition really seems to be inconsistent. It doesn't really make a lot of sense to us, and we basically want to reiterate what we said during our testimony this morning; that the Chinese imports are hammering our sales.

The company is in jeopardy. It currently cannot compete with unfair Chinese competition. As Mike said at the end of his testimony, he is in jeopardy of having to potentially purchase these items from Chinese, unless there's relief granted by the Commission and by the Department of Commerce. Those are my remarks. If you have any questions, I'd be happy to try to answer them.

MR. CARPENTER: No, we have no questions at this time; thank you, Mr. Zolno.

MR. ZOLNO: Okay, thank you.

MR. CARPENTER: Mr. Craven; Ms. Levinson?

MR. CRAVEN: I want to thank the staff for their very hard work, and I'm looking forward to working with them further to examine this further.

I'm reminded of the very famous Japanese movie Rashamon, where there were very many different views of the same incident. Ultimately, the Commission staff, your job is going to be confirming which is the correct view of the facts. We think that the facts are quite clear; that the industry is in a decline. But more importantly, the injury being suffered is not being caused by reason of unfairly priced imports out of China.

In going to that, I also want to mention that I believe Mr. Zolno may be a little confused about the testimony of Mr. Swisher. Mr. Swisher didn't say that the market was steady. Quite the contrary, I believe he did certainly indicate that it was in a decline, and he noted that it's been four years of constant decline, a record period.

But in any event, I think the key here to understand is that the factors we've elucidated do relate to why the domestic industry has lost sales, and the Chinese industry has frankly lost sales, as well. It's a significant overall, ongoing decline.

But one of the reasons that the domestic industry may well have lost more sales is, they may have tied themselves to a wrong horse. We will be discussing this with the discussions about ties. We talked about brand names, and the domestic industry mentions there are only two brand names. There's Deere and there's Craftsman.

Well, they've tied themselves very clearly to one of those brand names, Craftsman; and Craftsman and been in difficulties. I think you will find that ultimately when we look at all of the different factors here, that it isn't the pricing of imports.

Imports didn't come in because of pricing.

Imports came in because the customers in the marketplace were looking for some new and alternate ways of doing things; as Swisher came in, a new technique of boxing the product. Customers came to Swisher, that already offered a range of other products, and said, hey, we want you to go into this product area, as well.

We think that's ultimately what you're going to find the Chinese imports are; not a price-driven competition. Does the domestic industry needs protection? Well, it's not really that they need protection. They need to understand how to do business ultimately, and I think we're going to come down to that analysis.

So I want to thank the Commission staff for their work, and we look forward to putting in our post-conference submission and continuing to work with the Commission.

MR. CARPENTER: Thank you, Mr. Craven; Ms. Levinson, did you have any remarks?

MS. LEVINSON: I don't have anything further; thank you.

MR. CARPENTER: On behalf of the Commission and the staff, I want to thank the witnesses who came here today, as well as counsel, for helping us gain a better understanding of this product and the conditions of competition in this market.

Before conclusion, let me mention a few dates to keep in mind. The deadline for the submission of corrections to the transcript and for briefs in the investigation is Friday, July 18th. If briefs contain business proprietary information, a public version is due on July 21st.

The Commission has tentatively scheduled its vote on the investigations for August 7th at 11:00 a.m. It will report its determinations to the Secretary of Commerce on August 8th, and Commissioner's opinions will be transmitted to Commerce on August 15th. Thank you for coming. This conference is adjourned.

(Whereupon, at 12:50 p.m., the conference in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: CERTAIN TOW-BEHIND LAWN GROOMERS

INVESTIGATION NO.: 701-TA-457

HEARING DATE: July 15, 2008

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary Conference

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: July 15, 2008

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

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

SIGNED: John DelPino
Signature of Court Reporte