UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**) Investigation No.:**
MATTRESSES FROM CHINA	**) 731-TA-1424 (FINAL)**

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation No.:
MATTRESSES FROM CHINA) 731-TA-1424
) (Final)

Friday, October 11, 2019
Main Hearing Room (Room 101)
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

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

APPEARANCES:

Commissioners Present:

Chairman David S. Johanson (presiding)
Commissioner Rhonda K. Schmidtlein
Commissioner Randolph J. Stayin
Commissioner Amy A. Karpel

Staff:

WILLIAM R. BISHOP, SUPERVISORY HEARINGS AND INFORMATION OFFICER

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SHARON BELLAMY, RECORDS MANAGEMENT SPECIALIST

CALVIN CHANG, INVESTIGATOR

ROBERT CASANOVA, INTERNATIONAL TRADE ANALYST

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JOANNA LO, ACCOUNTANT/AUDITOR

KARL VON SCHRILTZ, ATTORNEY/ADVISOR

CRAIG THOMSEN, SUPERVISORY INVESTIGATOR

Opening Remarks:
Petitioner (Mary Jane Alves, Cassidy Levy Kent (USA) LLP)
Respondents (Eric C. Emerson, Steptoe & Johnson LLP)

In Support of the Imposition of Antidumping Duty Order:
Cassidy Levy Kent (USA) LLP
Washington, DC
on behalf of
Corsicana Mattress Company; Elite Comfort Solutions; Future Foam Inc.; FXI Inc.; Innocor, Inc.; Kolcraft Enterprises Inc.; Leggett & Platt, Incorporated; Serta Simmons Bedding, LLC and Tempur Sealy International, Inc.
(collectively "Mattress Petitioners")
Richard Anderson, Executive Vice President and President, North America, Tempur Sealy International
Joseph M. Kamer, Senior Vice President, General Counsel and Secretary, Tempur Sealy International
Dave Swift, Chairman and Chief Executive Officer, Serta Simmons Bedding, LLC
Clara DeQuick, Vice President, Associate General Counsel, Serta Simons Bedding, LLC
Terry Malone, Senior Vice President - Finance, Serta Simmons Bedding, LLC
-- continued --

In Support of the Imposition of Antidumping Order (continued):

Eric Rhea, Vice President, President - Bedding Group, Leggett & Platt, Incorporated

Amy DeArmond, Director, Government Affairs, Leggett & Platt, Incorporated

Christos Chrisafides, Chief Executive Officer, Elite Comfort Solutions

Stuart Fallen, Vice President, Corsicana Bedding, LLC

Thomas Koltun, President, Kolcraft Enterprises Inc.

Travis Thigpen, Vice President of Sales - Online and Direct to Retail, FXI Inc.

Michael Potochar, Procurement Director, Innocor, Inc.

Deirdre Maloney, Senior International Trade Advisor, Steptoe & Johnson LLP

Yohai Baisburd, Mary Jane Alves, Ulrika K. Swanson - Of Counsel

INTERESTED PARTY IN SUPPORT:

Brooklyn Bedding, Inc.

Phoenix, AZ

John Merwin, Chief Executive Officer

-- continued --

In Opposition to the Imposition of Antidumping Duty Order:

Wilmer Cutler Pickering Hale and Dorr LLP
Washington, DC
on behalf of
Classic Brands, LLC
    Patrick J. McLain, Stephanie E. Hartmann - Of Counsel

Mowry & Grimson, PLLC
Washington, DC
on behalf of
Ashley Furniture Industries, Inc.
    Brian Adams, Vice President, Procurement,
        International Sourcing Operations, Regulatory
        Affairs, Ashley Furniture Industries, Inc.
    Kristin H. Mowry, James C. Beaty - Of Counsel

Steptoe & Johnson LLP
Washington, DC
on behalf of
Quanzhou Hen Ang Industrial and Trade Co., Ltd
Zhejiang Glory Home Furnishings Co., Ltd.
Guangdong Diglant Furniture Industrial Co., Ltd.
Ningbo Shuibishen Home Textile Technology Co., Ltd.
Jiangsu Wellcare Home Furnishing Products Co., Ltd.
Jinlonggheng Furniture Co, Ltd.

Inno-Sports Co., Ltd.
Healthcare Co., Ltd. and China Beds Direct
Sinomax Macao Commercial Offshore Limited and
Sinomax USA, Inc.
Better Zs Co., Ltd.
(collectively "The Mattress Suppliers Group")
Samuel Malouf, Chief Executive Officer, Malouf
Jeffrey Steed, Chief Legal Officer, Malouf
Kyle Robertson, Product Development Director, Malouf
Michael Douglas, Vice President, Sales, Malouf
Steven Douglas, Director, Online, Malouf
Jordan Haws, Director, Supply Chain, Malouf
James P. Dougan, Vice President, Economic Consulting Services
Cara Groden, Senior Economist, Economic Consulting Services
Eric C. Emerson, Thomas J. Trendl, Henry Cao,
Marcia Pulcherio - Of Counsel

REBUTTAL/CLOSING REMARKS:
Petitioner (Yohai Baisburd, Cassidy Levy Kent (USA) LLP)
Respondents (Eric C. Emerson, Steptoe & Johnson LLP)

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P R O C E E D I N G S

(9:30 a.m.)

MR. BISHOP: Would the room please come to order.

CHAIRMAN JOHANSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing in the Final Phase of Investigation No. 731-TA-1424 involving Mattresses from China.

The purpose of this investigation is to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of mattresses from China.

A schedule setting forth the presentation of this hearing, notices of investigation, and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into the microphones and state your name for the record for the benefit of the court Reporter and for those seated in the back of the room.

If you will be submitting documents that contain information you wish classified as business confidential, your request should comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

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

CHAIRMAN JOHANSON: Alright, then let's commence with opening remarks by Petitioners.

MR. BISHOP: Opening remarks on behalf of Petitioners will be given by Mary Jane Alves of Cassidy Levy Kent. Ms. Alves, you have five minutes.

OPENING STATEMENT OF MARY JANE ALVES

MS. ALVES: Good morning, Mr. Chairman, and Commissioner Schmidtlein, and welcome to Commissioners Stayin and Karpel.

I am Mary Jane Alves with Cassidy Levy Kent. Together with the Yohai Baisburd we represent Mattress Petitioners Corsicana, ECS, Future Foam, FXI, Innocor, Kolcraft, Leggett & Platt, Serta Simmons, and Tempur Sealy.

We will explain why dumped mattresses from China are causing and threatening material injury to the U.S.

mattress industry.

Since 2016, Chinese mattresses have doubled, increasing faster than demand. By pervasively underselling the domestic like product, Chinese imports displaced the domestic industry sales and caused significant price depression and suppression.

Despite growing U.S. demand, the domestic industry reduced capacity and produced and shipped fewer mattresses overall. As its market share fell, the domestic industry did not use its full capacity, operated fewer shifts, reduced employment, and faced higher unit labor costs.

Industry profitability deteriorated, and specific producers operated at losses. The domestic industry also scaled back on cap X and R&D. As the single largest global mattress exporter, the Chinese industry has increased capacity and has available and divertable capacity to increase exports to the large and attractive U.S. market.

Chinese Respondents claim they don't really compete with U.S. producers, and only increase their sales to supply e-commerce, direct-to-consumer, or mattress-in-a-box sales that U.S. producers allegedly were unwilling or unable to sell.

Chinese Respondents base their mattress fairytale on a foundation of incorrect assumptions. Our prehearing brief addressed the domestic industry as a whole, which is how we ask you to analyze it. The questionnaires and prehearing report included a number of data breakouts. No matter how the Chinese Respondents slice the data, however, the record does not support their claims.

The U.S. and Chinese industries compete with mattresses in a range of sizes, densities, thicknesses, and all types of cores--foam, innerspring, and hybrid. All mattresses contain foam, but some have foam cores, some have innerspring cores, and some are hybrids with both.

At the wholesale level where Chinese and U.S. mattresses are sold, all mattresses are displayed next to one another in stores and on websites. Individual consumers might prefer a certain size, firmness, core, or other feature, but all mattresses compete on price.

U.S. and Chinese mattresses compete in all distribution channels. Within the largest channel, retail, they compete for brick and mortar, which accounts for a large share of retail sales.

Chinese Respondents dismiss brick and mortar's importance even though one of the two largest Chinese producers--Health Care and Lilly--have signed letters of intent to purchase retailer More Furniture for less and to buy Mattress One's Texas retail operation is out of bankruptcy.

More Furniture has 36 brick and mortar stores, and Mattress One owned over 300. U.S. producers have been selling mattresses on the internet for over a decade, so this is not an innovation by Chinese producers.

You also hear a lot about packaging. With or without the packaging, these are all mattresses for sleeping. Not surprisingly, Chinese Respondents import compressed and rolled mattresses to minimize ocean freight. U.S. producers do not have to do that because they don't have to ship mattresses across the Pacific Ocean to serve the U.S. market.

U.S. producers do offer the same packaging options, including flat, compressed, and mattresses in a box, or MiBs. The domestic industry has plenty of capacity to make MiBs if market prices support it. U.S. producers have been selling MiBs for years. Just ask Casper, Tuft 'N Needle, Leesa, and many of the other so-called disrupter mattress retailers that founded their businesses on U.S.-produced mattresses.

I want to stress that point that has led to some confusion at times. The so-called "disrupters" were purchasing their mattresses from the U.S. industry. They are retailers, not mattress producers. And yet the Chinese Respondents claim the U.S. industry ignored MiB. Nothing could be further from the truth.

Whatever the channel, the U.S. industry was there first. The only thing the Chinese Respondents introduced into the U.S. market were dumped, low prices.

Finally, importers continued to bring in significant and increasing volumes of Chinese mattresses after the Petition was filed. These imports and stockpiles, built before Commerce's preliminary duties, will seriously undermine the remedial effect of any order unless the Commission makes affirmative critical circumstances determinations.

We look forward to exploring these issues with you.

MR. BISHOP: Thank you, Ms. Alves. Opening remarks on behalf of Respondents will be given by Eric C. Emerson of Steptoe & Johnson. Mr. Emerson, you have five minutes.

OPENING STATEMENT OF ERIC C. EMERSON

MR. EMERSON: Thanks so much. Good morning, Chairman Johanson, Members of the Commission, and Commission staff. My name is Eric Emerson with Steptoe & Johnson and, along with my colleagues Tom Trendl, Henry Cao, and Marcia Pulcherio, we are pleased to represent the Mattress Suppliers Group in this antidumping investigation of mattresses from China.

As you listen to today's testimony, I would ask you to keep in the forefront of your mind one critical distinction that should affect nearly every aspect of your analysis. Namely, the difference between flat-packed mattresses, or FPMs, and mattresses in a box, or MiBs.

This distinction forms the centerpiece of our panel's presentation this afternoon, though I predict you will hear less about this important difference from this morning's witnesses. That's because when the data are viewed through this lens, the Commission will necessarily conclude that subject imports did not cause, and indeed could not have caused, material injury to the U.S. industry, nor do they threaten to cause material injury to the U.S. industry.

In this afternoon's panel, you will hear extensive testimony about the tremendous impact that MiBs have had on the U.S. market. Thanks to MiBs, mattress consumption has increased significantly, in part because MiBs have removed the unpleasantness that many people associate with going to a brick and mortar mattress store.

MiBs have reduced retailers' costs as more MiBs can be transported in a single container or truck, and can be stored in smaller warehouse space. MiBs can also be delivered more efficiently through common carriers like FedEx and UPS.

All of this generates a significant cost savings for retailers, and ultimately for customers. Particularly as people have become more comfortable with online mattress purchases, this segment of the market has simply exploded.

The Chinese and U.S. mattress industries largely sort themselves out along this axis. Subject imports and the domestic like products are sharply segregated with a very large portion of the domestic product consisting of flat-packed mattresses, and an even larger percentage of the subject merchandise concentrated in the MiB segment.

Purchasers sort themselves out along this FPM, MiB axis as well, with most retailers taking the vast majority of their purchases either from domestic producers or from import sources. Concentration is also apparent in other areas of the market, as well.

For example, online retailers, a rapidly growing segment of the market, almost exclusively purchase MiBs, given the way they are delivered to the ultimate customer. Other companies, like the ones you will hear from this afternoon, including brick and mortar stores, also concentrate their businesses on one style of mattress or another. Because both purchasers and suppliers are so sharply segregated along this MiB-FPM divide, competition between the subject imports and the domestic like product is necessarily limited.

But to hear the Petitioners talk about the difference between MiBs and FPMs, you'd think that this tectonic market shift amounts to little more than a difference in packaging, like choosing between paper or plastic bags when you go to the grocery store. It is perhaps for this reason that the domestic industry has been so late to the party.

The inability of the domestic industry to dependably produce sufficient quantities of high-quality MiBs has forced purchasers to rely on China's supply, and for years. Petitioners will tell you that they invented the MiB concept, and that they have more than sufficient capacity to meet market demand. But it takes more than compression machines to be a reliable MiB supplier. It takes investment in areas like product design, personnel training, raw material supply chain, and investment that the domestic industry until very recently has been unwilling to make for reasons entirely unrelated to subject import competition.

From this morning's panel, I predict you will also hear a lot about price, and in particular that the low price of Chinese mattresses has prevented the domestic industry from making sales in the MiB space.

Petitioners will either imply, or perhaps state outright, that mattresses are highly substitutable, and that price is the deciding factor. Actual purchasers say differently. As reflected in the staff report, price was far from the most important factor in most purchasers' decisions. Factors such as quality, sufficiency of supply, and dependability figure far more prominently in their decision making, than does price.

This is entirely consistent with our own experience as consumers. For such an important purchase, very few of us would ever enter a store and automatically buy the cheapest mattress available.

Finally, an analysis of the performance of the domestic industry reveals the same FPM-MiB split. FPM producers account for the largest share of the domestic industry, and whatever economic downturn they may have experienced cannot be attributed to subject imports, since imports of FPMs during the POI were vanishingly small. By contrast, the segment of the domestic industry producing MiBs was quite successful, which is ironic because this is the area in which subject imports were most heavily concentrated.

We look forward to the opportunity to present our information to you, and thank you very much for your time.

MR. BISHOP: Thank you Mr. Emerson. Would the panel in support of the imposition of the anti-dumping duty order please come forward and be seated? Mr. Chairman, this panel has 60 minutes for their direct testimony.

(Pause.)

CHAIRMAN JOHANSON: Feel free to begin whenever you're ready.

MR. BAISBURD: Thank you Commissioner Johanson and thank you to the Commission for giving us the opportunity to be at this hearing today, and for the staff for the tremendous work they've put in preparing the prehearing staff report. So we want to get right into the testimony, which we'll start with Dave Swift from Serta Simmons Bedding.

STATEMENT OF DAVE SWIFT

MR. SWIFT: Good morning. My name is David Swift. I have served as the chairman of the Board of Directors for Serta Simmons Bedding since 2013. On April 18th, 2019, I assumed the role of SSB's chairman and chief executive officer. I have more than three decades of experience leading private equity owned and public entities.

Serta Simmons Bedding is the largest mattress manufacturer in North America. We play an important role in our communities. We are based in Atlanta, Georgia, operate as of tomorrow 22 manufacturing plants throughout the United States, and employ more than 4,400 people. All of our facilities manufacture both foam and inner spring, including hybrid mattresses. We buy over a billion dollars of raw materials annually for our products, and much of that also supports American jobs.

Serta has been producing mattresses in the United States since 1931, when it first sold its perfect sleeper. Simmons was founded in Wisconsin in 1870 and has been continuously manufacturing mattresses in the United States for nearly 150 years. Simmons, which you may know from its Beautyrest brand was the first to mass produce woven wire mattresses and also introduce queen and king-size mattresses to the world.

More recently in September of 2018, we merged with Tuft & Needle. In the next few minutes, I will explain how low-priced Chinese imports impacted Serta Simmons' manufacturing operations, as well as U.S. manufacturer sales through Tuft & Needle's retail operations. Demand for mattresses has been growing, tracking indicators like GDP and housing starts.

Despite this, beginning in 2017 the domestic industry's U.S. mattress shipments fell according to industry data reported by the International Sleep Products Association. This was the first year over year fall since the Great Recession of 2008 and 2009. What was the reason for the fall in U.S. shipments? A rising volume of mattress imports from China. Consistent with U.S. industry trends, Serta Simmons also lost sales and market share to dumped mattresses from China that were priced at absurdly low levels.

In the face of these losses and declining profitability, we closed plants in California, Colorado, Massachusetts, Mississippi, North Carolina, Pennsylvania, Texas and Utah and consolidated plants in Arizona, Hawaii and Washington in recent years. These significant reductions in our production capacity resulted in significant employment reductions. Our other plants have been unable to operate anywhere close to full capacity.

To compete with Chinese imports and protect our bottom line, we also reorganized our sales department several times and reduced our budget for marketing and customer support. We were forced to reduce dramatically the amount of R&D we invested in our mattress operations, which will make it more difficult to come up with the next step in mattress technology and innovation, the very things that make us a leading U.S. mattress manufacturer.

Mattress production involves high, variable cost. At least in the short term, we were more willing to see market share and to lower our prices. But fewer sales means less production over which to spread our fixed cost. Despite continuous cost-cutting measures to try to maintain profitability, we continue to lose market to Chinese imports. We lost retail slots in mattress stores. Even if we had agreements with retailers, they moved us off the floor simply based on price. A similar phenomenon occurred on e-commerce sites, where our mattresses were pushed down in search results in favor of cheaper, unfairly traded Chinese mattresses.

Our inability to match dumped Chinese prices, especially at opening price points, meant we had fewer floor slots and unfavorable locations on e-commerce sites. If consumers could not see our products, they were less likely to buy them. We sell mattresses packaged in a box in online sales channels and in brick and mortar locations. We also saw mattresses that are not packaged in a box through online and brick and mortar locations.

In fact, certain retailers sell more of our flat mattresses online than they sell in their brick and mortar locations. One of our top five customers with stores throughout the United States and a robust website business is one of the customers that buys more flat mattresses than MiB for its e-commerce sales. This is just one of many examples of the direct competition between flat mattresses and MiB. We will provide more details about this customer in the post-hearing brief.

The U.S. industry has no capacity or logistics limitations on selling flat mattresses through e-commerce. We do it every day. Our Tomorrow's Sleep hybrid MiB products, however, could not compete in a market where

Chinese imports undercut prices. Our questionnaire response shows that we had capacity to package mattresses in a box throughout the period under investigation, and two Commerce officials saw some of this equipment during their visit to our Charlotte, North Carolina facility.

Some consumers do want to buy in mattress in a box. At the same time, mattress in a box sales still do not account for a large share of the U.S. market. It did not make economic sense to increase packaging capacity when we were not using the capacity we already had and when Chinese mattresses were pricing us out of those sales.

We've encountered the same issues with Internet sales. Internet sales account for a small but growing portion of our sales. We have been selling mattresses online since 2007, and we recently launched a Beautyrest.com site that enhances our online presence. With a level playing field, we will again we competitive online. But we were not able to produce our mattresses in the United States with the quality materials and craftsmanship our customers expect at prices low enough to be competitive against unfairly traded Chinese imports.

Tuft & Needles' retail operations provide another lens on how low-priced Chinese mattresses injured the U.S. mattress industry. Serta Simmons merged with Tuft & Needle in September of 2018, but Tuft & Needle had already been in the mattress business for many years. Tuft & Needle was founded as a direct-to-consumer mattress e-commerce retailer in 2012, selling its own brand as well as the Nod brand that had developed as an Amazing exclusive brand.

Tuft & Needle experienced tremendous growth in this area after investing substantial sums on market research and advertising. Chinese producers saw that as an opportunity to come in and offer low prices. After Tuft & Needle, Casper, Lisa and others spent money to educate consumers, consumers would go online to end up buying Chinese imports because the Chinese imports were attractively priced at the top of the search results.

Like several of its competitors, Tuft & Needle sells mattresses in a box that are made in the United States by U.S. manufacturers. Tuft & Needle started out solely online, but then started selling mattresses in Lowe's. More recently, Tuft & Needle has been introducing some brick and mortar locations. Thus, when Tuft & Needle lost sales to other online retailers due to low-priced Chinese mattresses or experienced fewer than expected sales through its own website or for its other customers, it needed fewer mattresses from its U.S. suppliers.

Again, what was driving all of this were the low prices of mattresses from China. Chinese producers took sales by directly competing against U.S. manufacturers, and they were taking sales indirectly from U.S. manufacturers by displacing sales by e-commerce, retail innovators such as Tuft & Needle that were sourcing from U.S. mattress manufacturers. It did not matter that we at Serta Simmons or Tuft & Needle had established strong brand names and years of experience in this market. It came down to price.

Importers continued to bring in huge volumes of mattresses from China at the end of 2018 and into 2019. We were hearing about inventory buildups in the United States before the duties went into effect. Serta Simmons and Tuft & Needle continued to lose sales to Chinese imports in 2018 and 2019.

We have started to see some renewed interest in our products from customers, but some customers are still looking for the unfairly traded low prices that they were accustomed to getting from their Chinese suppliers. Please know that we can no longer cede market share to dumped mattresses in any channel or price point.

Without relief, we will continue to lose volume and retail slots. We will have to scale back on our capital investments in R&D. We will also have to close more factories, which will cost more good people their jobs, both production workers and those in corporate support roles. Beyond that, there is very little additional cost-cutting we can do.

In order for our business to survive and continue to manufacture mattresses across the United States, we need to be able to compete on a level playing field. On behalf of Serta Simmons, Tuft & Needle and all of our associates, I thank you for your time and look forward to answering your questions.

STATEMENT OF RICHARD ANDERSON

MR. ANDERSON: Good morning. My name is Richard Anderson, and I'm executive vice president and president of Tempur Sealy North America. I've worked at Tempur Sealy since 2006, and have over 35 years of experience in consumer product sales and marketing across several industries. Tempur Sealy is one of the world's largest bedding providers, and has been a leading innomvator in the mattress business since the late 1880's.

Our headquarters are located in Lexington, Kentucky and we have over 7,000 employees. Our company today is the result of the 2013 merger between Tempurpedic International and Sealy Corporation. Our brands include Tempurpedic, Sealy and Stearns and Foster. We sell our products through third party retailers, our own stores, our own websites, call centers and through e-commerce.

Mattress manufacturers have several packaging options for their mattresses. We could ship and sell them as flat mattresses. To improve transportation efficiencies, they could also ship in flat compressed mattresses, although these mattresses would not actually show up in the end consumers home in this fashion.

Alternatively, mattress manufacturers could ship and sell them as compressed and rolled, also known as bed in a box or mattress in the box products. These mattresses do eventually end up in consumers' homes in a compressed and rolled state. Whether the mattresses are flat or compressed, and regardless of how they are compressed, once you take off any packaging, you have a mattress. Tempur Sealy produces inner spring foam and hybrid mattresses, and we sell flat mattresses and mattresses in a box, just like importers of Chinese mattresses.

Chinese producers are not bringing anything new to the U.S. mattress market, except for predatory prices. For example on the Tempurpedic side, going back to the 1990's, the direct to consumer sales channel has always been an important part of our distribution strategy. That includes direct to consumer sales via call centers and the Internet.

There is nothing new or unique about direct to consumer sales in the U.S. mattress market. We've been doing it since the 1990's. E-commerce is also not limited to MiB products. We also sell substantial volumes of flat mattresses through e-commerce, and some consumers want what we call white glove service on the other end of the e-commerce sale. In other words, our customer, the retailer, sells our products on their websites and we deliver it to the consumer.

Foam mattresses are also not new. We've been selling our flagship Tempurpedic foam mattresses since the late 1990's. It is also not accurate to say that the domestic industry did not offer mattress in a box products. We were the very first to develop a mattress in a box product for the U.S. market. On the Sealy side of our company, we started selling a compressed mattress in 2009. In the relevant time period, we competed against dumped Chinese imports with our Cocoon and our Sealy-to-go mattress in a box brands.

The Chinese did not invent compressed mattresses, and they certainly did not create the market that they're trying to claim as theirs today. We have three separate initiatives at Tempur Sealy to try to develop MiB products at the low price levels of the Chinese imports. We could just not get our cost below the average selling prices.

I mentioned our direct to consumer sales, but make no mistake, we sell over 90 percent of our units at wholesale prices to retailers. The U.S. market consists of different types of retailers including specialty retailers that sell only mattress like Mattress Warehouse here in the Metro D.C. area, furniture stores, department stores and other big box retailers.

These retailers sell through brick and mortar stores, online and/or omni-channel. Our customers include everyone from large national chains to individual family-owned furniture stores. Other customers also include the hospitality industry and other end users such as universities, but that represents only a fraction of the mattress market.

Some may be talking about a decline in the importance of brick and mortar mattress sales, but we have not seen that. In fact, we've seen the opposite. Brick and mortar remains the largest channel for selling mattresses. Many traditional online sellers are actually moving back into brick and mortar because they realize they need to have brick and mortar locations.

We compete at the wholesale level against mattresses imported from China at dumped prices. Like our mattresses, Chinese imports are sold to distributors and users, brick and mortar retail stores, online and omni-channel. Their large volumes at low prices affect prices of all mattresses throughout the U.S. market. We compete for slots on the floor and location on e-commerce sites based on price.

The retailers want to showcase models that sell well, so they can earn their margin. If we are not competitively priced, we lose the opportunity to make the sale. While all of us in the U.S. industry are accustomed to competing, the unfairly traded Chinese imports have changed that equation. They're coming in at prices that make no sense and significantly undersell our products across the line.

We feel the impact of the dumped imports across our entire company. Our production and shipment volumes decreased dramatically between 2016 and 2018 during a period of doubling Chinese imports. We were forced to cut shifts, reduce hours and even close plants as dumped Chinese imports used rock bottom pricing to gain market share. Historically, we strategically located our Sealy plants across the United States to limit logistics costs and to allow us to supply mattresses to any customer within days of an order. That is why we generally reduce shifts and hours instead of closing facilities.

But in 2018, we had to close our St. Paul, Minnesota Sealy plant in response to lower volumes due to Chinese imports. Chinese imports have had a dramatic impact on our workers. In 2016, 11 of our 15 Sealy plants were operating second shifts. By the end of 2018, only one of these plants was operating a second shift. We had to revise our labor agreements and increase hourly wage rates in order to offset this reduction in hours. The reduction in hours obviously impacted our ability to attract and retain employees.

We hosted some of the Commission's investigative team in our Atlanta, Georgia facility recently. They witnessed the skills and training needed to run certain of our machines, and learned about how long some of our associates have been with the company. We want and need to retain these skilled work associates in order to provide the quality and craftsmanship that our customers expect from our products.

You can see in our questionnaire response how Chinese imports impacted our capacity utilization. Mattress manufacturing is a high variable cost industry. We don't keep the production lines operating if the sales are not there. In a growing market with strong demand, we should not have declining capacity utilization, and we certainly shouldn't have lower shipment volumes.

While we witnessed competition from Chinese imports at different wholesale price points, there was a significant concentration of volume at lower prices. When we lost sales at lower price points to dumped Chinese imports, our overall unit price had actually increased, because more of our sales were at higher price points. That is why comparisons of average unit value trends over time can easily mask the harm caused by the dumped Chinese imports.

Those remaining sales had to absorb more overhead because of the volume losses. Make no mistake: we need to be able to sell mattresses at all price points, including the lower price points in order to fill out our production lines and benefit from the manufacturing efficiencies that come with these higher volume products.

Lower sales volumes also impacted our raw material costs, logistics costs and employment levels. Specifically, we received less favorable pricing on our raw material cost when we purchase less to manufacture a lower volume of mattresses. Our logistics costs increased when we shipped lower volumes through our fleet, and as I already mentioned, at lower production levels we have fewer hours and shifts to offer our employees. Dumped Chinese imports have forced us to invest less in product innovation, as our sales volume declined.

We cancelled expansion projects and suspended advertising for our Sealy and Stearns and Foster brands in recent years. Our investments in the compressed bedding market fell short of expectations, given the extraordinary growth of Chinese imports. After we brought the petition, we saw a surge of mattresses from China. They brought in large volumes in the first quarter of 2019, to get mattresses under the wire before the duties.

In April, May, June and July imports were a fraction of what they had been, but there were still Chinese mattresses in the market. I want to emphasize there has been vigorous competition in the United States mattress market for decades. We are not afraid to compete and we expect to compete. What is different is that Chinese imports came in with huge volumes at below cost prices.

Now those imports are required to compete on a level playing field, and for the first time in recent years our Sealy brand products are starting to see positive sales trends. On behalf of Tempur Sealy's 7,000 plus employees, I would like to thank you for your time today.

STATEMENT OF STUART FALLEN

MR. FALLEN: Good morning. My name is Stuart Fallen, and I am the Vice President at Corsicana Bedding, LLC. I have worked at Corsicana since 2010 and in the bedding industry for almost 15 years.

When we were founded in 1971, Corsicana initially specialized in furniture and bedding for the mobile home industry. We quickly evolved to meet growing demand for mattresses. We are the largest mattress company you probably never heard of. We have over 1,200 employees working at 10 manufacturing plants nationwide that allow us to economically serve the entire United States. As the largest private label U.S. mattress manufacturer, we estimate that we can produce-to-order a mattress for delivery anywhere in the United States within three to four days.

Because we primarily focus on private label mattresses and mattresses in the promotional or opening price point, we were particularly battered by dumped Chinese imports. Even though they claim they were focused on e-commerce sales, we directly competed with them for sales to brick-and-mortar retailers, including national chains and local stores. We have no problem competing on price, but what we have experienced from the Chinese is absurd. We cannot profitably compete with unfairly traded imports at such prices.

Our customers are highly-price sensitive as they seek to maximize their own margins. This means we have to operate efficiently to reduce the costs we control, and we need to be able to pass forward rising raw material costs that we do not control. The surge in low-priced, dumped Chinese imports hurt our ability to do both. Lower production and sales increased our per-unit costs because there were fewer units absorbing fixed overhead. Massive volumes of dumped Chinese imports also limited our ability to raise prices as our raw material costs increased.

Investments made in 2016 and 2017 to keep pace with anticipated demand growth did not pan out. The demand was there, but we lost sales to increasing volumes of low-priced Chinese imports. As our questionnaire shows, we had invested in roll-pack equipment to tap the growing "mattress-in-a-box" market. We barely used that equipment because we were unable to match Chinese mattresses that were priced below our cost of production.

We did open a new plant in Connecticut in late 2017. Because of activity in the retail mattress sector, we anticipated a change in demand in the Northeast and wanted to expand our footprint there. The expansion into Connecticut helped us to more efficiently serve all of our customers by reducing logistics costs. Market share losses forced us to close our Halleyville, Alabama facility in 2018, as there was just wasn't enough volume to efficiently and profitably run the facility.

Closing the Alabama plant allowed us to move that production to our Tennessee and Florida facilities, which, in turn, helped those plants absorb more of their overheads. Those plants had capacity because they were also losing sales to the cheap Chinese mattresses. In a market that is growing overall, we should not be forced to close any plants.

I want to talk briefly about Mattress Firm. We never had to write-off any of our invoices as a result of their bankruptcy. We were paid in full for the mattresses they bought. In our questionnaire response, we talked about the impact of store closings, but we also put that in context. I would urge you to read the full response to question IV-18(c).

In the past few months, thanks to this case, we are getting additional opportunities that we would not have had before, due to less downward pricing pressure from the Chinese imports. We even launched branded rolled mattresses earlier this year. But with increased sales volumes, we are beginning to benefit from our investments, but we need your continued support. Thank you. And I look forward to answering your questions.

STATEMENT OF CHRISTOS CHRISAFIDES

MR. CHRISAFIDES: Good morning. My name is Chris Chrisafides, and I'm the CEO for Elite Comfort Solutions or ECS. We have 14 manufacturing facilities throughout the United States, including foam-pouring operations where we manufacture foam used to make mattresses. We sell our foam to other U.S. producers for use in manufacturing mattresses, and we are also a mattress manufacturer, making private label foam mattresses for companies, such as Casper and Tuft & Needle.

ECS is a premier leader in foam technology for the bedding industry. Our innovations in foam technology have enabled the compressible foam mattresses that are so common today. The foams we make range from conventional and memory foam to temperature-responsive and gel-infused foam. Foam is used to manufacture all foam mattresses, as well as innerspring mattresses and hybrid mattresses.

To manufacture foam, we start by combining the key chemicals, including polyols, MDI, and TDI. The mixture expands, so think of proofing dough in baking, and then is cured in large rectangular blocks we call buns. Once the foam is cured, we cut it into bulk sizes or layers that we ship to other mattress manufacturers or we further process the foams into finished mattresses ourselves.

To manufacture a foam mattress, we could simply cut a single slab of foam to size. But, more commonly, we assemble multiple layers of foam, such as a combination of high-density foam as a base and then layers of memory form or other foam in varying densities. We glue these layers together and then we put them inside a textile sock that acts as a fire-retardant barrier. Then we stuff the mattress into a cover.

We can ship the mattress flat or compressed. To compress a foam mattress, the top and bottom are pressed together and then the mattress is either rolled up or folded to the desired dimensions and put in a box for transport. We are grateful that some of the Commission's investigative team visited one of our manufacturing facilities in Georgia recently to see this production process in person.

The foam mattresses that we manufacture compete against the foam, innerspring, and hybrid mattresses that others manufacture. I know that because they are using our foam to manufacture their own products. All types of mattresses compete with one another for sales to wholesalers. Retailers show our products next to one another on their sales floors and on their websites.

Chinese Respondents are trying to pain the U.S. market as highly divided, but the opposite is true. For example, it is not the case that certain types of mattresses, like mattresses-in-a-box, are only sold online. Mattresses-in-a-box are sold in traditional brick-and-mortar stores. Some brick-and-mortar stores developed an online presences and some firms, like Casper, which began as an online store only, are now setting up brick-and-mortar stores.

There are other retailers that might be characterized as Omni channel sellers. Chinese mattresses are sold throughout the market in all channels of distribution. I also understand that the Chinese

Respondents are arguing that U.S. producers manufacture mattresses-in-a-box like us are doing well. That is simply not accurate. The foam mattress market is growing and demand for our foam mattresses-in-a-box is also growing, but let me be clear, over the time period you are looking at we were not growing as much as we could have or should have been, why, a surge of dumped Chinese mattresses.

Chinese imports have flooded the U.S. market with large quantities of low-priced compressed mattresses and mattresses-in-a-box. They were everywhere -- in stores and online. We had been aggressively pursuing business throughout the U.S. market, but starting around 2017 our customers began telling us about the much lower prices they were seeing from China. We bought some of those mattresses, tore them down, and pull them apart. I know the cost of chemicals and other components they're using and what it costs to make these mattresses, package them, and ship them.

To give you an example, there was a queen-sized green tea mattress produced by Zinus and advertised on Amazon. We estimated the cost to manufacture that product was not significantly different from what it was retailing for on Amazon. Like this example, other Chinese mattresses, whether they were a simple or a complex, high-end mattress were priced way lower than what it cost us to make them.

The Chinese mattresses are quality products, just like mattresses made here, and it comes down to price. There was no way that we could go as low as their prices and say in business.

Even though we had invested in equipment to expand our capacity to meet the growing demand for foam mattresses, the dumped Chinese imports kept us for optimal capacity utilization levels. I wanted to operate our facilities using at least two 10-hour shifts a day, but due to the large volume of low-priced Chinese imports we could not fully utilize our facilities. The pricing pressure created by the dumped Chinese imports also made it difficult for us to fully pass along higher raw material costs to our customers. This impacted our financial performance. We were not getting a fair or adequate return on our investment and R&D and engineering investments.

To maintain our foam technology leadership, we needed to continue to reinvest to develop new breakthroughs in gel infusion technology and additives that help to distribute pressure and regulate temperature. Just at the time when we needed to continue reinvesting and innovating, we were losing price power to unfairly traded, dumped Chinese imports. It was unsustainable.

After we filed the case, we received a flurry of RFQs. We quoted the business, but we didn't get it.

Purchasers were able to get lower prices because importers kept bringing in and stockpiling large volumes of low-priced Chinese mattresses. It didn't matter that there were Section 301 duties on these mattresses. Very recently, after Commerce announced its margins, we were again inundated with requests and our business is growing again. Some purchasers are still looking for low-bottom prices, but we are now getting orders from others that are willing to pay a fair price, including from customers that we had lost to Chinese imports.

During the period of investigation, orders and prices were so low that were not able to use existing production lines and equipment at full capacity. Now, we are even adding production lines. These new machines and new production lines mean employment. We had higher turnover in the past if we could not provide regular hours to our workers. Now, we are able to keep existing shifts busy, add more shifts, and even bring in more workers with each new line.

We are selling more American-made mattresses and supplying more foam to other domestic mattress manufacturers. Without your support, all of this will go away. Thank you.

STATEMENT OF THOMAS KOLTUN

MR. KOLTUN: Good morning. My name is Thomas

Koltun, and I'm the President of Kolcraft Enterprises, Inc. I've been at Kolcraft for almost three decades. We are a third generation, family-owned company that focuses on infant products. We're the largest U.S. manufacturer of youth mattresses for cribs and toddler beds. We're headquartered in Chicago.

We produce both innerspring and foam mattresses at our plant in Aberdeen, North Carolina. We sell these mattresses under our own name and in partnership with Sealy. In the last few years during the period of increasing mattress demand, we experienced declining mattress sales. Imports from China took sales and market share from us that retailers' brick-and-mortar stores and online. Some of our largest customers sought price reductions if we wanted to retain shelf space and prime website placement.

As you know from our questionnaire, we invested in certain equipment in 2017 to automate our production to try and compete against low-priced imports from China. We did not achieve the return on investment that we anticipated because we were losing sales to lower-priced Chinese imports. We had plans to expand our operations in 2017 and 2018, but we had to put those plans on hold because the economics did not justify the expansion. In short, large volumes of low-priced Chinese imports were impacting our sales volumes, reducing our prices, stifling our investment returns, and limiting our ability to make investments.

Unfortunately, that also meant we had to layoff valuable employees in 2017 and 2018. I participated in the preliminary staff conference and read the briefs the parties recently submitted. I was struck by the emphasis that Chinese Respondents placed on mattresses-in-a-box. Until recently, there were no imported crib mattresses-in-a-box products, which is not surprising because, as you can see, crib mattresses are already involve small dimensions. They are much easier to move into the house or even transport in your car or truck.

We first saw Chinese crib mattresses-in-a-box in the U.S. market in 2014. They were being marketed by Star Craft under the Graco brand. We noticed some quality issues with that product. For example, it did not always roll out to the correct size or lay completely flat. As you would expect, we require our youth mattresses to meet the highest standards in terms of the chemicals in the mattresses, the density of the foam, and other safety concerns. Star Craft Graco had to recall those Chinese mattresses in 2014 because they did not pass flammability standards.

In the last few years, there was a surge in low-priced crib mattresses. Some of them are mattresses-in-a-box, but they are not necessarily marking them on the bases of their packaging. The focus of their advertising, instead, is on low prices. We also researched the cost to produce mattresses-in-a-box ourselves with contract manufacturers, working with other U.S. producers who are importing from China. We, and other possible U.S. producers, could not match the incredibly low prices of Chinese imports. And when we researched possible manufacturers in China, none of them were able to meet the necessary quality standards.

Since this case started, we've invested in new equipment to package crib mattresses-in-a-box. We've made that investment because we now anticipate we can get the appropriate return if Chinese imports can no longer rely on dumped prices. Thank you for letting me testify today.

STATEMENT OF ERIC RHEA

MR. RHEA: Good morning. My name is Eric Rhea. I'm Vice President of Leggett & Platt, Inc., and president of our bedding group. I have been with Leggett for over 30 years. Leggett has a unique insight into the mattress industry. We've been manufacturing mattresses in the United States since 1999, but we are also one of the largest producers and suppliers of mattress components, such as innersprings, fasteners, and nonwoven products.

We have manufactured mattress innersprings, which are a primary component for many mattresses for over 135 years. Leggett holds more than a thousand bedding-related patents and we are the world's leader in component technology for the mattress industry. We are also a supplier of the rolling and packing equipment that is used to compress a mattress and package it in a box. We supply a full range of mattress producers in the domestic industry. This includes everyone from the large national producers that you are hearing from today to the smallest regional manufacturers.

Our innersprings are used in innerspring mattresses and hybrid mattresses. You might have the impression that from the Chinese Respondents that innersprings and hybrid mattresses are only sold as flat mattresses. We brought two hybrid innerspring mattresses today. One is still in the box and the other is open. All types of mattresses, whether they be foam, innerspring, or hybrid, can be sold flat or compressed in a box or a bag.

As I explained during the staff conference a year ago, all such mattresses are interchangeable, whether they are foam or innerspring, and no matter how they are packaged. Once that bed is opened, the mattress does not go back inside the box. They all serve the same purpose. Based on our experience, U.S. demand for mattresses continues to grow consistently with GDP and consumer and housing trends. Demand for mattresses-in-a-box is certainly growing faster than demand for flat mattresses. And demand for hybrid and foam mattresses may be currently growing faster than the demand for innerspring mattresses. However, the bulk of the mattresses sold in the U.S. still contain innersprings and more mattresses are sold in flat form than are packaged in a box.

Brick-and-mortar retailers are still the largest channel of distribution for mattresses. E-commerce is a growing segment of the market, but it is not new. Ideally, the online retail space should provide more opportunity for U.S. producers of private-label mattresses, given the increase in the online marketplaces and new brands. Unfortunately, most online placements are dominated by low-priced Chinese imports because price dictates in the mattress market.

As one of multiple suppliers of compressing and rolling machinery that is used to package a mattress-in-a-box, I strongly disagree that Chinese Respondents claim that the mattress industry is not willing or capable to supply mattresses-in-a-box. We submitted our data during the preliminary investigation and again in this final investigation that domestic mattress manufacturers are committed to making mattresses-in-a-box and have, in fact, invested in the equipment. I know because since 2007 we have sold machines to dozens of U.S. mattress producers. Based on our own sales of packaging equipment, we know that there is more than enough packaging capacity available domestically.

The Chinese products came in at such low prices that we and other domestic producers were unable to fully utilize our existing production and packaging equipment. The issue is simply price. We, and many U.S. mattress manufacturers that we supply, compete against imports from China. Those imports are selling everywhere we sell our products -- online and in brick-and-mortar stores from the largest national Big Box retailer to the independent furniture on Main Street.

The flood of cheap mattresses from China caused a decline in the production and a loss of sales volume across the entire industry. For example, we had a longstanding relationship with a national furniture retailer that was one of the largest customers for sofa sleeper mattresses. After they received very low price quotes from a Chinese vendor, we did everything we could to keep their business, even at one point importing mattresses from China because we couldn't profitably manufacture mattresses in the United States at such low prices. We eventually lost that business to dumped Chinese imports.

We lost a significant number of sales to low-priced Chinese imports across the board. We were selling fewer units of mattresses and our revenue only grew because the mix of products we were selling changed. Chinese imports limited our ability to invest back into our operations and forced us to reduce our head count in 2018. You should know that we continue to see large quantities of low-priced Chinese imports into the United States through 2018 and into 2019, well after we filed this case, even though there were 10 percent and later 25 percent Section 301 tariffs imposed on Chinese mattresses. It simply did not stop them. They kept selling large volumes in the U.S. market and they built up inventories before Commerce's preliminary margins went into effect.

We added an additional line earlier this year, but we were unable to start it until most recently. We have recently been able to add additional shifts at some of our facilities. If demand justifies, we are prepared to further expand our capacity. We have gained business back with some of our customers, including the sofa sleeper business that moved to China, but some customers are still looking for Chinese-level pricing.

Unfortunately, for our workers and our company, this is not the first time we've had to deal with the corrosive effect of unfairly traded imports on U.S. manufacturers. Nearly 11 years ago, we sought relief from dumped innersprings from China, South Africa, and Vietnam. We knew then and we know now when dumped imports are causing material injury. The Commission found material industry and the domestic industry was able to compete on a level playing field.

We are grateful that the Commission recently reached an affirmative sunset determination regarding those orders. That is why we are back now because we know that the U.S. mattress industry, like the U.S. innerspring industry, can compete against Chinese imports when they come in at fairly traded prices. We ask for the same result here. Thank you.

STATEMENT OF JOHN MERWIN

MR. MERWIN: Good morning. My name is John Merwin, and I am the Chief Executive Officer at Brooklyn Bedding. I have been working in the mattress industry for more than two decades. I am not one of the companies that brought this case, but when I heard about it, I wanted to tell you Brooklyn Bedding's story.

My brother and I launched our Phoenix, Arizona-based business in 1995, first starting out as a liquidation retail mattress store. We then transitioned into a mattress manufacturer and from there we moved into specializing in producing mattresses that can be compressed and shipped in a box. Our brand is named after my daughter who is now in high school. We had planned to take a family vacation in Hawaii during her last fall break. Instead, we came to Washington, D.C. this week because that is how important I thought it is for me to be here at this hearing.

I do not understand how Chinese respondents claim that imports came into the U.S. market in the last few years to supply demand for mattresses in a box that U.S. producers were unable or unwilling to supply. Brooklyn Bedding has been producing and selling mattresses in a box to U.S. customers since 2008. This is not a new technology or a new demand. We've been here in this space for a long time.

I am also surprised to hear the Chinese respondents say that they introduced mattresses in a box to U.S. customers through e-commerce channels. Again, I have been selling to major e-commerce customers since at least 2010. Brooklyn Bedding makes quality products, and customers wanted more.

What changed is that Brooklyn Bedding started losing sales to cheap imports from China. E-commerce may be a small, but rapidly growing share of overall sales in the United States, but for us, e-commerce has always been very important. From 2015 through the first three quarters of 2016, we consistently had 20 beds in the top 100 mattress products sold on Amazon.com.

All of a sudden, Chinese products were taking those sales with their lower prices, and Brooklyn Bedding products were getting less and less visibility on electronic search engines. Today, I only occasionally get one of my products in the Top 100 list on Amazon.com and usually I only see Tuft & Needle as a U.S. mattress in the top 50. We were not getting the sales we should have because of the dumped lower-priced Chinese imports. This meant that we were not getting the full return on our investments and we had to operate at significantly lower capacity levels. MiB is growing and there is no reason other than the price and volume of Chinese imports why I shouldn't be running at full capacity.

I know it is price because one of my customers--a major online retailer--has told us numerous times that our prices are too high compared to Chinese prices and so they view us as swing capacity. My hard-working employees shouldn't be marginalized by dumped absurdly-priced Chinese imports.

After this case was filed, massive imports from China kept coming, taking sales, pressuring us with low prices, and building inventories. This case is important. Brooklyn Bedding has proven that it is able and willing to sell quality mattresses in a box. Chinese producers should not be allowed to dump their imports into the United States. Thank you for the opportunity to explain our experience and I look forward to answering any questions you may have.

MR. BAISBURD: Yohai Baisburd from Cassidy Levy

Kent. That concludes our testimony and we look forward to answering your questions.

CHAIRMAN JOHANSON: Thank you all for appearing here today. We will now begin Commission questions with Commission Stayin.

COMMISSIONER STAYIN: Good morning, welcome. The staff report at Table 2-8 indicates that a majority of U.S. producers reported that U.S. demand has increased for mattresses in a box and has declined for innerspring mattresses. The staff report likewise indicates that apparent U.S. consumption of MiBs has increased during the 2016-2018 period, while apparently U.S. consumption of innerspring mattresses declined.

Do you agree that there has been a significant shift in U.S. demand, which indicate consumer tastes in favor of MiBs? Or you contend that this shift has been driven by the price of subject imports from China?

MR. SWIFT: First of all, in total, as several of us have said, we believe strongly that the U.S. mattress industry has been growing pretty consistently with GDP and other metrics. I think the mix within the business has shifted. There certainly is more MiB today than there would've been years ago. But we would contend that the MiB that has been in the marketplace was being served by the U.S. producers such as Tuft & Needle which is part of the company that I'm chairman and CEO of.

And what had changed dramatically in the last couple of years was where that MiB product was coming from and where it was coming from was being totally driven by price. That has been the thing that has changed dramatically. We fully expect that consumers behaviors and choices evolve and we, as an industry, as prepared to deal with them. What we weren't prepared to deal with was the pricing from China.

COMMISSIONER STAYIN: So is there a structural deficit between the demand and the capacity to supply with the U.S. industry?

MR. MERWIN: So the idea that the concept of a Mattress in a Box versus a non-Mattress in a Box, so I have twenty-four retail stores that, you know, we're factory-direct, so we sell to the public. People come into our stores. When we deliver them a bed, they get delivered a bed that's rolled up. Whether that be innerspring, hybrid, foam, it doesn't matter. So the idea of flat-packed and Mattress in a Box, it's a mattress. The fact that it gets rolled up is just a packaging method. And so when you talk about the demand versus a flat-pack mattress or a MiB, it was just an overall increase in demand of mattresses.

MR. RHEA: Commissioner, Eric Rhea, Leggett &

Platt. I think you asked the question, was there a shortage of capacity of MiB in the domestic industry, and we can answer that as no, because there's plenty of equipment that's been sold into the industry relative to that product.

MR. CHRISAFIDES: Commissioner, this is Chris Chrisafides of ECS. So during the January, February, March timeframe last year when there was a glut of Chinese imports coming in, we were running, and we're mainly a Mattress in a Box producer, although we produce flat mattresses as well, but we were running at 50 to 60% capacity utilization of our Mattress in a Box lines because the demand was just gone because there were so many imported Chinese mattresses available in the market.

COMMISSIONER STAYIN: Is it true, then, that the problem is not your capacity, but rather your ability to actually make and then sell mattresses in competition at the low prices that you're facing from imports from China?

MR. CHRISAFIDES: In our case, we could not compete with the prices that those Chinese mattresses were at.

COMMISSIONER STAYIN: You had the capacity, but you could not compete at those prices.

MR. CHRISTAFIDES: Correct. We had the opportunity to quote on them, but we did not get the business because our prices could not compete.

MR. ANDERSON: I can attest to the fact that on three separate occasions, we attempted to launch products to compete in the Mattress in a Box segment. And due to the pricing that we were up against at the wholesale level with Chinese imports, our products were not successful in the marketplace despite all of our expertise and other skills we have to compete. Price is the determinant, and we could not compete at those prices.

MR. SWIFT: I would just add that one of the brands that we have is Tuft & Needle, which is a digital native brand that started in a direct-to-consumer model, and is a very big participant on Amazon. And during this period of investigation, the Tuft & Needle brand was forced significantly down the list after having been very successful, and it was totally driven by price.

At the same time, the same MiB under our other brands, like the Serta brand, in retail--traditional retail, brick-and-mortar retail--the same phenomena was happening in terms of being displaced by product that was coming from China at prices which we could not compete with.

COMMISSIONER STAYIN: Having been a purchaser of mattresses in my years past, I found it very helpful to be able to go to a brick-and-mortar place to actually try the mattresses out. It's hard for me to imagine that people are buying these mattresses in a box just because of a price on the internet. Do they go to the brick-and-mortar and try them out and then go look at where they can get the lowest price?

MR. BAISBURD: The vast majority of mattresses sold in the United States by the U.S. industry and also by importers are sold to retailers. And there are different flavors and styles of retailers. You have brick-and-mortar retailers who have no online presence. You have online retailers who have no brick-and-mortar presence, and you have what people call the omni channel, companies like Walmart that has Walmart stores, obviously and also Walmart.com.

When people go out to buy a mattress, they wanna buy a mattress. And they come in all different shapes, sizes, flavors, firmness, whatever you want. There's no single defining characteristic of a mattress that you cannot change and buy something else with everything else being the same. So if you want a 10" hybrid mattress that's a Queen size that's flat, they're in the marketplace. If you want that 10" Queen-size hybrid that's rolled as a Mattress in a Box--for whatever reason--there's that as well.

And this overlap of competition is in every channel and for every product. So there absolutely are some consumers who are willing to buy a mattress sight unseen. That's not where the heart of the market is. The heart of the market is selling the product to retailers who can then sell to that consumer, or to sell to a consumer like you, Commissioner, who wants to go into that store.

And the reason you see an overlap here is native brands like Casper that started online and bought mattresses from some of the people who are sitting here today, has now gone into brick-and-mortar for precisely that reason probably, because consumers want to touch the product. My colleague, Mary Jane Alves, alluded to this in her opening testimony.

Healthcare, which is one of the two largest Chinese exporters to United States, has a letter of intent now to buy Mor Furniture's thirty-something stores in California and Mattress One's--I don't know--seventy plus stores in Texas. Again, they're gonna tell you, it's all about online, it's all about Mattress in a Box, and yet, they're making a big investment, or at least trying to make a big investment in brick-and-mortar, because there are different ways to get mattresses to consumers, and the retailers want to have a wide variety of products to offer them.

MR. MERWIN: This is John Merwin on the same question. Because we have retail stores and we also started selling on Amazon very, very early, Wayfair, Overstock.com, all the different things, I take a little bit different approach on online versus brick-and-mortar, different things like that. You know, so anytime someone walks into a retail store, you know, their eyeballs are on your product. And anytime they're on Amazon.com, their eyeballs are on their product.

So I don't view different websites or brick-and-mortar stores as e-commerce or brick-and-mortar. The bottom line is you're getting an eyeball on your product. And what happened from 2016 on was, you know, our products just--my products especially--just were not there because I couldn't compete on price. In 2015, there was a time when we were selling 350 to 400 mattresses a day on Amazon.com. And then as the imports kept coming in and we kept getting pressure from them on price, you know, "Hey, you're not meeting the price, you're not meeting the price," it just went away.

COMMISSIONER STAYIN: Thank you very much. My time -- did you want to say something? Go ahead.

MR. ANDERSON: I'm sorry. Richard Anderson, Tempur Sealy. One additional point I think was partially made is that the shift that you're referencing to online purchases sight unseen, has been fueled by tremendous amounts of investments made by companies like Casper, Tuft & Needle and Leesa, using American-produced products and that they invested in making purchasing beds online cool. And in doing so, they created a marketplace.

Now, some of my colleagues on the panel are manufacturers of those products. And what they have testified to is that those product demands have fallen off as the Chinese imports stepped in and took preferential placements onto those websites in the market that the American-based companies had created.

COMMISSIONER STAYIN: That is the end of my time. I'll talk to you again soon.

CHAIRMAN JOHANSON: Commissioner Karpel.

COMMISSIONER KARPEL: Thank you. Thank you all for your testimony. I'd like to focus a little bit on and unpack--no pun intended--the Mattress in a Box issue that has been highlighted, especially by respondents as sort of the centerpiece of their arguments in this case. And I was struck by something that Mr. Merwin said, that there's demand for mattresses, not necessarily demand for mattresses in a box.

And as I understand it, the Chinese imports are primarily coming in as Mattresses in a Box, but is that feeding a growing demand for Mattresses in a Box? Or is that feeding a growing demand for mattresses and customers' interest in getting the best price that they can? Can you speak to that?

MR. SWIFT: Our view has been that people are going to require a certain number of mattresses per year. And that demand is gonna be fulfilled by a mattress. And when you fundamentally unpack a Mattress in a Box, it's still a mattress. I think what has been transpiring over the last several years, long before the intro of the China mattresses to the market, is that there has been some innovation made by some of the companies, like, Tuft & Needle, like Leesa, to create a compelling way for consumers to come in contact with that product.

For many consumers, they're not familiar with the mattress category, the internet, like every industry, has become a key part of introducing consumers to the product, and so it was easy to introduce a consumer to something that maybe they didn't know much about. And so the U.S. companies like Leesa and Casper, Tuft & Needle, invested vast sums, millions of dollars, to create interest in the category, and as we looked back into the previous investigation, there was a mix shift occurring in the industry where more Mattress in the Box was being consumed in the U.S. industry, but being provided by the U.S. manufacturers.

What changed dramatically in the last several years in your period of investigation has been the fulfillment of those Mattress in a Box product. Which because of predatory pricing has shifted dramatically from

U.S. producers to the Chinese producers. That has not changed the fundamental demand of what exists in the U.S. market.

MR. RHEA: One thing to understand is the Mattress in the Box is compressed mattresses from China, are not only being sold by Commerce, but they're also being sold at traditional small retailers that are positioned all over the United States. And those retailers are typically supplied by small businesses, like some of those that are represented here today. And I can list and provide this list of small customers of ours who have gone out of business in the last couple of years--and they're in the dozens--that have gone out of business simply because they no longer have those retail placements on those small furniture stores, and ultimately those placements are now being filled by importers, Chinese respondents.

MR. CHRISAFIDES: So we're a private-label manufacturer to some of those customers like Casper and Tuft & Needle that spend millions of dollars marketing to get this neat concept of Mattress in a Box direct to a consumer. And what our customers told us, you know, the phenomena of that impact of their brands, is that they're very transparent, so on the internet, when I went and bought a car last year, I was able to go online and find the exact car and the exact price that I wanted and I brought all of those dealer.

Well, like this is transparency. So the number of layers, the technology that's in the layers, the type of cover, the densities and so forth, that information is there and so they get educated on these products and then they go on Amazon and they see a product that's very similar and they're very well-made. I mean the products coming in from China, we've torn them apart. The foams are great, they're breathable, you know, they were covered nicely. But they were considerably less in price.

And that's the simple issue where, you know, when they came to us and they said, "Hey, we need you to make these for a lower prices, because we're losing our sales and we simply couldn't do it.

MR. ANDERSON: I just want to come back to your question a little bit and kind of think about, when you look at Chinese imported mattresses on Amazon.com, they are shown in their unpacked state. They're not shown in the fact that they come in a box, making the box somewhat irrelevant to the purchase equation, very irrelevant to the purchase equipment, because they're not sold that way.

They're sold on the basis of price, and the reason they occupy the top search positions in Amazon.com is because they are low-priced. So it's irrelevant to the person who's purchasing the bed as to how it's packaged.

What's relevant to them is they're getting a mattress at an extremely low price.

MR. BAISBURD: I want to be careful about how I say this, but there is on the record a questionnaire that we will point you to, of a major importer who has a very significant shift in their product mix from 2017 to 2018, and that alone shows you that it's not just MiB phenomena coming in from China. And we will give you all the details, but obviously we can't go more than that, but if there's somebody who will answer this particular question that it's not just MiBs coming from China into an internet channel.

If you look at the market share shifts in this market, it doesn't matter if you look at the form of the product. It doesn't matter if you look at the type of core. It doesn't matter if you look at the channel of distribution. In almost every one of those--with two exceptions that we pointed out in our brief--there is market share gains by the Chinese directly at the expense of the U.S. industry --

A U.S. industry from Day 1 who developed this market, a U.S. industry from Day 1 who sold into this market, a U.S. industry who has spent hundreds of millions of dollars to socialize people to the thought of buying a mattress online and those mattresses came from the people you see now, and then when people go online, they see a lower price.

And so the sales to the retailers, they wanna sell what sells. And what they are trying to sell are mattresses, because fundamentally, nobody ever sleeps on a box.

COMMISSIONER KARPEL: Thank you. So if I understand what you're saying, a consumer looking to buy a mattress, some may prefer to go shopping on the internet, some may prefer to go to a store. They may want certain features. But whatever they're looking for, they're looking for a good price for that mattress. And do they care if it's packed in a box or if it comes flat? And are there features with mode of supply or customer service or, you know, ways that they're marketed that they may think that getting a mattress in a box is somehow preferable for them?

MR. RHEA: Commissioner, we've done a lot of research on that topic, and in general, the consumer doesn't care how the product comes. They go online or they go -- and what we've found is that people shop both brick-and-mortar retail and they shop e-commerce. They look at both options when they're doing their research on what they're gonna buy, but they don't care what the product, how the product comes to their door. They just want it, and they want it in a timely fashion, and they want a good product.

MR. SWIFT: Just to build on that point, you can take a look at some of the big box customers today, like a Sam's, for example, that today, they deliver to consumers' homes with what we call "white glove delivery" a flat mattress, and they actually sell more of our flat mattresses online then they do sell MiB. From a consumers' point of view, it's essentially, it's a black box, meaning that the way the mattress gets from my online purchase to actually being in my bedroom is transparent to me. Sometimes it may come as a delivery white glove of a flat mattress or it could come delivery as a white glove Mattress in a Box.

It's totally a matter of what product they choose. And we sell both online at Sam's, as well as in-store with Sam's, both flat mattresses and MiB. And it's a matter of preference and, in some cases, features, but from a consumers' point of view, there's no handicap or anything that they're disabled from doing because of their choice.

MR. BAISBURD: Both the Chinese imports and the U.S. industry offer the full range of options to whatever the consumer wants. But it's what the consumer wants that ultimately drives that final sale, but it's all of these people sell to retailers first, or distributors. I mean the amount of true direct-to-consumer is very, very small in this market.

The bread and butter in this market, and it's clear on the record, are sales to retailers, whether they're online retailers or brick-and-mortar retailers. And everyone offers the full range of options to those retailers. And that's why price is so important Because you can get any type of mattress from imports and any type of mattress from the U.S. industry.

MR. SWIFT: Let me just add one other point to what you just said, Yohai, that we see all the time, every day, today, consumers walking into retail with their iPhone, and what they're doing is, they're looking online and they're comparing what they could get that same product in retail with Amazon.

And so what is exacerbating the whole situation and the reason why we're all here is, when you do see predatory pricing from a Chinese import, the effect on the entire industry is felt immediately. It's not isolated just online, it's not isolated in store, it's everywhere. And consumers are able to see it and it dramatically impacts their decision.

COMMISSIONER KARPEL: I know I'm out of time, but Mr. Rhea, you mentioned you've done research on this particular issue. Is that in the record or something that could be in the record?

MR. RHEA: We could provide it in the follow-up.

CHAIRMAN JOHANSON: All right. Thank you all again for being here today. And before I begin my questions, I would appreciate it if you all could explain exactly what we have in front of us, the exhibits? I see a box and a I see a compressed mattress and I see open mattresses. I'm just wondering what is what?

MR. BAISBURD: The folks can talk specifically about the product, but just to give you a quick overview, to your left is a crib mattress that was in a box, we took it out for you.

CHAIRMAN JOHANSON: It was in a box, so that's not an FT --

MR. BAISBURD: It was in a box in that configuration. It wasn't compressed.

CHAIRMAN JOHANSON: Okay, right.

MR. BAISBURD: The one in the middle is a twin-sized hybrid mattress, which was shipped. That's its brother or sister --

CHAIRMAN JOHANSON: So it's shipped in a similar box to what we see in front of us?

MR. BAISBURD: Correct. And if you want, we can open the flap and you see inside how it's rolled up in plastic.

MR. RHEA: That product was manufactured by Leggett & Platt, I'd be more happy to answer any questions or open the product at your convenience.

MR. BAISBURD: And then the two smaller examples on top are Serta Simmons products. They're just cutouts so that you can see what an all-foam mattress looks like with multiple layers. That would be that one. And then the other one is a hybrid, which is an innerspring mattress that is being marketed as hybrid because the distinction between innerspring and hybrid, you know, is a marketing term. Generally, hybrids have more foam than an innerspring mattress would, but all innerspring mattresses have some amount of foam, too.

CHAIRMAN JOHANSON: So the smaller one there is just a cutaway?

MR. BAISBURD: Both of these two?

CHAIRMAN JOHANSON: Right.

MR. BAISBURD: Those are both just cutaways to show you, from the interior, what a hybrid mattress would look like and what an all-foam mattress would look like.

MR. RHEA: Those are typically used in retail just to show the makeup of the mattress, those cutaways, or those smaller samples.

CHAIRMAN JOHANSON: Okay, thanks for clarifying. I was wondering if you got these two here, if these were actually the boxes, they're so small. Folks in the back of the room can't see, that can't be possible. The things are going to blow up unless we compress so tightly. Okay. I appreciate you clarifying that. Okay, well thanks for bringing those in. I think it does help us to understand what exactly is at issue here.

I'm going to go back to something Commissioner Stayin spoke about, and Mr. Anderson and Mr. Rhea specifically brought up the whole issue of retail stores and having been in the retail stores and having seen them all over the place, there are quite a few bed or mattress stores in this region, I know that they take a lot of space. They tend to be big because these are rather large products.

In addition, there does not seem to be a whole lot of foot traffic. These are not things you buy every day. Which brings me to an issue which was raised by the Respondents. Apparently one reason purchasers differ, importing rather than buy domestic product is the ability to increase online-only options without a concurrent requirement for retailers to carry the same product in store. This is raised at page 555 of the prehearing brief.

Do you agree that this is a reason for importing or do domestic producers offer, also offer this opportunity?

MR. SWIFT: We have for retailers, as well as for online, we can offer all types of SKUs. As a company, we sell over 6,000 stockkeeping units, which means we have the ability to provide a retailer virtually anything they want. If they want their own assortment of SKUs in store versus online, we can do that, and we do have some retail partners that prefer to have what they offer online be different from what they offer in-store.

There are other retailers who want it to be exactly the same, and all of the U.S. producers by virtue of our manufacturing that we have here in the U.S. were able to offer across all types of beds an assortment that matches what the retailer is looking for. That's one of our strengths that we've offered as an industry, and certainly with mattress in the box and our capabilities to manufacture that, that's only been enhanced.

MR. RHEA: Commissioner, Eric Rhea, Leggett and Platt. Trying to help answer that question, there are customers or there are retailers that buy product that is both sold online and in traditional brick and mortar retail that is both sold in a compressed form and in a flat form. So there are products sold in all those avenues in both form, flat and compressed.

MR. CHRISAFIDES: Chris Chrisafides from ECS. So as a private labeler for many of these brands, they require us to be able to manufacture the products in a couple of days and drop ship it directly to the consumer. So the consumer goes online and orders that product and they never see it. But it goes -- so we basically print the label out from our customer, and we drop ship that directly to that consumer.

Like as well, they have retail locations, so both Casper, Tuft & Needle, they've now started to add some brick and mortar in addition, as well as they're present in other retail stores. So we're feeding all of those channels. A good portion of the business is still direct to consumer, where they're ordering online. So the answer is all of the above, right?

We're able to supply all of those channels. Most of what we do we produce in 24 to 48 hours and ship directly to that consumer.

MR. BAISBURD: Yohai Baisburd from CLK. It's the imports that have to be held in inventory to satisfy a sale in the United States. What the U.S. industry brings to the table and has traditionally been structured around is the ability to produce a mattress in a day, anywhere from one to three days and deliver it.

So they also produce to inventory when required by their customers, but what they give to that retailer at the corner is the fact that they don't have to hold the inventory on site, because somebody can see that mattress, buy it and get it delivered from one of these plants which are located throughout the United States, and the staff report supports this.

On a made-to-order basis in less, you know, on average I think it was three days. So it's the -- the inventory has to come in from the Chinese imports, and that's what makes the pricing even more astonishing, is that they have all of the capital tied up and producing the product, getting it over here and holding it in warehouse. I know, maybe John wants to talk about his experience with Amazon and what happened after you sold to them for stock or not.

MR. MERWIN: Yeah. Just to expand on that, so when we started selling on Amazon in 2015, there were three ways to sell on Amazon. You could be the seller and drop ship straight to the consumer; you could sell on Amazon and send the product into their distribution centers and they would fulfill it.

And then after a while once those SKUs showed some promise and some sales volume, then Amazon would retail to you and say hey, we want to buy your product. We're going to store it in our distribution centers and sell it and fulfill it ourselves.

So they started doing that, and that was when our volume really, really started to expand. And then they started coming back saying hey, this placing is no good. You need to come lower, come lower, and we would continue to go as low as we could, and then eventually we got priced out of the market. Now occasionally we'll get a call and it will be hey, we have a shipment that's delayed, containers sitting at port. Is there any way that you could jump in and get us some inventory?

We can jump and we can produce, you know, well over a 1,000 mattresses a day and fill that inventory. So that's kind of how we're viewed now, as kind of a swing capacity for these large online guys.

CHAIRMAN JOHANSON: Right. But let's say that you have a store, in effect if you make a mattress, you put it in store. It is being held in inventory in a store, which is a rather expensive place I assume to hold the product, because you're in a place where shoppers are, as opposed to if you bring in a product from China you might have to warehouse it, but it's probably going be in a warehouse in Long Beach or Houston or someplace like that, correct, which would cost less I would think?

MR. ANDERSON: Richard Anderson. Just to paint the picture of these inventory you're talking about in a retail store, that is what's called a floor model, and that floor model is -- there's only one of those in the store for each item. There's no back room inventory, there's no other products, and those products are used for a period of years, the product you see on the floor. It's on that floor for two or three years, and it's what allows customers to come in and feel it and understand what it's all about.

So the inventory tied up in that is not that significant. The supply of the sold product through the traditional U.S. manufacturers, as was just commented on, is built in relatively real time. So that keeps the cost as low as it possibly can be, but it's still not low enough. It's the opposite as was said is that large quantities of product being brought in container loads from China require a significant amount of up front capital. It ties up cash into that for a long time, which adds to the cost.

So it actually should be more expensive to have large slugs of inventory parked throughout various places in the country, and actually it defies the fact that the products are sold at predatory prices.

CHAIRMAN JOHANSON: So if you go in a store let's say in D.C. and you see a mattress, you might view it there but it's indeed brought from a warehouse elsewhere?

MR. ANDERSON: That is correct. Richard Anderson, yeah.

CHAIRMAN JOHANSON: Okay, thank you. I have just one follow-up. I know my time has expired, but for Mr. Chrisafides, you mentioned that you all do lots of sales in effect online; correct?

MR. CHRISAFIDES: So we don't actually sell to consumers. We are a private label producer for customers, for example, Casper and Tuft & Needles. So many -- some of their customers will buy in brick and mortar at retailers like Casper or with Target, for example. Casper also has their own stores. But they have a lot of people that buy their mattresses on their website. So those fulfillment requirements come to us, and we make the mattress within a couple of days.

We print out the label with that customer's address on it, and we ship directly to that consumer. So Casper never actually sees it other than on their website.

CHAIRMAN JOHANSON: Okay, and I apologize. The record in this investigation is quite large, but do we have -- do you all have a breakdown as to what percentage of U.S.-produced product is sold online?

MR. ALVES: I'm sure we can share whatever data we have post-hearing.

CHAIRMAN JOHANSON: I don't know if that's in the record yet or not.

MR. ALVES: Mr. Chairman. Yes, in fact if you look in Appendix E, there are breakouts. The Commission collected a lot of different data in this investigation broken out by various channels of distribution. Within those channels of distribution there were further breakdowns for mattresses sold in a box and mattresses not sold in a box. So those breakouts are in Appendix F of the report.

In addition, I would also point you to Exhibit 7 in our brief, which also contains a table showing all of the different channels of distribution and the relative shares that the Chinese imports and the domestic industry has for each of those different channels.

CHAIRMAN JOHANSON: Okay, thank a lot, and once again my apologies, but the record is kind of big here.

MR. BAISBURD: Yohai Baisburd. I have just one clarification. It's omni-channel, which is one of the categories that the Commission gathered data on, means that you both have a brick and mortar and an online presence. That was not defined and different reporting entities took different definitions of that.

And so you -- just a caveat that what says "online retail" is not necessarily all -- in fact it's not all online retail, because you have omni-channel, which would also have online, and on the record it's pretty clear that certain people put one customer in online and that's say other people put that same customer in omni-channel.

So that information on market shares in those two is, you know, you have to take with a little bit of a grain of salt.

CHAIRMAN JOHANSON: Okay, thanks for your responses. Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Okay. Thank you very much. I'm going to start with a question that I think probably the lawyers may have to answer. At page 39 to 40 of the Respondents' brief, they point out -- they do a calculation where they divide U.S. producers into producers who are making MiBs and producers who are producing flat-packed, and they say that they do this, this was determined by the share of their shipments in each category over the POI.

If 90 percent or greater of a company's shipments were MiB, then they were classified as MiB, and the rest were flat-packed, right? So when did -- are you familiar with this? Okay, and when they do this, what it shows is there's very little overlap between U.S. producers that are producing mattresses in a box and U.S. producers that are producing flat-packed mattresses.

So my first question is do you have any issue with how they have calculated and separated these producers?

MS. ALVES: Yes, on several levels. As I indicated in our opening, while the Commission has collected the data segregated by both mattresses in a box and non-mattresses in a box, that doesn't mean that those mattresses aren't competing with one another. So therefore the fact that a particular product mix may be made by certain producers and not made by --

COMMISSIONER SCHMIDTLEIN: Okay, but let me back up. So my first question there was do you have any problem with the calculations? Not with doing the -- your answer is more about I don't think we should be doing that. They're all competing. We'll go through that. But in terms of how they've done the calculation based on U.S. shipments, do you see an error in that in terms of the numbers?

MR. BAISBURD: So Yohai Baisburd from CLK. We didn't double-check the numbers, which is something that we will do.

COMMISSIONER SCHMIDTLEIN: You might want to do that.

MR. BAISBURD: Yeah, post-conference. I think it's an arbitrary line set at 90 percent, right. So why is 90 percent and above, you know, one way or the other when it's a market that shows significant overlap of competition in any particular channel for both MiB and flat-packed. So I mean we'll double-check the numbers but -- and if we see an issue with it, we'll definitely address it in the post-hearing.

COMMISSIONER SCHMIDTLEIN: Okay but -- okay. But why is that the case? Why do we have, you know, a big chunk. Why do we have not much overlap?

MR. BAISBURD: Because it doesn't matter, because people buy -- the retailers buy mattresses to resell. I mean --

COMMISSIONER SCHMIDTLEIN: If they're all competing, then why wouldn't all U.S. producers want to be producing both MiBs and flat-packs? Why has it shaken out such that some U.S. producers only do MiBs and some -- if it really is you're competing in all ways.

MR. BAISBURD: Yeah, so they definitely want to respond, the people in the industry. But I'd like to point out that we look at the industry as a whole, right, and the U.S. industry has robust presence both in MiB production and in flat pack. The fact that the people who maybe started in flat pack were unable to really get traction in the MiB market because of pricing is an indication of injury.

But the industry as a whole has no shortage of MiB producers and MiB capacity, and it has no shortage of flat pack producers and capacity. We look at the industry as a whole since that's, you know, one like product.

COMMISSIONER SCHMIDTLEIN: Okay. So you just said that -- so the producers who started in flat pack weren't able to get traction in the MiB, which I assume is, I don't know if you want to identify yourselves so I don't disclose any confidential information you wouldn't want otherwise disclosed.

MR. SWIFT: This is Dave Swift with Serta Simmons Bedding. We started, I mean we've been, as I said in my opening, we've been around for over 100 years in what you would call traditional mattresses. But we also recognized that there was a growing market in the MiB category, and like any leading company in any industry, we wanted to be part of that. So we invested in both building a brand starting initially with Tomorrow Sleep as I said, and then ultimately our partnership and acquisition of Tuft & Needle.

But in that process, we also created inside our plants and I think some of your staff have seen these, the ability to actually build our own MiB. So that was not a place where we started, where some of the companies that you're hearing from and will hear from started in the MiB space. So that's not where we started but that absolutely is where we are, because we believe it is a market that's important to address.

COMMISSIONER SCHMIDTLEIN: And so were you forecasting the increase in demand that we've seen from '16 to '17 and '17 to '18 in MiBs?

MR. SWIFT: We saw the dramatic growth in MiB being driven not by the category itself but by the fact that there was investment on the part of Tuft & Needle, Lisa, Casper, some of the brands that you see on TV or in print or on your computer, that were creating a lot of interest in that category.

But what we did not anticipate is that we would not be able to fulfill it ourselves. So we went out and actually acquired capital and equipment for our plants, to make MiB, to be able to fulfill that demand, and then the events of the last three years occurred and much of that capital is sitting idle because of what's been happening with the imports from China. So we absolutely did anticipate that that was going to be a market that we would want to go after.

COMMISSIONER SCHMIDTLEIN: And when were you guys making those investments?

MR. SWIFT: We started making them over four years ago and --

COMMISSIONER SCHMIDTLEIN: Four years, 2015?

MR. SWIFT: Yes.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. SWIFT: And we had our, as I said Tuft & Needle, which we now own, has been in the industry for over six years, and so the history of trying to create the category has been well understood by us as players. But what has dramatically changed is we can't fulfill it economically ourselves.

COMMISSIONER SCHMIDTLEIN: Uh-huh, okay. Mr.

Anderson, did you want to --

MR. ANDERSON: Yes, Richard Anderson. Going back several years ago, we were looking at our business, I'll call it strategically, and we looked at the flat mattress business and in that case my company has a pretty strong market share in that segment. Call it over 30 percent. When you look at the mattress in a box segment, we said several years ago well we have less than one percent share here. So why wouldn't we, as a marketer of mattresses to American consumers, strive to get equal market share in any segment of the category that existed.

So we put into place, as I mentioned earlier, three separate initiatives at three separate times, in order to increase our market share in the MiB segment. In each one of those instances it was met with failure. Now we're pretty good marketers, we're pretty good mattress people, yet we couldn't compete in the segment of the market that we had such a tiny little share and we couldn't grow our share one, two or three percent.

It was because the pricing in that channel was so harmful for us to be able to get entry into it we could never get into it.

MR. BAISBURD: Yohai Baisburd. I mentioned this earlier, the record is clear that since 2007, there have been dozens of roll-packed machines sold to U.S.

mattress manufacturers. So there's no shortage of capacity in the United States to make mattress in a box. The issue is they couldn't be made profitably at the price.

I think you heard the testimony from Mr. Fallen of Corsicana that they bought machines that were -- and they're a traditional or more in the traditional space, and for years were not anywhere close to running at capacity those machines because they couldn't get price. If you look at the MiB producers' questionnaires that you have, look at their capacity utilization rates, look at their shipment levels relative to the market as a whole, and you will see that in a time of growing sales there, they were not going anywhere near to full out.

So it makes -- if it isn't price, then why is their capacity utilization doing what it's doing, and in that MiB sector in particular for the MiB producers?

MR. RHEA: Commissioners, Eric Rhea, Leggett and Platt. I want to reinforce what Mr. Baisburd just commented. Our company was the one selling the equipment since 2007 to these companies, to these mattress manufacturers, who were making that investment to sell those products in some sort of a compressed form. That's been going on for at least 12 years.

COMMISSIONER SCHMIDTLEIN: And is there information in the record on foam production capacity? Is there any limit on that capacity in the Untied States, because it looks like the greatest increase kind of is in compressed foam mattresses or hybrid, right?

MR. CHRISAFIDES: Chris Chrisafides from ECS. So we're a foamer and there's currently continued consolidation happening in the foam supply part of the value chain, because there is over-capacity.

MR. MERWIN: And then I'd like to touch on the equipment and different things that you asked. In 2015 when our business was rapidly growing, we invested very heavily in foam-cutting equipment to service, to service that business, well over, you know, $1.5 million and for us that's an extremely large investment. And you know, today that equipment is running maybe a half a day a week. Then on the roll pack side, we also invested in six roll packs and at one time we had them all running, and currently we're only running three of those.

Then when you look at the, you know, the 300 plus U.S. mattress manufacturers and the fact that over ten percent of them have gone out of business in the last three years, I know for a fact that ten of them had roll pack equipment in their facilities at the time that they went under.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ANDERSON: Richard Anderson, Tempur Sealy.

Just a quick point. We have two factories, one in Virginia, one in New Mexico that pour foam and have far less than 50 percent capacity utilization at this point.

MR. THIGPEN: Travis Thigpen with FSI. We're one of the largest producers of foam in the United States as well. Absolute free capacity to pour foam with 16 facilities across North America. It's not a shortage of capacity by any means.

COMMISSIONER SCHMIDTLEIN: Okay. Ms. Alves, did you want to say something?

MS. ALVES: Yes, Commissioner Schmidtlein. I just wanted to add one additional point. You have the benefit of segregated data on a number of fronts, and I would urge you to look at Tables IV-13 and IV-14 in the report, which indicate the baselines that we're talking about, the relative share of the market account for by MiB versus non-MiB products.

Again, even though the relative shares are what they are, there was still more than enough capacity already in place to service whatever need the domestic -- whatever need U.S. customers had.

COMMISSIONER SCHMIDTLEIN: You anticipated my next line of questions, but we'll come back to it. Thanks.

CHAIRMAN JOHANSON: Commissioner Stayin.

COMMISSIONER STAYIN: Thank you. The comment was made about not getting the retail placement due to the price competition, particularly on the Internet as well as in the stores. I guess placement makes -- it's a very important thing. The first thing you see is, you know, where is it placed on that Internet. Tell me about that?

MR. ANDERSON: Richard Anderson, Tempur Sealy. If you go into any online retail environment such as an Amazon or a Wayfair or Walmart.com, and you enter into it. You want to buy a certain type of mattress or you want to select a mattress, you are served up what would be akin to placement. It's basically the items that appear at the top and in the Internet and this environment, you may have 20 or 30 pages of products offered up to you.

Most consumers don't look past the first or even maybe a little bit the second page. So you can understand the criticality of having placement in a highly visible location on the retailer's website. If you're not in that highly visible location, say the top 100 items, you will -- you will suffer sales declines dramatically, and I think we heard that from at least one of our panel members today, that if you're not in those top positions you really don't make the sale.

COMMISSIONER STAYIN: How do you get into that top position? What is the criteria to get into that placement that is so critical to sales?

MR. SWIFT: This is Dave Swift from Serta Simmons. It's the same dynamic, whether it's online or in store. It's a negotiation we as wholesalers, whether it's a retailer or to an online marketplace. It's about pricing and slots. We call them in the stores either slots or floor models, in retail online it's the image. Ultimately it's a negotiation on price. It's a bid-off process with a competitor. And in the case of Amazon, the things that are most visible are the things that are selling the most. And in the Amazon world, those are the lowest prices.

And so what's happened in the case of Tuft & Needle, our online product that sold very successfully, Amazon was our by far biggest customer. As the imports came in, Tuft & Needle in terms of the queue of where it was viewed by consumers dropped dramatically. And so for consumers that particularly don't know much about this category, they're strongly influenced by the things they see first. And those things that they see first are going to be the things that are at the lowest price, because that's where Amazon makes its most money.

COMMISSIONER STAYIN: So they might not even get to see the product that is placed there by a U.S. producer of mattresses?

MR. SWIFT: That's correct.

MR. ANDERSON: Richard Anderson, just to add to that, the--if you were to look on Amazon, for example, and you went through pages 1, 2, and 3, as you went through those pages the pricing of the products would gradually be going up. Meaning that the first products you see on page one are, generally speaking, the lowest priced products in there.

And if you think about Amazon and all of the artificial intelligence, and the machine learning that they use, that is not by accident. The algorithms that drive the placement in some cases is a function of the relevancy of that product.

The relevancy of that product is a function of its price. Therefore, the more units you sell at a low price, the more relevant you become and the more the machine places you at the top of the list. You can buy your way up there, but it's very expensive. But generally speaking, in the organic sense, if you look at pages 1, 2, and 3 on Amazon, you will see the prices gradually going up. If you get to page 20 and 25, you'll see some very expensive mattresses, but you will not see them on page 1 and page 2.

MR. RHEA: Commissioner, Eric Rhea, Leggett & Platt. I want to add one thing. It seems like the focus is only on online sales. We--a large amount of business we lost during this period happened to a very large retailer, and the products were sofa-sleeper mattresses that went to

China. And those products went to China because of one reason, and that reason was price. We simply could not product them and match and sell them at a wholesale price to the retailer.

And the reason I bring that up is simply there seems to be a lot of focus around e-commerce around this discussion. And this loss of volume is not only occurring at e-commerce sales, but it is also occurring at traditional brick and mortar retail sales every day.

MR. ANDERSON: If I could, just to expand on Eric's point--Richard Anderson again--I described the online environment. If you were to go into a retail store, a similar phenomenon happens. Products that are priced lower tend to sell faster. Products that sell faster tend to get the better retail placements.

So the same thing happens in-store that happens online.

COMMISSIONER STAYIN: I think that's all I have for my questions at this point. Thank you.

CHAIRMAN JOHANSON: Commissioner Karpel?

COMMISSIONER KARPEL: Thank you. Let me talk a little bit about capacity. You've mentioned that before, that you have capacity to produce mattresses in the box, and to supply more of those, if not for the dumped prices. But I'm just trying to get a fuller picture of your capacity.

So can you operate a 100 percent capacity? And what would that involve? Is that operating the multiple shifts that you've mentioned in your previous statements? And how quickly can that be done?

And related to that, are you able to estimate the domestic industry's capacity to produce MiBs if all domestic producers of MiBs are operating a full suite of shifts?

MR. ANDERSON: Richard Anderson. I'll speak to the first part. With the ability to scale capacity, we definitely have that ability. We have 15 plants across the U.S. for Sealy and two plants across the U.S. for Tempur-Pedic, and neither of those--any of those plants operate more than one shift. I believe one does at this point in time. And we would simply add manpower. We have the equipment. It's just more of running more shifts. And our ability to scale up shifts is essentially governed by our ability to hire the right kind of talented people.

MR. SWIFT: This is Dave Swift from SSB, a similar story. We have 22 plants in the United States. Only 2 of them are operating a second shift. And just to be clear, we also have both the traditional flat mattress capacity as well as MiB. We don't distinguish. We look at it as our total capacity. Because when we work with our retailers, or on our e-commerce partner sites, they're taking both. They're taking both the flat mattresses and the MiB. And it's not that just one aspect of our business is being hurt by the dumped product, it is across the board. So the impact on our capacity is felt in all aspects of our operations.

We would love to have the opportunity to bring workers back and get those factories running the way they should be.

MR. CHRISAFIDES: Chris Chrisafides from ECS. So since the Commission announced its margins, we've seen growth business come back. We've added several lines and made a modest investment from $700,000 to $1 million, roughly, to add a bedding line with compression and cutting capability.

Four to six weeks is the longest lead time and is usually the cutting capability. So we've put those on and staffed them and got those up and running seamlessly and to be able to support. So it is limitless in terms of the ability to support this business. And there's still a lot of business that we're not getting because of pricing, but we would love the opportunity to be able to service that, and we'd be able to do it in a heartbeat.

MR. RHEA: Eric Rhea, Leggett & Platt. I commented in my testimony that we have added additional lines and shifts, and will continue to add shifts as demand requires.

MR. THIGPEN: Travis Thigpen with FXI. Just echoing everything everyone is saying, we have the capacity availability. The investments have been made in machinery. We are actually in a point where we have a facility that we're ready to convert. So we are very much ready for the production.

MR. MERWIN: This is John Merwin. Same as all the other gentlemen are saying. It would just take a little bit more manpower on pieces of equipment, but the equipment is in place and ready to go.

MR. FALLEN: Stuart Fallen, Corsicana Bedding. The situation is the same. Of our 10 plants, we only have one that is running two shifts currently. So a number of weeks to staff up.

MS. ALVES: Commissioner Karpel, Mary Jane Alves from Cassidy Levy Kent. I would also point you to page 18 of our prehearing brief which includes information about the more specific capacity to produce the mattresses in a box, as well.

MR. BAISBURD: Yohai Baisburd from CLK. So what you've heard here is, at a time of increasing demand across the POI, the vast majority of the U.S. plants are only running one shift. And there is excess capacity, unused capacity at producers who are only making MiBs, and there's also unused capacity at producers who are predominantly making traditional mattresses, at a time of increasing demand, with no bottleneck on foam production, no bottleneck on any of the components. The only thing that changed in this marketplace over the POI is the huge volume of low-priced imports, of Chinese imports.

COMMISSIONER KARPEL: Thank you. Is the domestic industry capable of supplying the entire demand for MiBs and other mattresses? Or are some subject imports going to be necessary to meet demand?

MR. BAISBURD: Yohai Baisburd from CLK. If you look at the calculation that my colleague, Ms. Alves, directed you to, you will see the size of the capacity in the United States to produce MiB. It is based on proprietary information, so I can't go into greater detail, but I would direct you to that part of our brief.

COMMISSIONER KARPEL: I want to move a little bit to pricing. And I'm in particular looking at Respondents' arguments on page 31 to 32 of their brief. And they say that there's little relationship between the trends in domestic and subject import pricing data, noting that subject import prices fluctuated within narrow ranges, while U.S. prices showed greater fluctuation.

What is the cause in the fluctuation in U.S. pricing? And what is your response in general to this argument by the Chinese Respondents about there being a lack of relationship between prices?

MR. BAISBURD: Yohai Baisburd from CLK. Since you're talking about the pricing product information that's confidential, so I'll just address it.

A few things. First, no matter how you look at the pricing record that the Commission has developed, including at the prelim and now at the final, there is massive under-selling throughout all products throughout quarters, throughout every way you slice or dice those numbers.

And so there is a corrosiveness of the low prices that impacts pricing throughout the market, and in particular for particular pricing products you can see the market shift, in the market share shifts, both if you look overall in the aggregate but more particularly if you look at the pricing data.

If you read the responses in the questionnaire, you will see the market share shifts for particular purchasers and what they did.

So the narrow band that they point out is relative--of the Chinese imports' fluctuation is also relative to where they line up compared to U.S. prices. They are in almost all pricing products, no matter if you aggregate them or disaggregate them, they are significantly below the U.S. price. So the U.S. price, because of that, had farther to fall, frankly, as the effect of the higher volumes of subject imports made their way through the market.

COMMISSIONER KARPEL: I'm aware of the information on under-selling in the record, but I'm trying to understand what's causing U.S. prices to fluctuate? They're not responding, if you look at those trends, to fluctuation in prices from imported product. So if you want to discuss it in your posthearing brief, that's fine. I can understand it's hard to discuss this without specifics. But that's what I'm getting at.

MR. BAISBURD: Yohai Baisburd from CLK. We will discuss, definitely, in our post-hearing brief the specifics based on the pricing product record. But I think they can talk to what they're viewing as pricing in the market and the impact of the Chinese imports.

MR. SWIFT: Yeah, there are a couple effects of things that generally you would see if you looked at our data. One, as an industry we have key raw materials like the chemicals that go into foam, like steel, like lumber. Those are some of the key materials. And based on what happens with the costs of those materials--and if you go back over the POI, there were some periods during that time that those raw materials were pretty heavily inflated. And typically what the industry does is to try to pass that cost along to consumers.

So that was one effect that you'll see in some of the data. Concurrent with that, once the import started to become felt during the POI, because those products are tightly concentrated in a very small band in general in the lower price points, the net effect for producers like SSB was that our average unit selling price had the appearance of going up because the mix of our business went up.

We were selling less product in those lower price points. So the net effect was to make it appear as if our prices had gone up on average. That's one of the reasons why we're not a big fan of using the average unit selling price, because it camouflage some of the things that are going on in the market. But that's a huge effect of what we were feeling, and may give a false positive in terms of thinking that we were actually getting pricing benefit. We weren't. We were just selling much, much fewer of the lower priced SKUs because of the dumped product.

COMMISSIONER KARPEL: I have some more questions, but since my time is almost up I will pass it on and we can come back around.

CHAIRMAN JOHANSON: Okay, thanks, Commissioner Karpel.

Okay, I am going to get back to one more question about retail stores. A number of us have spoken at some length on that, but I think I have just one more. And that is: Given that major U.S. mattress producers had already invested in brick and mortar store networks and manufacturing of flat-packed mattresses, would it necessarily have been profitable for them to invest in developing mattress-in-box technology in marketing it to their customers? Wouldn't this risk stealing demand from your own products?

MR. SWIFT: This is Dave Swift from Serta-Simmons Bedding. And, you know, we've said, and we believe strongly that a mattress is a mattress whether it comes in a box or whether it's a flat mattress. And as we've said, the way it shows up in a consumer's home, frankly, the consumer in many cases will be indifferent to how it actually arrives.

Our retailers today, traditional retailers, like a Sam's for example, they sell flat mattresses online. They sell mattress on the boxes in line of our product. They sell mattresses in the box in-store. They sell flat mattresses in the store.

And so I think the retail community has the same view that we do, that a mattress is a mattress, and they're going to carry it in either form, any form, and in any type of media whether it's in their own store or through retail. There's no differentiation.

So as a leading mattress company. It is part of our obligation, if we want to be maintaining that leadership, to participate in where the market goes. And so for us the decision to get into MiB was not a very difficult strategic choice because there was for many years an interest in that category by consumers. And so we want to go where consumers go, and that's what we did.

MR. MERWIN: This is John Merwin. Again, I would like to stress the importance of the fact that there is no difference between an MiB and a flat-packed mattress. So we have 24 retail stores. We have customers walking into our retail stores every day that are seeing a mattress flat, purchasing mattresses anywhere from the price of $150 to $3,000. And that mattress is arriving at their door by our delivery guys rolled up.

And so the idea that, you know, you have to invest in new technology or, you know, someone invented new technology to be able to put a mattress in a box is just not true. And, you know, yes, there are a couple of minor adjustments that you have to make on the inside versus, you know, you don't use a border wire, or you use a stronger gauge coil on the edge. The idea that there's new technology out there, or someone created some new technology to put a bed in a box, it's just not true.

MR. ANDERSON: Richard Anderson, Tempur Sealy. We are a publicly traded company. As a result of that, much of what I'll tell you, even though it's strategic, is a record of public knowledge.

Our stated strategy to go to market is to be wherever, whenever, and however a consumer wants to buy a mattress. We want to be there wherever they choose to shop, in whatever form they want to shop in, because we believe this to be one unified market of which we are a participant.

As a result of that, we had no issues, no problem at all, making investments in foaming technology, in compression equipment, and in any other element of our business required to compete in the MiB segment, as well as we compete in the non-MiB segment. So--and I've already made the point that we see a market opportunity there.

We have made those investments. The problem we have is that after we've made those investments we did not achieve the sales of the products through the channel because of the pricing. So it's not a question we believe the market to be one unified market. We have a stated objective of being the leader in whatever way consumers want to buy or shop for mattresses. The problem we, we can't compete because of the pricing from China.

MR. BAISBURD: Yohai Baisburd from CLK. I would also point out, if it wasn't based on price of Chinese imports, you would have the U.S. industry as a whole growing over this period and maintaining, or growing its market share. But you have the exact opposite. I mean you have folks on these panels who all they do is MiB, and their questionnaire responses are clear that they weren't going at full capacity, and they weren't running two or three shifts, and they weren't turning it around. And the industry as a whole lost market share.

So there was the ability by the U.S. industry to sell MiB to meet all of the demand. There was the ability to sell the flat pack, which is also very popular and very common in the marketplace. And what changed was, at a time of growing demand the U.S. lost market share.

CHAIRMAN JOHANSON: Why have retailers not turned to China as a major supply source for flat-packed mattresses, or at least not to the extent as mattress-in-boxes?

MR. BAISBURD: Yohai Baisburd from CLK. The panel might have some thoughts, too, but I'll point out what I pointed out earlier. It's on the record, and we'll make this clear in our posthearing brief. There is one particular importer who shows the importance of flat-pack to them at one point in time.

So they have, where they wanted to, supplied the U.S. market with flat-packed as well.

MR. ANDERSON: Richard Anderson. I know the retailers we do business with, which is over 3,000 retailers with close to 12- or 15,000 stores across the country, whether they sell to their brick and mortar stores or through their own websites, they definitely are participants in the mattress-in-box segment. And they want to be even bigger participants in the mattress-in-box segment. Sometimes they buy those mattresses domestically. Sometimes, recently they've been buying them as imports. So they're in the marketplace, the retailers who want to be in it.

MR. RHEA: Eric Rhea, Leggett & Platt. One of the things I want to point out is that not all Chinese imports come in in a box. They also come in in compressed form, palletized, et cetera. And I believe that information was presented.

So when you say a mattress in a box, that's not what the entire--all the imports, how they're coming in. And those products typically go to traditional retail, and they're uncompressed at retail when they arrive.

CHAIRMAN JOHANSON: Okay, thanks. Several firms reported expansions, planned openings or consolidations. Are these specific changes and operations in response to a shift in demand from FPMs to MiBs?

MR. ANDERSON: Richard Anderson, Tempur Sealy. I'll speak to one specific area of harm that has happened as a result of the pricing.

If you look into our factories, and the Commission's investigative team were able to go into one of our plants recently in Atlanta, and you see how mattresses are made, as we've said earlier, they're made one by one. When we make mattresses that are of, say, a lower priced nature, say under $700, we can make a lot of those quickly.

We tend to call them gravy runs, because you can make a lot of them. You can put a lot of units through the plant, and you can actually absorb your fixed costs by having through-put through. The employees have more hours to work, and the plant can afford to put on more shifts, when things are working the way they were designed to work.

As that zero to $700 segment, which was mostly impacted by the Chinese imports, shrunk and got smaller, we lot our ability to make those gravy runs. We lost our ability to run high volumes of products through our plant.

As a result of that, we lost our ability to absorb our overhead. The remaining products had to then--fewer and fewer units had to absorb the fixed overhead, and we saw increasing costs as a result of that, as a result of the fact that the lower-end units were gone.

So from our point of view, you know, we see definitely the demand of those lower-end products as having caused harm to our ability to operate in an efficient manner.

MR. SWIFT: This is Dave Swift from Serta-Simmons Bedding. A very similar story. We saw a direct impact both in product that would have been MiB but also flat mattresses. We saw it across both online and in-store retail.

We saw floor models coming off of retailers floors being replaced by product that was being imported from China at ridiculously low prices. And as I stated earlier, we had dramatically lower sales. And as a result, closed stores and had to lay off people. So it as very much an across-the-board impact and it was not limited to just the impact of MiB.

CHAIRMAN JOHANSON: I do have to say, looking at the staff report, it lists the number of plants for mattresses in the United States that is really quite large compared to most products where we see investigations, even Hawaii. I guess that's maybe for the hotel sector. But it is quite interesting. That's just a comment of mine.

MR. RHEA: I would add one thing. And that is--I made this comment earlier, that I am aware of dozens of small, privately owned companies that no longer exist because they have continued to lose business because of Chinese imports. It's real simple.

And we are more than happy to provide that list to you, but there are dozens of small, privately owned regional manufacturers that have been in business that are, in some cases, maybe multi-generation businesses, that are no longer in business.

I have a unique situation with those customers because of being a component supplier. I at one time probably supplied all of those customers at one time.

CHAIRMAN JOHANSON: Mr. Rhea, you offered to provide that. If you wouldn't mind doing that in the posthearing brief, that would be great. Thank you

Alright, my time has expired. Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Okay, thanks. I'm not sure if this has been asked, but is it cheaper for U.S. producers to ship in a box than flat-pack?

MR. SWIFT: So it depends on how you look at how the shipping takes place. So when we make a flat-pack mattress, we have factories--in the comment that was made by the other Commissioner on the number of factories we have, part of the reason why we have the number we do is to minimize the costs between shipping locations. It really is a distribution business as much as it is a manufacturing business. And that's how we operate it.

So we have, we believe, based on our footprint, a very, very economical, optimized distribution model for our customers. In the case of mattress-in-the-box, it is a smaller container. But it depends on how and where you're shipping the product, and how it's being delivered to the consumer's home, whether it's white-glove delivery. So there's a lot of aspects that come into the process.

Additionally, many mattress-in-the-box products today are sold in retail for a consumer to pick up. That's one of the attractive aspects of going to a Lowe's, or to a Sam's, is that you don't have to have it delivered. You can go and actually pick it up yourself.

And so that aspect of the market is a piece that's being very well served by MiB. So the distribution cost question gets difficult to answer, depending on how you look at the total.

MR. CHRISAFIDES: Chris Chrisafides from ECS. So we provide components, layers of foam, some of the technology layers that go to many of the folks in this room that are producing the finished mattresses, and they demand from us to compress those in any way that we can to fit more in a truck.

So you know, mattress in the box and some configurations you can certainly fit more in a truck than with some flat pack mattresses, but some flat pack mattresses, depending on the dimensions or, you know, how thick it is or what the components are, you know, it depends.

But we're constantly being challenged, you know, get me more, you know, inside a container and I guess domestically and internationally would be the same.

COMMISSIONER SCHMIDTLEIN: Uh-huh.

MR. BAISBURD: Yohai Baisburd for CLK. It's really hard to answer that question because there's so many different ways to deliver the mattress.

COMMISSIONER SCHMIDTLEIN: So not necessarily would be the answer?

MR. BAISBURD: Not necessarily.

COMMISSIONER SCHMIDTLEIN: Okay. So one thing I noticed in the data, and some of this is confidential and some of it isn't. When you look at Table III-9, III-8, which is breaking down U.S. shipments of MiBs by type of mattress, and then U.S. shipments of flat pack mattresses by types of mattress, you see the U.S. shipments of flat pack mattresses for foam is basically flat over the years of the POI, and that's not a confidential number. Actually it's roughly 3.5 million, fluctuates a tiny amount.

But so that doesn't really grow, right? The U.S. shipments of flat-packed mattresses of foam doesn't really grow over the POI, and then when you look at U.S. shipments of MiBs of foam, which is confidential, it does grow, right? And when you look at U.S. import shipments broken down by type of mattress and then whether it's being shipped in a box or shipped to -- or shipped by flat pack. Of course, like the subject imports coming back flat pack all decrease over the POI, right?

Then you see the big growth coming in foam, as well as some others, right? Hybrid, I mean even inner spring for a mattress in a box coming from China goes up somewhat. So I guess like one question I had was this would seem to suggest to me that there is some consumer preference for mattress in a box, right? So if you see foam mattresses in a box going up, but when you see them being shipped as a flat mattress, foam is basically stable.

It looks like consumer preferences are shifting, just based on the packaging. Would you all agree with that?

MR. BAISBURD: Yohai Baisburd for CLK. There's not one type of foam mattress. We've talked a little bit about price points, and I think Tempur Sealy can talk to this in particular, the difference of a Tempurpedic foam mattress and the price points that they're being sold at, versus the other types of foam mattresses. There's just a wide variety of price points of going back to what we're saying, that consumers want different things at different price points. So I'll let Richard --

COMMISSIONER SCHMIDTLEIN: Well, can you answer that question first though before, like do you think that there is a shift in consumer preference based on the packaging?

MR. ANDERSON: Richard Anderson, I don't believe the preference is there. I think to Yohai's point, at higher price points, 2,000, 3,000, 4,000 dollars, that market has been relatively stable and has been less impacted by the imports because it's simply a different, it's a different segment of the marketplace.

Where I see the pressure is in our lower-priced products that are on the Sealy brand, and what we conclude as we've repeatedly said is that in those cases where a product is available at a lower price regardless of the form it shows up at your house in, it is a direct substitute for products that we were selling at those same price points or similar price points, that may be a different form factor.

So I don't see the connection between the type of packaging and where the growth in the category has come from. I believe the growth in the category is based on the price alone.

COMMISSIONER SCHMIDTLEIN: So the flat-packed foam mattresses that we see as being stable, what you're saying is those are all higher-priced mattresses?

MR. ANDERSON: I don't have the data in front of me, but I think a percentage of them are of higher products that are in the marketplace that simply are not as impacted by the lower priced products.

COMMISSIONER SCHMIDTLEIN: So if I understand you all, then the lower-priced products coming in, they aren't only impacting those that are competing directly with them, that quality?

MR. SWIFT: I would say, and this shows up very clearly in our data, that we are not selling as many of the lower price points products as we used to, because what has happened over the POI is that the product coming in from China has specifically taken away that share of business from our business. And so the net effect makes it look like our prices are higher. It's not. We're just not selling as many of the low priced products and it doesn't matter if it were in a box or how it would come there. It's the fact that those prices are so predatory it's taking away that business from us.

MR. BAISBURD: And Yohai Baisburd for CLK. When Mr. Merwin referred to this, is that he has brick and mortar retail stores. People see a flat floor model, the traditional kind of model of buying a mattress, and they have no idea that his company roll-packs it for delivery to the customer. So it's very dangerous I think on this record to draw inferences about consumer preferences, because you don't get purchaser questionnaires from consumers. You get purchaser questionnaires from the retailers and distributors, and what the record is clear is they want many different options, to be able to sell a mattress to a consumer. That's the -- the one constant is that the final sale is for a product that people are going to sleep on.

COMMISSIONER SCHMIDTLEIN: Right, okay. But I'm looking at this number. You just said I shouldn't draw an inference about consumer preferences on this. So what I should I draw from the fact that flat-packed foam mattresses are flat over the POI? I mean where is -- if I'm not to draw an inference, you're saying well, a percentage of that could be higher priced mattresses, is there evidence in the record of higher priced mattresses?

MR. BAISBURD: Yes. So I was going to -- Yohai Baisburd again. I was going to mention this. On Table III-9, the public version, the foam flat pack AUV in 2016 is $100 more than the inner spring flat pack mattress. So you can see that it is kind of a higher value product relative to the other type of flat pack that is reported there. And so the pricing data that the Commission collected shows that for a certain set of physical characteristics, what happened to sales in the U.S. market?

What happened was that the sales went from the U.S. to the Chinese. There were huge market shift, market share shifts as a result of pricing.

MR. ANDERSON: And Richard Anderson. I just want to repeat something I said earlier. Again, if you look at products on a website or in the case that was just cited in a retail store, you're looking at the product itself. You're not looking at how it's packaged. So as presented to the consumer, the fact it's in a box is somewhat irrelevant.

In addition just to clarify a point I just made, even though direct purchases of products didn't impact the high end thing, the high end ranges, what did indirectly impact them is the fact that we started losing our positioning on the web pages, we started losing some of the positioning in the stores as a result of other products replacing them. So that's had an indirect impact on the units we sell at higher price points.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. FALLEN: Stuart Fallen, Corsicana Bedding. Just one quick follow-up. In terms of what to infer from the trend a little bit, I think that the preference for consumers when you get down to the lower price points, these mattresses become a bit of a utility purchase. So to me when I look at trends, I just think it's a preference towards the lowest price that's reflected.

COMMISSIONER SCHMIDTLEIN: Okay, all right. Thank you. My time has expired.

CHAIRMAN JOHANSON: Commissioner Stayin.

COMMISSIONER STAYIN: Thank you, sorry. In terms of competition, brick and mortar or MiBs or flats, what we're talking about here this is not a question of a box. It's a question of a mattress, and so the question is is there -- is it because the MiB is -- has such great success because of the price? Has it drawn down from, had an impact on not only your lower end, but on your higher end sales of your products? Has there been -- has this MiB thing attenuated the competition between the U.S. producers and the Chinese?

MR. CHRISAFIDES: This is Chris Chrisafides from ECS. So we make flat pack mattresses and hybrid mattresses, but we're a big producer, a private label producer of mattress in the box. What's actually happened over the last 18 months to 24 months is more technology and more capability and higher price points with mattresses in a box.

So I think there's more opportunity and growth and, you know, again a mattress is a mattress. But I do think whether it's convenience or it's shipping efficiency, things being in a box, we're seeing definitely more technology at higher price points of these mattresses in a box. So I don't think it matters.

COMMISSIONER STAYIN: So what matters really is price then, quality of the product is competitive?

MR. CHRISAFIDES: This growth that, you know, is being alluded to in mattress in a box versus other types of products that are out there, you know you heard from several panel people here that segment of the market, you know, we participate in that significantly. But we've had open capacity because we have not been able to compete with the price points of those products coming in from China that happen to be in a box. It's just about price.

MR. RHEA: Commissioner, Eric Rhea, Leggett and Platt. I'd like to reinforce that. A lot of the business we lost that I pointed out at a major retailer, those products that we competed against from China did not come to the U.S. in a box. MR. ANDERSON: Richard Anderson. You just made a comment Commissioner on quality as a differentiator. All the products we're seeing in the marketplace today, whether they're from China or from the U.S. are of good to high quality. So there's really not a quality differentiator here. But to your point, to your question about low pricing and the impact it has on all price points, I think there's two forms.

There's the direct impact of a product that is purchased at a low price relative to something that may be higher than but not astronomically higher than, and that would be a direct impact. And then there's, as I mentioned before, the indirect impact that occurs as low-priced products become more predominant on either a website or in a retail store. It tends to take the higher priced products and subjugates them to a different position either on the web page or in the store, meaning a less prominent position.

MR. SWIFT: This is Dave Swift from Serta Simmons Bedding. I would just add to the indirect effect. By not having that volume that we've had historically in most lower price points because of the dumped product, it makes it significantly more difficult for us to be able to justify investments in our business, to be able to support the customers we have. So some of the plant closures, the reductions in R&D, reductions in our staff, disable us in our ability to go forward.

So it's a very material impact, even though they're lower-priced product that we've lost from our portfolio. It's still the bread and butter of what keeps our business going from a volume point of view. To have roughly a third of the industry come out in the last couple of years to Chinese imports is an incredible change.

I mean it's a sea change in terms of the volume that we've had to deal with, and not having that volume makes it difficult for us to economically run the rest of our business.

MR. BAISBURD: Yohal Baisburd, from CLK, just on the pricing issue, we've, in our brief, suggested that you should look at the pricing products independent of packaging, just collapse them. And we show that there's underselling if you do it that way because we truly believe that mattresses compete with each other. But if you do what the Respondents asked, you did, you collected data independent you know for MiB and non-MiB and look at the pricing record there.

So, no matter how you look at the pricing record, there's pervasive underselling by the Chinese and the impact that it has on the producers is not just lost market share and market share shifts, but the financial impact that is very clear on this record for the industry, as a whole, and what that impact of losing that volume and those sales has had on their profitability, on their employment levels in universal for the industry, as a whole.

MR. MERWIN: And also, of the panel I'm probably the smallest producer on the panel and so I feel like I kind of need to be the voice for some of the other smaller manufacturers. I mean the direct impact that they've had is that they have gone out of business.

Now, this isn't about retail, but because I have retail stores, the direct impact of these imports is that those businesses they are going out of business because you know they cannot compete at that price. They are losing sales. Everyone is losing sales. And so, there's definitely impact in the past and currently, but the impact in the future is -- obviously, we can't speculate, but -- you know it's hard to put into words what that impact -- what I think that impact will be.

COMMISSIONER STAYIN: thank you. Have you costs gone up significantly in recent years from the POI compared -- and then looking at the cost, have they gone up to an extent that has also caused a pressure squeeze on your ability to sell your product competitively?

MR. SWIFT: As I said in my testimony, we have a lot of variable costs in the business so we are able to, as the volumes have gone down because of the dumped product coming into the market. We've been able to cut staff, shut several plants. Those are things that are not inexpensive to do and they certainly are extremely difficult to do when you have to look the employees in the place and tell them they're losing their jobs because of dumped product. But the reality is, we've been able to do some things, but the longer this goes, and if we don't have the support of you all going forward, it's going to be very difficult for us to make these businesses be viable. Not only the small companies, but also the larger ones because it takes away so much volume from what we have to do.

So, it has caused the net effect of our cost to increase because we become less efficient. And any time you decrease the efficiency of a manufacturing operation it's going to cause increase costs.

MR. CHRISAFIDES: So, during the POI, we saw escalating raw material costs. Raw materials are a big, big portion of the cost-to-goods sold for foam and the biggest component to costs there. And so, we look at what the cost of these raw materials are and we look at the global supply demand balance and we know what the costs of these components that I referenced in my testimony cost in the U.S. and in Europe and in China. And in fact, the costs for some of the main components like TDI, one of the isocyanates, that's the isocyanates that's used, the price was higher in China during the POI; yet, we were experiencing these tremendously escalating costs of raw materials and we were trying to pass some of those on.

I think Ms. Karpel asked earlier why we were seeing some changes in pricing. We tried to pass those on. We couldn't pass those on because at the same time we were seeing decreasing prices of the Chinese imports coming in, these mattresses-in-a-box. So, it was a double whammy for us, if you will -- significant impact to us.

COMMISSION STAYIN: Alright, thank you. The rest of my questions have been answered. Thank you.

CHAIRMAN JOHANSON: Commissioner Karpel.

COMMISSIONER KARPEL: Jump around a little bit here, I'm looking at the staff report and the data on U.S. importers/U.S. shipments of subject U.S. imports. It's Table IV of V. And do you have a sense of why subject imports of innerspring mattresses increased in interim 2019, but declined for foam mattresses? I'm trying to get a sense if the preliminary duties had a different impact on these two types of mattresses.

MR. RHEA: Understand that if it's a hybrid mattress and/or an innerspring mattress, it contains an innerspring. So, really that's just a growth in innerspring mattresses and it's just consumer preference. The bulk of the mattresses sold in the United States still contain an innerspring. Did that answer your question, ma'am.

MR. BAISBURD: The Commission has the data separate for innerspring and hybrid and I think Commissioner Karpel's question was specific for the innerspring number relative to the foam number. So, I think the short answer is what shipped in interim 2019 was product that either arrived from China or was an inventory already in China and the duties themselves did not -- because you have imports across the entire spectrum of mattresses for all four or all three of these categories, I don't believe -- there wasn't a shift in demand or something like that in the interim period and the duties would've affected the imports of mattresses the same way.

COMMISSIONER KARPEL: Right. But we're seeing a different trend there, so I'm trying to get a sense of those -- you're just saying that's consumer preference or there's nothing to explain it or you want to think about it more.

MR. BAISBURD: There is -- and we'll address this more in our post-hearing brief because we can actually talk about all the data that way, but the one thing is you know what we continue to say, which is true and the record doesn't dispute this, which is retailers sell mattresses and they sell them in all different shapes, sizes, and configurations and so at any one given point of time there might be a preference for one or the other, but both of these industries supply all of that to everyone. And so this is probably the most disaggregated record that I've seen and that's fine. That's the way the Commission wanted to see the data and you got that data that way and we talk about it looking at it at the aggregate level because we do think that that's how competition occurs in this marketplace.

But even if you look at it at this aggregated level, there's market share gains from the imports. There's underselling from the imports, so it's -- that's my response right now in public and we'll deal with it in more detail in the post-hearing.

COMMISSIONER KARPEL: Thank you. I think this is probably something for your post-hearing brief because I can't imagine how you would talk about it in any detail in a public setting, but perhaps could you discuss the underselling data in Table V-III for Pricing Product 1 as well as the purchase price comparisons in Table V-XIII for Pricing Product 1 and why that might be different than for other pricing products?

MR. BAISBURD: We're happy to deal with that in the post-conference -- in the post-hearing brief.

COMMISSIONER KARPEL: Okay. I want to talk a little bit about something you said on pages 37 to 38 of your brief. In there you contend that although the volume of subject imports was lower in interim 2019 than in 2018 the overhanging inventories of subject imports put pressure on the domestic industry's prices and other performance indicators. Could you elaborate on that point a little bit?

MS. ALVES: We can provide some color around this in our post-hearing brief, but what the industry witnesses have testified to is that even though after the case was filed there continued to be a large number of imports coming in, including at the very end of 2018. There were some additional imports that continued to come in, in the first quarter of 2019, before Commerce's preliminary determination. Not all of those imports were immediately shipped, so you also see in your data that there was an increase in the end-of-period inventories.

Those shipments and the inventory had a pressure on domestic prices. And so even though there may have been additional requests for quotes from some of the domestic producers after the case was filed, because there was still available Chinese low-priced imports in the market at substantial volumes they were having a dampening effect on prices. And in some cases they just simply weren't able to buy those U.S. products because U.S. producers could not bring their prices and their costs down that low.

MR. BAISBURD: Just one thing I would add is that because of the government shutdown, the preliminary determination by Commerce got pushed out two months, so this is not the typical interim period that the Commission sees where towards the end of the interim period you have a quarter or approximately a quarter where the imports have been subject to the preliminary duties because the preliminary duties went into effect at the very end of May and the interim period ends in June.

COMMISSIONER KARPEL: I think this is another question for your post-hearing brief, but I'll raise it here. Can you address the trends in the domestic industries' performance indicators in interim 2019 in light of the lower subject import volumes in interim 2019? I think this is probably related to some of the points you were just raising, but I had them as sort of separate questions in my head --

MR. BAISBURD: We're happy to address that in the post-hearing.

COMMISSIONER KARPEL: Last one I have here is, again, I think it's because of the data, something for the post-hearing brief, but can you discuss the role of nonsubject imports in the market and how we can assure that we are not attributing injury by them to subject imports? And I ask that particularly in light of the data for interim 2019.

MS. ALVES: Commissioner Karpel, we can certainly answer that post-hearing, but I will also point out that through most of the POI, nonsubject imports were barely in the market. They were at extremely low quantities, but we certainly take a closer look at that for the post-hearing as well.

CHAIRMAN JOHANSON: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Thank you. I have a couple of additional questions, but Mr. Baisburd, I wanted to go back to that last answer, when I was asking, what accounts for the difference between the foam shipments in the flat-pack for the U.S., versus the MiB, and the increase, and you looked at the AUVs for them, and you looked at the AUV for innerspring versus foam, I think is what you pointed me to.

But when I look at -- because I thought the argument was, well the foam flat-packed is a higher price-point mattress, and therefore -- but wouldn't we need to look at what -- you know, my question is, is the difference in packaging making a difference? And so when you compare the AUV to AUV for flat-pack foam is public, for MiB, it's not, so we can't, I guess you can answer it in the post-hearing, but you can see there why I'm asking this question, right? Like your point about the innerspring doesn't really apply to that.

MR. BAISBURD: So we will definitely answer it in the post-hearing, but I wanna go back to something I said earlier. There is no single defining characteristic of a mattress that determines its price. You can have any type of mattress of any thickness, any type of core, any type of size that runs the full gamut from the lowest price point to the very highest price point. So you can have a $3,000 price-point mattress that's in a box, and you can have a $100 price-point mattress that's in a box.

And those mattresses can have the same -- they can all be Queen, they can all be a hybrid, they can be a foam and Queen, there is no one physical characteristic that determines price. And so looking at it that way, I think could be reading too much into the data. Because, just change the characteristic, right? I mean you can buy a mattress of any configuration one way or the other.

COMMISSIONER SCHMIDTLEIN: Okay. Do you think--I'm not sure if this has been asked and answered, but--is there some portion of the increase in demand over the POI that was being driven by the lower prices?

MR. BAISBURD: Demand increases over time consistent with GDP for mattresses as a whole. If it was price-driven, you don't have a new population that takes it out of the typical purchasing patterns for mattresses in the U.S., and if it was price-driven by the Chinese, they're taking the market share away from the U.S. at those lower price points.

COMMISSIONER SCHMIDTLEIN: Well, but wouldn't the argument be that the lower price was prompting people to replace their mattresses earlier than they would have? So there's a portion of demand that would not have existed had not those mattresses been so low-priced, and therefore, it's not really a piece of the market that the U.S. industry's missing out on because you couldn't sell those mattresses at that low price, you know what I'm saying? I mean this is not a new argument, right, we're familiar with this argument. So how do we know that part of the demand is not being driven by the fact that these things were so low-priced?

MR. BAISBURD: Right. First, they're dumped imports. That's what the Department of Commerce determined, and so they're unfairly traded, which goes into the factor of why they're at the pricing that they are.

And second, the U.S. industry as a whole and all of these producers sell mattresses at every price-point. So the Chinese did not invent a new price-point to introduce mattresses to retailers at. They undercut the U.S. industry that was selling the equivalent of the 199 at retail industry. And folks on the panel can address this specifically from their company perspective.

MR. SWIFT: I think part of the argument as to why it wasn't creating "a new category" is, if you think, not just online, but in retail, we lost slots or model beds in retail that would've historically been our product that was now replaced with new product. And it was at a dumped price. But it was very specifically taking away a slot from something that we would've had in a given retailer. And similarly, online, where we would've had product positioned and available for sale, the dumped product was taking those locations.

And so as we've said before, this is a business that ultimately is driven by visibility of product. And if you don't have the type of pricing that was being offered by the Chinese, you just wouldn't get that visibility, and as a result, we didn't get the sales. So we very much felt that, not just in the revenue, but we felt it in what we saw happening both with online placements and in-store placements.

MR. RHEA: Commissioner, I've been in this business for over thirty years, and in overall, the demand for mattresses in the United States grows consistent with GDP.

COMMISSIONER SCHMIDTLEIN: Well, can you give me an idea of what you all think -- because I know the information is confidential specifically about what the change in the apparent consumption was. But, like, percentage-basis, what do you expect year over year to be your average rate of increase in demand?

MR. RHEA: GDP. 2-1/2%.

COMMISSIONER SCHMIDTLEIN: 2-1/2%. You expect an increase of 2-1/2% every year in mattress demand. That's what you plan for?

MR. SWIFT: And if you were to look back over the last twenty years, even during points of recession, it's been very predictable. It's one of the most predictable categories I've ever seen in terms of industry growth tracking with economic indicators like GDP. It's been very predictable.

COMMISSIONER SCHMIDTLEIN: Okay. So we see a much bigger increase than that over the POI. So what accounts for that?

MR. BAISBURD: First, the Commission and staff do the best job possible to gather information from as many market participants as possible, but you don't have perfect coverage or complete coverage.

COMMISSIONER SCHMIDTLEIN: We've got pretty good coverage here.

MR. BAISBURD: You have good coverage, but I'm just saying, there's some impact that has on what the percentage is. But the experience of this industry has been twice since 2007 has there been a decline in U.S. shipments. One, the Great Recession that impacted everyone. And second was starting in 2017 as the volume of Chinese imports just exploded. And so at --

COMMISSIONER SCHMIDTLEIN: So that's my question though. If you all usually see, and it's very predictable, an average increase of 2-1/2% of demand, what accounts for the much larger increase in consumption that we saw over the POI?

MR. SWIFT: I should probably have made this more explicit, too, Commissioner. If we look at trends in this industry over time, and if you were to look at an average over, say, ten years, it would be very much tracking the GDP. In that timeframe, though, you'll see that there are swings in volume, so it's not, you know, exactly as simple as saying it's GDP or other economic factors.

But I think if you were to look back over the last ten years, you would see that's the case, and I think going forward, it will continue to be the case. I don't think there is net new demand that's been created because of these low-pricing, dumped product from China, which I think is what you're suggesting. I don't think that has changed anything that's gonna be fundamentally different. We don't anticipate that people are gonna buy a lot more mattresses if you sell them at smaller prices. I mean physically where would they put them?

COMMISSIONER SCHMIDTLEIN: Well, they're buying new ones, right? They're replacing the mattresses they have.

MR. SWIFT: Even when we've done consumer research to look at what are the drivers of replacement. In many cases, most of the time, it's based on a move, it's based on a new addition to a family, whatever it happens to be, and it's not a purchase historically that is going to be driven by, suddenly there's a lower price and therefore I'm gonna go buy a mattress. That's not been the consumer data that we've seen.

MR. BAISBURD: And we can do this more in the post-hearing, because it's confidential, like you said, the increase in demand. But my recollection is that the increase in demand does not account for the shift in market share as between the Chinese and the U.S. So it's not that the Chinese have grown the pie and the U.S. is growing with it, it's that the Chinese have taken an increasing share of the U.S. market much more so than the increase in demand.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. BAISBURD: So we'll go into detail, because it's confidential.

COMMISSIONER SCHMIDTLEIN: Okay, all right. I will look forward to that.

One last question which has to do -- and I'm not sure again, I apologize if this has been asked, I don't think it has, but -- the increased volume of nonsubject imports in the interim 2019 where you see staff report notes that there were seven firms importing mattresses from nonsubject sources of full year 2018, but in interim 2019, that jumped up to twenty-three? Do you have any insight as to why that is? I can probably guess what your answer is, but --

MS. ALVES: Commissioner Schmidtlein, we will certainly address nonsubject imports in our post-hearing brief. I would note that the record does reflect that during most of the period of investigation, nonsubject imports played a very small role in the U.S. market.

COMMISSIONER SCHMIDTLEIN: Right.

MR. ALVES: And we are aware of the trend that you're referring to and we can address it more specifically with some confidential information in the post-hearing.

COMMISSIONER SCHMIDTLEIN: Okay. And so I assume, and I don't know if you can answer this now, but you don't -- it's not your position that that reflects some sort of constraint on U.S. capacity or availability of U.S. product?

MR. BAISBURD: We can flush this out with numbers, but there's absolutely no limitation on capacity of U.S. mattress production in the United States. In fact, one of the reasons there's injury is over the period, there's a significant drop in capacity utilization, so there's plenty of capacity. The nonsubject imports are not coming in because the U.S. can't satisfy demand in the market.

COMMISSIONER SCHMIDTLEIN: Okay, all right, thank you. I have no further questions.

CHAIRMAN JOHANSON: Commission Stayin. Commissioner Karpel, any further questions?

COMMISSIONER KARPEL: Sorry. Commissioner Schmidtlein prompted another question for me. I was intrigued by the discussion there of has demand shifted in any way. I was sort of surprised by your answer because of all the innovation in marketing and different ways you can buy mattresses, has that not prompted more consumers to -- maybe it's made it easier, more transparent for them to buy a mattress, so that's impacted demand and their time that they're willing to keep their mattress and willing to look for replacement, has that not had any impact?

MR. SWIFT: We certainly have seen that the consumer preference for a better experience has been some of the things that the industry has tried to deal with, whether it's manufacturers, whether it's retailers, whether it's anybody that's involved in that experience for the consumer, so there's been a lot of things we could do to enhance the experience.

We think that's a lot of the money that we've invested as a company to make ourselves better and focus on innovation, but those are, I think table stakes for what you have to do as a competitor. I think one of the things that has been difficult for us in the last few years is because of the major impact of these imports, it has curtailed the type of investments we would normally like to make, to be able to invest in our business, whether it's an innovation, whether it's in marketing.

And so that's the way we just have to do business. I think any industry I've been in, you have to be willing to invest. It doesn't necessarily relate to changing the fundamental demand. What it hopefully does is it allows you to be more competitive and to win the business based on the merits of your products. And that's what we try to focus on.

MR. BAISBURD: We'll go into more detail in the post-hearing, because the purchasers are asked about their view of demand, and I think that there's some useful responses there that would address this. But I would just make two points now, which is:

One, okay, demand is growing. Demand has been growing. It's the U.S. industry is not growing. The U.S. industry is in the opposite direction because of losing market share to the low-priced imports.

The second thing is, it could very well be the phenomena is that the lower-priced imports have people replacing mattresses today because it's, you know, cheaper than they otherwise would've and that would have a long-term impact on when they're gonna replace that mattress, that they're pulling forward sales that otherwise would've been done in future years.

And this notion about somehow accelerating the mattress-replacement cycle as a way to grow demand and that's what's pulling in the Chinese imports, just doesn't make sense from a timing perspective, because they're saying--if I recall correctly, and they can correct me--is, you know, it went from nine years to seven years, or ten years to eight years, something like that. Well, if that's the case, that new demand is gonna be outside of the POI a few years in the future that the people who would replace, you know, on a quicker timeline would've done it farther out, but not during the POI. What grew during the POI are the imports that went from basically nothing before 2015 and are now at a significant percentage of the U.S. market.

MR. ANDERSON: Let me expand on that a little bit further. I think if you think about the products that have been brought in in the near term at a higher accelerated rate as we've just talked about, you really do have to look at this over the long haul. The same number of bedrooms exist in America, roughly the same number of people, give or take, exist in America. The rate of growth over the long term has been close to GDP.

So in the long run, looking forward, if all we've done is pull demand forward, there would be some even more devastating impacts down the road, because those other factors are kind of indisputable. People need only one bed for each bedroom, so that doesn't change much. I do think there's a concept here of consideration pulling forward inventory. It looks like it's an acceleration of the replacement cycle. It really isn't an acceleration of the replacement cycle over the long term.

MS. ALVES: Commissioner Karpel, Mary Jane Alves from Cassidy Levy Kent. I just want to add one small point to that. That's part of the reason why we have brought a request to the Commission for affirmative critical circumstances. Because there was this additional increase from an already very high baseline in the U.S. market of subject imports. Those imports are continuing to have impacts on the domestic industry because they were here in large volumes, because they were at low prices, and they're also gonna impact going forward as well.

So, in other words, unless there are retroactive duties applied to those imports, they are going to undermine the remedial effect of the order, because they were able to shove so many imports into the U.S. market in such a short period of time, taking full advantage of the fact that there was a government shutdown. So they've looked at the history of affirmative determinations at the Commission, they know what the odds are, and they said, "We're gonna go ahead and push those imports through. We don't have to worry about any penalties, because they're not likely to come."

COMMISSIONER KARPEL: I think that's all for me.

CHAIRMAN JOHANSON: All right. Do any other Commissioners have questions? No Commissioners do. Do staff have any questions for this panel?

MR. THOMSEN: Craig Thomson, Office of Investigations. Staff have no questions for this panel.

CHAIRMAN JOHANSON: Do respondents have any questions for this panel?

MR. EMERSON: No questions, Chairman Johanson.

CHAIRMAN JOHANSON: All right. Then, thank you all for appearing here this morning. Let's now break for lunch and come back at 1:30 and I would like to advise everyone to take any business confidential information with you as the room is not secure. Thank you again for being here today.

(Whereupon, at 12:30 p.m., a lunch recess was taken to reconvene at 1:30 p.m.)

A F T E R N O O N S E S S I O N

CHAIRMAN JOHANSON: Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Mr. Chairman, I would note that the panel in opposition to the imposition of the antidumping duty order have been seated. This panel has sixty minutes for their direct testimony.

CHAIRMAN JOHANSON: You all may proceed whenever you'd like.

STATEMENT OF ERIC C. EMERSON

MR. EMERSON: Thank you, Chairman Johanson. This is Eric Emerson from Steptoe & Johnson. I'll start off our testimony today to recap some of the conditions of competition that we believe are critical in this industry and for your consideration. The first and most important condition of competition that the Commission must consider is the distinction between MiBs and flat-pack mattresses, FPMs, which I talked about a bit in my opening statement, and the fundamental shift in the market toward MiBs during the POI.

In our pre-hearing brief, petitioners have tried to characterize MiBs as merely a difference in packaging style, or as I said in my opening remarks, the difference between paper or plastic at the grocery store. And it betrays a fundamental misunderstanding or misconception of the impact that MiBs have had.

They say that once an MiB is unwrapped, all mattresses are identical and that they're just a place to sleep. This is a gross oversimplification and betrays their lack of recognition of just how fundamentally the MiB concept has changed the U.S. mattress market. The ability to deliver a comfortable high-quality full-size mattress in a box that can be shipped by common carrier has quite simply revolutionized the U.S. mattress market.

And to demonstrate, we have one of our clients' products before you in the box in front of you. This is a full King-size mattress. It can be easily carried up any staircase in your old Victorian home. It can be put in the back of your van and carrier to your house. Unlike the petitioners, I can't take that out of the box because if I do take it out of the box, I'll never be able to get it back to my office when the hearing is done. I can open the top, but I can't unfurl this mattress. And that just shows, just as an example, of how fundamentally different these segments of the markets are.

One of the main effects of the development of MiBs is the creation of new demand. It's a point that the petitioners fought and fought this morning. Overall apparent consumption of mattresses increased substantially during the full years of the POI and even over the interim periods. And this is a point that Commissioner Schmidtlein was speaking to.

This growth has occurred, not only because Americans are sleeping more, or just as a result of increases to GDP. Instead MiBs have driven this increase in consumption. Why? Because MiBs have made mattress-shopping easier an significantly less unpleasant and, indeed, as one of the witnesses suggested this morning, possibly even cool.

Even before the POI, Chinese producers recognized this market opportunity and invested heavily in becoming efficient and reliable suppliers of MiBs. As a result, the overwhelming majority of Chinese imports are concentrated in the MiB segment. Petitioners argue that they are equally reliable MiB suppliers, but the confidential record and the witness testimony that you'll hear in a moment, demonstrate that this is just not the case.

Throughout the POI, the domestic industry's production was overwhelmingly focused on FPMs. The few U.S. companies that have gotten in on the MiB bandwagon have enjoyed this upside, but the majority of the industry has fought to maintain its traditional way of doing business. The U.S. industry may have invented MiB technology, but it was failed to fully embrace it, as have the Chinese mattress suppliers and the domestic industry has suffered as a result.

Furthermore, at the wholesale level, FPMs and MiBs largely do not compete. Rather, FPMs and MiBs are sold to very different and largely non-overlapping market segments. For example, purchasers involved in online retail buy MiBs because they can be shipped more efficiently. Like the box you see before you, stored in a smaller inventory space and delivered by common carrier.

Their business was developed with this mattress style in mind and they would not buy FPMs regardless of price, and the tables at E-1 and E-2 confirm that for both imported and domestic products, the volume of FPMs sold to consumers over the internet is trivial.

There is more overlap between FPMs and MiBs when it comes to sales at brick-and-mortar stores, but even there--and this is a critical point--even in the context of brick-and-mortar, individual companies have developed their own business models that focus on one style of mattress or the other, as Mr. Adams from Ashley will explain here in just a moment.

This split in the market is also reflected in the purchase data contained in the purchasers' questionnaire responses. This questionnaire asked purchasers to report their mattress purchases by origin; that is, by U.S., Chinese or third-country, and the results are striking. Of the top twenty purchasers submitting responses, fifteen of them purchased more than 85% of their purchases either from China or from the United States, and indeed, thirteen of those twenty purchased over 95% of their purchases from either the United States or from China.

Why do we see such segregation for a product the petitioners have described as highly substitutable? And again this goes to Commissioner Schmidtlein's questions from this morning about a similar segregation in the domestic product area. Because U.S. producers and Chinese producers are selling fundamentally different products.

As we explained in our pre-hearing brief, and as Mr. Dougan will review in a moment, the vast majority of U.S. shipments are of FPMs and an even higher percentage of subject imports are MiBs. What this means is that most purchasers are likely buying either FPMs or MiBs, but relatively few are buying both. This means that demand for FPMs and MiBs is highly segmented, which in turn means the competition between the two is extremely limited.

While the Commission must examine the domestic industry as a whole, the Commission is on solid legal ground in examining the market and the industry on a segmented basis. As the agencies reviewing court held in BIC Corporation, the Commission can use market segmentation to analyze causation and can use segmentation to give less weight to factors such as underselling if it occurs in areas where the domestic industry is not operating. In this case, the focus of the domestic industry on the FPM segment and the concentration of subject imports in the MiB segment and the lack of competition between the two is a condition of competition that strongly supports a negative determination.

The second critical condition of competition is the lack of price sensitivity. Petitioners would have the Commission believe that mattresses are highly price-sensitive and that purchasers simply buy the lowest priced mattresses available. And in this regard, their testimony is, in some way, contradictory internally because on the one hand, they speak a lot about price sensitivity and yet talk about price points, where the witness from Brooklyn talked about prices that go from $150 to $3,000 for an individual mattress.

If, indeed, mattresses are so price-sensitive, people are buying the lowest-priced mattresses, how could he sell one unit of a $3,000 mattress? The answer is, of course, they're not. They're not price-sensitive product. And the record reflects this as well. The record shows that while price is a factor in purchasing decisions, it is not the only one or even the most important one.

Quality was reported to be the most important purchasing factor by twenty-four purchasers. Price was selected as the most important factor by only eleven. The record also shows that availability, reliability of supply, quality, product consistency and delivery time were all rated as very important purchasing factors more often than price. And again, as I said before, this is equally consistent with our own purchasing decisions. Very few of us would ever walk into a store and choose simply the cheapest mattress available. Thank you.

STATEMENT OF BRIAN ADAMS

MR. ADAMS: Good afternoon. My name is Brian Adams. I'm the Vice President of Procurement, International Sourcing Operations and Regulatory Affairs at Ashley Furniture. Since our founding in 1945, Ashley has grown to become the largest furniture manufacturer in not only the United States, but the world. We operate in more than 130 countries. We directly employ over 15,000 people here in the United States, and create an additional 16,000 jobs to our suppliers, vendors and other related businesses. We produce compressed and rolled mattresses, MiBs, in our plant in Saltillo, Mississippi, which is nearly two million square feet.

As you know from our filing, Ashley covers every part of this industry. We are a domestic producer, an importer and a purchaser of domestically-produced mattresses. We are the seventh largest and fastest growing wholesaler of mattresses in the country. We have also have, either directly or through our licensed Ashley Home stores, retail operations throughout the country.

I'm here today to tell you that the information you've heard about MiBs from the petitioners in their pre-hearing brief and at today's hearing, is simply inaccurate. They claim that the domestic industry invented rolled, compressed mattresses and have been supplying the U.S. MiB market since at least 2004. They claim that they have the resources and capacity to fully supply the U.S. market with MiBs. And they claim that MiBs compete with uncompressed mattresses, what is referred to in this proceeding as flat-pack mattresses or FPM.

I can tell you with 100% confidence that these claims are not accurate. The shift to online sales in mattresses has revolutionized the industry. Over the last three years, a massive shift in the market has occurred in both consumer expectations and retailer behavior. Direct-to-consumer shipments via the postal service, FedEx and UPS, as well as retailer return guarantees, erases the fear barrier for consumers, who began to purchase mattresses online without ever lying on them.

Free shipping, easy delivery and free returns made purchasing a mattress online virtually risk-free. Our company is living proof of this switch. Prior to 2017, over

90% of our sales were of uncompressed mattresses. Today, over 95% of our mattress sales are MiB, and for us, there's no going back. Once we started in earnest, we knew within six months, that we would shift almost exclusively to MiBs, both in our purchases and in our production.

For Ashley to switch to MiBs was a no-brainer. Not only are MiBs more cost-effective to ship to consumers, but consumer preference has shifted to MiBs because they present tangible benefits to the consumer as well. For example, nearly 10% of Ashley's returns are because consumers couldn't get the merchandise into their home, typically either through their doors or up the staircase.

By shifting to MiBs, we were able to cut costs and increase consumer satisfaction. The size of the box also means that a consumer can purchase an MiB in a store and take it home with them in the trunk of their car, rather than waiting days or weeks for delivery.

But the shift to MiBs is especially important because of the efficiencies created by the space saved due to compact packaging. At each point in our distribution, we're able to maximize the volume of merchandise per container, creating an efficiency multiplier for our shipments. I've prepared a slide to help demonstrate the efficiencies MiBs create.

As you look at this slide, I want you to be mindful of the fact that Ashley's a leader in logistics with one of the largest private-trucking fleets without own drivers in the country. So as you look at these amazing efficiencies, remember that this is just within our own fleet, where we can show the comparison between MiBs and uncompressed mattresses.

If we were talking about the postal service or FedEx or UPS, remember, they will not even deliver an uncompressed mattress to the consumer. So these three channels, mainstays of delivery in the United States, will not even touch an uncompressed mattress.

Okay, so here's my chart. First, we look at our main distribution center or MDC, which is where we house the vast majority of our inventory. We have many of these throughout the country. The conversion to MiB allowed us to store four times the amount of inventory in the same physical space. By comparison, just looking at the quantity of mattresses Ashley has on-hand today, Ashley would need to add an additional 3.2 million cubic square feet of storage to accommodate the difference between compressed and uncompressed mattresses.

Next in our supply chain, the product is transported from the MDC to the regional fulfillment center, where we use trailers to handle this type of movement. It would take an additional three trips in order to deliver the same quantity of mattresses to the fulfillment center. Our fulfillment centers face the same challenges as our MDCs, they're localized hubs. They're small and they're focused on quick turns and customer satisfaction. Beyond the space allocation, the movement of the production within the fulfillment center and preparation of that product for delivery is typically done by hand.

Our staff love MiBs in these fulfillment centers, as they no longer have concerns about bags tearing, difficulty in moving, and mattresses flopping over, as was the case with uncompressed mattresses. They can quickly, efficiently move the product with far less damage to the mattress.

The last step in our supply chain is an actual home delivery. Much like our fleet previously, it would take three additional trips to deliver this same number of mattresses if they were uncompressed. Beyond this, the speed and ability to navigate tight spaces cannot be undervalued in this industry.

As I mentioned previously, nearly 10% of returns that take place in our company occur simply because the product does not fit into the home we are trying to deliver it to. Our "did-not-fit" returns associated with mattresses are essentially zero on our MiB products.

These are all compelling business reasons to focus on MiBs, but as you can see, MiBs also allow Ashley to reduce its carbon footprint, which aligns to our commitment to restore, protect and enhance our environment.

Because of sales channels' shifts and increased efficiencies, it is not an exaggeration to say that online sales have become twenty times more important to us over the last two years. This trend is only increasing in 2019 and we anticipate it will keep increasing.

The petitioners claim that they have been actively competing in the MiB market since they invented the technique. However, from my position, I can tell you that the U.S. industry only got serious about MiB production eighteen to twenty-four months ago, when they finally saw the writing on the wall. While the U.S. industry worked out the kinks in their MiB production, other suppliers had already established reliable supply relationships.

For a time, Ashley was a purchaser of U.S.-produced mattresses, but we were forced to switch to Chinese MiBs, not for the reason of price, but certainly for reasons of quality. All the mattresses we sell must be able to meet the certain flammability tests that are conducted at CPSC-accredited third-party labs. These labs measure different flammability indicators as required by the Consumer Product Safety Commission.

During the prototyping process, the domestic producers' product failed testing, causing a six-month delay in the launch of our product. We were forced to either redesign, change materials or find a supplier who can manufacture product which could pass the testing.

When we switched to a Chinese supplier, they were consistently able to meet this requirement time and time again. These reasons for switching were clearly unrelated to the price of the Chinese mattress, and I'd be pleased to provide additional detail regarding our experience in a post-hearing submission.

In addition to being a wholesaler and retailer of other manufacturers' mattresses, Ashley is also a significant producer of mattresses. While Ashley has produced both compressed and uncompressed mattresses in the past, we now produce exclusively MiBs.

But transitioning to production of MiBs is not as simple as purchasing a rolling machine and flipping the switch. We invested millions of dollars, not just in the machinery to compress, roll-pack, bale, wrap, and box the product, but also to re-engineer the product all together. For these operations to work efficiently, we need large-production volume and high levels of automation, which required completely retraining our staff. It also requires the perfect engineering of pocketed coil manufacturing, fabric and foam layer application and sewing in quilting in a way that is able to feed efficiently into the compression machine.

In order to make this production work, we had to completely redesign the products we sold to be compatible with this process. This transition was challenging and it's important for the Commission to understand that any shift by the petitioners to MiB production would require similar investment.

Petitioners also erroneously claim to have a capacity to fully supply the U.S. market. As the Commission is aware, mattress sales have traditionally been promotionally-driven and tend to be strongest around tax season and major events or holidays. The growing importance of e-retail results in a scenario where online marketing investment can drastically increase the magnitude of traditional cyclical demand and generate booms in demand outside of these traditional cycles.

Because of the unpredictable nature of the e-commerce market, our suppliers need to be able to weather extreme peaks and valleys in our purchases of mattresses. We may have demand for 1,000 orders one month and demand for 50,000 the next. No U.S. producer will do business with us under these conditions. The Chinese suppliers will. U.S. manufacturers are nearly entirely reliant on the U.S. domestic marketing, limiting their ability to level-load production.

One thing I don't think I've heard here today is that MiBs only have an inventory shelf life of three to six months. Our unpredictable demand and the limited inventory shelf life meant that no U.S. producer was able to meet our requirements. Ashley previously purchased from U.S. producers. However, one of the main reasons we switched is because the terms associated with our variable demand were not viable for a continued supply relationship.

The raw materials available here in the United States also limit our production in volumes here. This is not speculation. Ashley makes mattresses here in America and we run into this problem. We are unable to source key mattress components within our domestic supply chain and are often forced to rely on import sourcing to fill the gaps. For instance, we have a three-year contract with our domestic foam supplier, which limits the total amount of foam we can purchase during the term of the contract. Without these raw material supply constraints, I can confidently say that our production levels would be higher.

In closing, the petitioners would like to tell you a story in which the only reason a company would purchase Chinese mattresses is based on their lower prices, but in fact, the shift is not from "U.S. to Chinese mattresses", it is from "uncompressed to MiB" and that transition is clearly unrelated to price.

They would like to tell you that they've made MiBs since forever and that they could produce even more if they weren't pushed out by unfair imports. But the fact is that U.S. players were not serious about MiB production until the market had already heated up and stable suppliers had already been found.

And they have failed to disclose to the Commission the fundamental fact that the efficiencies in storing, shipping and delivering MiBs are the primary reason MiBs have eclipsed uncompressed mattresses. Perhaps this is because they still do not recognize this advantage.

In short, they're now living with the consequences of their management decisions and any harm they are currently experiencing cannot be put on the shoulders of Chinese imports.

There are three primary things I would like for this Commission to walk away with from today's discussion: One, the proliferation of MiBs through e-commerce is a recent trend in our industry. Two, there are simply no overlaps of competition between MiBs and uncompressed mattresses. And three, there is a material deficiency in domestic capacity, such that demand simply cannot be met here. Thank you, and I would be happy to answer your questions.

STATEMENT OF SAMUEL MALOUF

MR. MALOUF: My name is Sam Malouf. About 16 years ago, my wife and I, Casey, started the company CVB. We are family-owned and based in Logan, Utah. We also have locations in Ohio, North Carolina, and Texas where we employ over 500 employees.

Our company is--what we do is we design, manufacture, and distribute sleep products, including mattresses. Our company is widely known as Malouf, but we also manufacture under many different labels, including Lucid and Linen Spa.

Our company is uniquely positioned in the marketplace. And to address the questions here today, we distribute our product over 16,000 mattress and furniture retail stores here in the country. We also sell mattresses to just about every website you can think of, and we currently sell the number one selling mattress on the internet to Amazon.

We distribute to hospitality outlets, as well as mass--as well as mass big box stores like Walmart and Macy's.

I'd like to introduce some of the experts from my team that I brought today. So in the front, to your right, Mike Douglas. He manages, consults, and has relationships with these 16,000 retail stores. So he and his team are very embedded in the consultation and how they operate their businesses. So a great person to ask a lot of questions to.

To your left in the front, Steve Douglas. He manages a team that manages all of our e-commerce business. So they work with, again, over 40 websites in distributing mattresses as well as other products.

Here back to your right in the second row back is Kyle Robertson who has immense experience in product development, as well as product procurement.

And then to my right here is Jordan Haws, who manages our supply chain network throughout the world. And to his right is Jeff Steed, our legal team.

STATEMENT OF MICHAEL DOUGLAS

MR. DOUGLAS: Good afternoon. My name is Mike Douglas. And as Sam mentioned, I am the VP of Sales for Brick and Mortar at Malouf. I've been with the company for nearly 10 years, and have established that brick and mortar business. We currently have relationships with over 5,600 retail partners, which equate to almost 40 percent of the mattress industry.

In my 10 years at Malouf, I have had a chance to witness the MiB phenomenon from a unique perspective. For that entire time, we have been making and selling box mattresses through online channels, and I've seen the retail perception of mattress-in-a-box change time and time again.

At first, this new business segment was viewed as a niche that was never really going to become mainstream. Then it was largely classified as a joke. A one-size-fits-all fad that customers would see through and never really take seriously. Lastly, I helped and witnessed customers testing this new business opportunity with terrific results.

Today, mattress-in-a-box is known as the most cost-effective way to move, handle, and deliver mattresses to the end consumer. We have also seen that fad take root and become cool in customers' minds. We have seen customers come into stores and ask for MiBs specifically because they've been trained to know that they can stick it in the back of their car and take it home with them.

We have also seen a number of the Petitioners follow a similar trend of marginalizing the opportunity, missing the shift in the market, and being late to the party to deliver on what end consumers really want.

And it's understandable that they didn't see this trend coming. They've been making flat-pack mattresses for decades and selling them successfully through their retail stores. So of course something new and different is going to seem foreign and unique.

There were concerns from these manufacturers of upsetting brick and mortar customers by getting into the mattress-in-a-box segment. Domestic manufacturers had unfounded concerns about the quality and demand of the MiB market, and ultimately they did not understand or appreciate how bad the customer experience was with a number of their online retailers, which was a catalyst for the online explosion.

Unfortunately, even once the Petitioners realized that MiB were going to be a significant segment in the market, they were incapable or unwilling to make the market shift necessary to handle the required volume, technology, and innovation to fill that demand. To speak on that point is Kyle Robertson.

STATEMENT OF KYLE ROBERTSON

MR. ROBERTSON: Thanks, Mike. And thanks, Commission, and thanks, staff members as well for your time today.

As you can see from our questionnaire data, we have almost exclusively purchased mattresses in boxes. For mattress-in-boxes we have--Kyle Robertson with Malouf--for mattress-in-box, we have made significant efforts to work with U.S. suppliers and have experienced a myriad of negative consequences as a result.

Price is not the only factor in our purchasing decision. In fact, it is far from our most important factor, as shown from the staff questionnaire data. As

Brian also mentioned, we haven't seen the alleged capacity or flexibility needed from our U.S. suppliers. Even if the alleged capacity is there, we have had very inconsistent and unreliable lead times.

When the mattresses do in fact arrive, the return rates for our U.S.-made mattresses have also been higher than our Chinese-sourced products, in some cases over 10 times the amount.

If there has been injury to the U.S. industry, it has been due to their own deficiencies. In addition to the capacity, service, and quality issues that we've seen, we've also seen an inability to meet certain product requirements, including compression quality requirements.

This morning we--I'd like to dispute, respectfully, one thing that was said this morning that was probably just an over-simplification by Richard Anderson from Tempur Sealy where he said whether the mattresses are flat or compressed, and regardless of how they are compressed, once you take off any packaging you have a mattress. I don't think that's the case.

Sources in China have built and honed their capability to reliably compress mattresses in China. This requires technical know-how and the right formulation of foam and spring construction to avoid decompression issues. And when I speak to decompression issues, what I'm talking about is a mattress that when a consumer receives that product and when opened, it doesn't return to full height or decompress.

So instead of a mattress, you are then looking at a flattened pancake. If a compressed mattress-in-a-box doesn't return to full height when opened, it could be indicative of a wider spread issue where entire batches or entire product lines could have decompression issues. A situation like that can cause irreparable harm to a company.

The Chinese facilities' first entrance into this market have spent millions of dollars formulating and patenting polyurethane foam that can be reliably compressed. They have invested heavily in building out vertical integration that hasn't existed in the U.S. market and still doesn't exist with many of the Petitioners.

In our experience, that lack of vertical integration has led to some of the service and quality issues I've mentioned in regard to the Petitioners. The U.S. has not only been slow to respond to the mattress-in-a-box segment, but hasn't had the breadth of experience and even appear to be technically unable to compress the mattresses in some cases.

In addition, I wanted to talk about the pricing products. Overall, I feel like the staff made a valiant effort to define the pricing products in a difficult category, but generally the product definitions are still too broad and shouldn't be given much weight.

Each of the selected product categories could house a wide variety of products, and in fact for us there are hundreds of mattress constructions that could fit within each bucket. And price disparity within these product categories could still be extremely wide.

Some factors that could be considered would be the mattress cover, foam types, packaging, and spring configurations. These would significantly sway any pricing comparisons. To use fabric covers, as an example, I can make a mattress with a sub-$10 cover on the low end, or I can make a mattress with an over-$100 fabric cover on the higher end.

Even this morning, Yohai Baisburd mentioned that there is not a single part of a mattress that you cannot change. And that leads to a wide variety of specifications that could be within the pricing products. Because of the broad definitions, I don't believe we should give the pricing products much weight.

I'm happy to answer any other questions that you'd have about the production of mattresses, and I will now turn the time over to Steve to address more about our online operations.

MR. STEVEN DOUGLAS: Good afternoon. My name is

Steve Douglas, and I'm the VP of E-Commerce for Malouf. I am here to provide some insight on how mattresses are sold on the internet. My role at Malouf is to oversee strategy, marketing, pricing, and sales for all of our online business.

I can also speak to some specific points from the Petitioners from this morning. Namely, the Tuff & Needle sales decline. The price of Green Team Mattresses by Zenous on Amazon. Why MiBs are not equivalent to an FPM online. The idea of domestic producers acting as swing capacity for Amazon. Amazon squeezing suppliers on price. Or the concept of negotiating for placement on Amazon.

As for Malouf, we have been selling mattresses-in-a box online since 2010. We sell on our own websites, and on over 40 internet retailers like Amazon, Walmart, and Wayfair While I can speak to a lot more details pertaining to mattresses sold on the internet, for now I will focus on just two broad components of the industry.

First, mattress sales to online retailers. The domestic manufacturers and the brands they supply represent new entrants to the market. In an online setting, sales history is key. So their lack of history with online marketplaces has put them at a disadvantage. As evidence of that fact, we often have a hard time getting our own new product launches, regardless of price or any other factor, to be competitive with our older products because of lack of sales history.

Because some of our products occupy key real estate in online search, new entrants must invest more heavily in marketing, which leads to higher wholesale pricing and resultantly higher prices to the end consumer.

For example, if we sell one of our mattresses to Amazon for $100, a competitor selling their mattress with similar specs that they would otherwise be able to sell to Amazon for $100 must now be sold to Amazon for $150 to account for their increased marketing.

The second component of mattress e-commerce sales by online retailers. The Petitioners have painted a picture in which price is the only factor that matters, and that simply could not be further from the truth. We have the number one mattress on Amazon, as was mentioned, and it is not the cheapest mattress on Amazon.

Since it is not the cheapest but is still the number one best seller, that indicates that there are other factors at play besides price that feed into the success of a product on Amazon.

In the end, it comes down to having your products occupy the best real estate and search results. So what are some of the other factors that help you win that real estate?

Frankly, there are a lot of those factors, and they can vary by channel, but generally speaking those factors include--those non-price factors include: sales history of the item; customer review score; the number of reviews; conversion percentage of that product, or in other words the percentage of customers that click on that product and ultimately choose to buy it; content scores, which are calculated by algorithms based on your imagery, written content, videos, et cetera. Shipping speed to the consumer, which is critical in an MiB versus FPM environment. In-stock percentages, and much more.

Given the previously discussed challenges with domestic manufacturers, some of those critical factors would make online success with domestic mattresses very difficult. One such factor is in-stock percentages. If you don't have a consistent, reliable supplier, you will end up in trouble.

For domestic manufacturers of MiBs, the data has shown that almost 85 percent of mattresses are made to order. So domestic manufacturers would struggle to provide us with the inventory necessary to maintain sufficient safety stock. The longer you stay out of stock online, the further you will fall in search results. Or, the more often you go out of stock, the further you will fall in search results.

You can drop from the top line to second row, to the bottom of page one, page two, three, four, five, et cetera, and we've seen this happen before. It is almost impossible to come back once your stock outages have begun, and once they have driven you out of prime positioning.

So again, consistent, reliable supply chain is crucial.

Another component of sales by online retailers is their price to the end consumer. In all this talk about price, there hasn't been a lot of focus on the fact that the sellers to online retailers often don't set the price. There's a war raging between Amazon, Walmart, and other retailers to gain or maintain the market share.

Most retailers, but especially Amazon and Walmart, have a core dedication to their customers that they will not be beat on price. As such, these retailers will often sell their mattresses below their purchase price from us to stay competitive in that price war. This creates a race to the bottom that is independent of country of origin.

Thank you guys for your time, and I look forward to answering your questions.

STATEMENT OF JIM DOUGAN

MR. DOUGAN: Good afternoon. I'm Jim Dougan of ECS, or I guess the other ECS, appearing today on behalf of

Mattress Suppliers Group.

The questionnaire record confirms that the landscape of growing U.S. mattress demand changed dramatically during the POI, with an explosion of demand for MiB to which the U.S. industry, as we have heard, focused on traditional flat-pack mattresses, and largely turned a blind eye.

The increase in subject import volume during the POI was not at the expense of U.S. producers. Rather, demand for mattresses underwent a structural shift away from flat-pack mattresses and toward an increasing and undeniable preference for MiBs, driving the overall increase in consumption.

As you can see on slide one, there was clearly MiBs in the blue bars that drove the increase in apparent consumption. The absolute volume of MiBs increased, and the absolute volume of FPMs, which is the orange bars, declined. And this led to the shift in relative shares of consumption, as shown at slide two.

This morning Petitioners were unwilling to concede the reality that there has been a shift in consumer preference to MiB over flat-pack mattresses over the POI. Commissioner Schmidtlein correctly observed that U.S. shipments of MiB foam mattresses increased, while foam flat-pack mattresses stagnated.

Mr. Baisburd pointed out that the--and this is public data--the flat-pack mattresses had a higher average unit value in 2016, but I invite the Commission to look at the trend in that table. This is the public staff report, Table 3-9. The average unit value of the flat-pack mattress foam went from $311 to $279, a 10 percent decline. And yet the volumes stayed flat, while overall demand was increasing. And if you look at Table 3-8, the MiB foam AUVs were steady--the numbers are confidential--they were steady, and the volume took off. That indicates a shift in consumer preference to mattresses-in-a-box for reasons having nothing to do with price.

And while FPMs accounted for the majority of U.S. mattress consumption over the POI, in absolute volume and as a share of the total, flat-pack mattresses declined and demand for MiBs took.

This morning Mr. Swift of Serta-Simmons said that MiB sales still do not account for a large share of the U.S. market--Marcia, could you go back to the previous slide? While total consumption numbers are BPI, you can see on this slide that--and if we take out the non-subject imports because those numbers are proprietary, but just comparing domestic shipments and subject import shipments, MiBs were over 40 percent of apparent consumption in 2018 and 2019, 40 percent. That's not a small number, and that's up from

20 percent in 2016.

Now turn to slide 8, please. We are dealing with a tale of two industries. Subject imports were almost entirely composed of MiBs. You can see those on the right. While domestic mattresses on the left were almost entire flat-pack.

Because domestic producers are heavily concentrated in FPMs, their absolute volume and overall share of the market declined as the structural shift occurred. Domestic MiB capacity was small relative to demand and slow to come online. So most of this increasing demand for MiBs had to be filled by subject imports, which were sold almost exclusively to that segment.

As such, the increase in subject import volume during the POI did not come at the expense of domestic producers, but rather served the growing demand for MiBs which, as you've heard from the industry witnesses, U.S. producers could not or would not serve.

In fact, the smaller U.S. producers focused the MiB segment and enjoyed significant increases in their volume indicia over the POI. Slide 4 shows how the different concentration of each source maps onto shifts in overall market share.

The domestic industry's decline in share over the POI is driven entirely by FPM. That is, the shrinking share of the market accounted for by FPM products. Their increased MiB shipments--the little tiny blue bar at the bottom--was small but still had a positive contribution to their overall market share.

Similarly, all of subject imports increase in market share was driven by shipments of MiB, while they're small and declining shipments of FPM actually had a negative contribution to their overall market share.

And as you've heard from the industry witnesses, there was a structural deficit in the U.S. market when it comes to MiBs. And the domestic producers either failed to fully appreciate the shift in consumer preference, or chose not to participate in it.

As shown on slide 5, there was nowhere near enough domestic industry compression and rolling capacity to satisfy demand. And even this estimate of U.S. MiB capacity may be overstated. We believe it likely is overstated because it relies on the industry's reported rolling and compression capacity.

As you heard from Mr. Adams of Ashley, there exist additional constraints beyond just rolling capacity on a firm's ability to increase its production of MiBs.

Moreover, as the demand for MiBs exploded, the structural deficit also grew in absolute terms. And it was steady as a share of MiB consumption over the POI. It only shrank slightly in 2019 after a number of investments in compression and rolling capacity by domestic producers towards the very end of the POI.

You've heard that the industry only really got serious about this segment late in the POI, and the numbers support that. In fact, as discussed at page 21 to 22 of Chinese Respondents' prehearing brief, at least one major domestic producer added this capacity only belatedly at the direct request of its customers. However, this company was so reluctant to invest in MiB capacity that it characterized the investment as a burden, as a negative effect of competition from subject imports, rather than as an opportunity to respond to shifts in market demand and meet its customers' needs.

Chinese Respondents submit that this speaks volumes about the domestic industry's perception of the significance of the growth in the MiB segment.

We recognize that the domestic industry need not be able to serve the entirety of the market to be eligible for trade remedy. However, the Commission should analyze volume effects in the context of this structural deficit. And in the slide on--excuse me, the chart on slide 5 tells us that as MiB demand grew, the volume of subject imports was required to serve this demand and can't be viewed as a displacement of domestic supply.

MiBs grew the market as a whole because customers increasingly demand the logistical convenience and other benefits of MiBs, and that traditional mattresses sold through traditional channels with what most consumers regarded as a horrible shopping experience, did not.

Domestic producers provided some of these MiBs and experienced increasing volumes as a result. But because of the structural deficit in capacity, subject imports filled the majority of the demand.

Petitioners' panel this morning tried to give you the impression that the MiB segment was historically served by U.S. producers, and that there's been a dramatic shift over the POI as subject imports drafted on the marketing investment of the Caspers and the Tuff & Needles, and then took that away.

The record does not support that contention. Please take a look at Table IV-13, roman IV-13 of the staff report. U.S. producers have always been minor players in the MiB segment, and subject imports have always had the majority share. The increase in subject import share of this segment was almost entirely at the expense of nonsubject imports.

And this morning Petitioners' counsel characterized nonsubject imports as playing a small role in the U.S. market. And this may be true overall, but in the

MiB segment again Table roman IV-13 shows that nonsubject imports began the POI as a larger share of the MiB market than the domestic producers who, Petitioners claim, historically own this market. That is clearly not the case. And that simply reinforces how small the domestics were as players in this segment.

Turning to slide 6, lost sales reported by purchasers provide further confirmation that the domestic industry did not lose significant sales volumes to subject imports on the basis of price. The total quantity of purchases reported to have been switched from domestic mattresses to subject imports on the basis of price was 655,000 units. This is equivalent to only 0.8 percent of purchasers total reported purchases and imports over the POI.

The quantity of reported lost sales is also equivalent to only a tiny fraction of apparent consumption. Respondents submit that this is not a material quantity. And even if it was arguably lost on the basis of price, it had no material adverse impact on the domestic industry.

The purchaser data also makes very clear another important condition of competition: that purchases are highly concentrated among a few firms. Slide 7 shows just how highly concentrated purchases and imports are, with the top 10 purchasers representing the vast majority of total purchases and imports, and an even greater share of total subject imports.

Confidential slide 7, which you will have in front of you and I can't discuss, provides more detail on this point.

But whatever the responses of some of the small purchasers may indicate, the top ten purchasers essentially are the U.S. mattress market, and their questionnaire responses do not support Petitioners theory of the case at all.

These major purchasers responses to the relevant questions instead discuss the importance of non-price factors such as availability, quality, service, lead times, and capacity, rather than price as being the primary reasons in their procurement decisions. And you've heard that from the industry witnesses.

In several cases they specified that their imports, or purchases of imports, were in addition to rather than instead of their purchases from domestic producers. And, that domestic producers could not produce in sufficient quantities, nor meet timely delivery requirements for the MiB products that they desired.

This is consistent with the data presented in slide 5 earlier that, while the domestic industry was producing and selling some MiBs, it could not keep pace with the demand in this segment.

Confidential slide 8 provides more detail on this point. Specifically, how the top 10 purchasers respond on lost sales and lost revenues, and how competing prices are or are not used in negotiations.

This fits with the responses of purchasers more broadly. As shown on slide 9, 24 of 48 responding purchasers identified quality as their primary purchasing decision. Only 11 of 40 identified price. More purchasers identified availability, reliability of supply, and delivery time as very important purchase factors than named price.

Moreover, the prehearing report correctly indicates that the majority of purchasers, 33 of 56 responding firms, reported that they sometimes purchased the lowest priced product. Let me repeat. The majority of purchasers only sometimes purchased the lowest priced product. Implicitly, this means that in many, if not most instances, purchasers do not purchase the lowest priced product because other reasons are more important, as you've heard from our industry witnesses.

This is not a picture of an industry where price drives all purchasing decisions.

Price leaders identified in the questionnaire record overwhelmingly U.S. producers are firms who concentrate their purchases on U.S.-produced mattresses.

And it is not surprising that only 6 of 56 responding purchasers, and only one of the top 10, reported that U.S. producers had reduced prices to compete with lower-priced imports from China.

Turning to slide 11, as for price effects, there are two key takeaways. First, the record demonstrates no discernible or consistent relationship between U.S. and subject import AUVs for the small portion of the market where they do overlap. That is, MiBs.

And second, AUVs for mattresses increased in each of the four years of the POI, whether taken as a whole or considering FPM and MiB separately for both U.S. producers and subject imports.

To the extent that U.S. MiB AUVs late in the POI observed declines in U.S. producers' prices tend to be concentrated in the second half of 2018 and beyond, after the filing of both the Petition and into the period covered by the 301 tariffs.

The pricing product data supports this interpretation and show little relationship between subject import and U.S. producers' prices over the POI, further undermining any allegation of adverse price effects by reason of subject imports. And as the data establish, subject imports did not compete meaningfully in FPMs, and in fact declined both in volume and share of total consumption of FPMs. Thus, the Commission should give no weight to the FPM products as evidence of adverse price effects.

Considering the MiB products, the prehearing report demonstrates that for each product AUVs of imports from China fluctuated within narrow bands, while U.S. producers' prices were more varied.

Subject import AUVs do not change dramatically in periods of volume growth by subject imports, nor do U.S. producers' prices seem to at any point converge with subject imports. To the extent that there are significant changes in U.S. producers' AUV, they are attributable to changes in product mix or the entry of new market participants.

And as our witness on the panel noted, the pricing product definitions contain hundreds of different products with prices that vary by as much as a factor of 10, which would definitely have an influence on the comparability of data and go to the question from Commissioner Schmidtlein earlier today about why you would see such a variability in the pricing of the domestic producers.

Turning now to impact, as the Commission considers the overall condition of the domestic industry, the vast majority of domestic industry capacity, production, shipments, net sales, profits, and employment are associated with FPM where subject imports have very little presence.

The dominance of the FPM segment in the domestic industry can be seen just from the way the staff organized the prehearing report. In a table summarizing industry indicia, the prehearing report presents the top five U.S. producers separately, while collapsing all others, because it notes, quote, "the top five producers accounted for at least 80 percent of the production in each full year of the period from 2016 to 2018."

However, these five producers were overwhelmingly concentrated in the FPM segment and had very little participation in the MiB segment. This is true of the industry as a whole in the fact as seen as Exhibit 5 to our prehearing brief. Almost all domestic producers were dedicated either entirely to MiB, or entirely to FPM, or virtually entirely. There are only a handful for whom both products constitute any meaningful share of their sales.

And, again Commissioner Schmidtlein observed this earlier today and asked the domestic industry why, they didn't give an answer, but the answer is: Because this is a fundamental difference in business model. As Mr. Adams said, he had to reconfigure his entire business model, his entire production process, to shift from flat-pack to MiBs. And it's not just buying a compression machine. It's not just buying a rolling machine. Otherwise, you'd see all of the producers making both in more substantial quantities.

But they tend to be specialized, and that's why.

The segmentation is extremely important for the Commission's analysis because the FPM segment accounts for the entirety of any declines in domestic industry capacity, production, shipments, net sales, profits, and employment.

By contrast, producers in the MiB segment where virtually all subject imports participate have experienced increasing capacity production, shipments, net sales, profits, and employment. Because these two categories aren't competitive, any injuries suffered by the domestic industry is by definition not attributable to subject import competition.

Slide 14 shows that all of the decline in domestic industry sales and operating income is explained by the FPM segment, as the MiB segment's sales and income increased over the POI, and therefore the industry's FPM declines can't be attributed to subject imports.

Slide 15 shows that while overall domestic employment declined, this was attributable to the FPM segment, employment in the MiB segment increased substantially. And moreover, as discussed in our prehearing brief, even this improvement is significantly understated because major U.S. MiB producer Purple did not file a producers questionnaire in the final phase.

If it's preliminary phase data are considered, the increase in the MiB segment employment is even more impressive. The domestic industry's investment indicators show a similar thing. It's a familiar refrain, but all of the declines in Cap X and net assets were attributable to producers specialized in the FPM segment. All of the increases were represented by producers in the MiB segment. And here, too, the MiB figures are understated by the exclusion of data from Purple.

We also mentioned that there is extensive examples of investments, expansions, and acquisitions by the domestic industry. Our prehearing brief at 49 to 52 supplements this with further evidence. And, you know, again this question was asked this morning about what happened with all these expansions? What happened with these acquisitions? And you started to get a question about how they had, you know, they had difficulty in some of their plants. That wasn't the question. They didn't answer the question.

There was a lot of expansion by the segment of the market that was responding to the structural shift in demand. And the fact that there were declines in the capacity, in the utilization, and the overall sales and employment of the industry that was shrinking, can't be attributed to the subject imports because the subject imports weren't playing in that segment.

Overall, also Respondents want to know that all players in the MiB segment market, including domestic producers, have benefitted from extensive marketing by brands like Casper, but again this is something that contributed to the additional growth of the market. They weren't the ones who started it. It's not investment typically considered by the Commission, but it is an indicator that the domestic industry and the ecosystem that surrounds it, which includes companies like Casper, is healthy and investing in further growth of the part of the market that's growing.

With that, I subject that the record evidence supports a negative determination by the Commission with respect to material injury by reason of subject imports.

Thank you.

STATEMENT OF PATRICK J. MCLAIN

MR. McLAIN: Mr. Chairman, Commissioners, good afternoon. On behalf of Classic Brands, a U.S. importer and U.S. producer, I'm Pat McClain of Wilmer Hale. With me is my colleague Stephanie Hartman, also of Wilmer Hale. Our purpose in appearing before you today is to address the critical circumstances issue.

Given the record evidence before you, it should be clear that the Commission should reach a negative critical circumstances determination. To start, the standard for critical circumstances is extremely high. This is confirmed by the statute's language, the legislative history and the Commission's consistent practice.

The question under the statute is whether relevant post-petition imports are likely to undermine seriously the remedial effect of an anti-dumping duty order. The Uruguay Round Statement of Administrative Action refers to the requisite import pattern as a massive increase or surge prior to the suspension of liquidation, and previous Commissioners have interpreted "undermine seriously" to mean a surge that greatly and insidiously weakens or subverts an order's remedial effect.

It is extremely rare for this standard to be met, as Petitioners acknowledge it has been 18 years since the Commission last reached an affirmative critical circumstances determination. This case should be no exception to that remarkably consistent pattern. First, there's been no massive increase in post-petition imports at all, let alone one that is remotely comparable to the increases that were present in the rare cases where the Commission reached an affirmative determination.

Second, there's been no rapid increase in inventories, let alone one that gets anywhere near the dramatic increases that supported prior affirmative determination. The table on page VII-11 of the public prehearing staff report shows that subject import inventories in the first half of 2019 were only 3.6 percent higher than in the first half of 2018, and the ratios of subject import inventories to subject import shipments reached its highest point during the POI in 2017, well before the petition was filed.

In other words, there was no meaningful stockpiling after this case started. Subject inventory levels in the post-petition period are unexceptional, and hardly capable of undermining the remedial effect of the order.

Third and finally, there are no other circumstances supporting an affirmative determination, and to the extent there are other relevant circumstances at play, they confirm that a negative determination is called for here. For example, there's the size and trajectory of the U.S. market. The level of post-petition subject imports at issue here are simply too small, relatively speaking, to greatly and insidiously weaken the effect of an order.

Then there's the pattern in monthly subject import levels, which strongly indicate the effect of other factors independent of this case. Petitioners allege on page 49 of their prehearing brief that there's been an increase in post-petition subject imports designed to circumvent the intent of the law. But that theory doesn't align with the monthly data. In contrast, much better explanations can be found in the timing of peak sales periods in the U.S. market, and the shifting schedule for the Section 301 China tariff increase.

Simply put, this isn't a close case, and if any further confirmation were needed you got it this morning when three Petitioners, Corsicana, Elite Comfort and Leggett and Platt each testified to the improvement they've seen since Commerce's preliminary determination. Just taking those statements at face value, that's a powerful self-refutation of the notion that the remedial effect of an order would be seriously undermined.

It's even more powerful when considered in light of the absence of any significant inventory buildup. In the end, Petitioners are inviting you to break from your consistent practice on the basis of an extremely weak record for critical circumstances. You should decline that invitation. Thank you for your time.

MR. TRENDL: My name is Tom Trendl. I'm with Steptoe and Johnson on behalf of the Mattress Producers Group. I will, in the interest of time and brevity, with regard to the threat of material injury for the reasons you've heard already from the team of people here, that there is no material injury. We believe we've outlined extensively in our prehearing brief on pages 60 to 77, the reasons why there's no threat of material injury presented by these imports. I'm happy to answer questions about that should you have any. Thank you.

MR. EMERSON: Commissioner Johanson, that ends our affirmative presentation. We look forward to the Commission's questions.

CHAIRMAN JOHANSON: All right, thanks to all of you for being here today. We will begin Commissioner questions with Commissioner Karpel.

COMMISSIONER KARPEL: Thank you. So I wanted to ask a bit about demand. In your brief and today you've also discussed, that consumer demand has shifted from flat-packed mattresses to mattresses in a box, and you contend that the shift is product-based. However, you also argue that there is little competition between MiBs and FPMs. So what I'm trying to get my head around is if consumers have previously been buying flat-packed mattresses, and now have switched to buying mattresses in a box, doesn't that show that there's competition, that consumers are willing to reconsider some product that they had been purchasing and now purchase a different one?

MR. DOUGAN: Commissioner Karpel, welcome by the way. Jim Dougan from ECS. I'll invite the industry folks who probably live and breathe this every day. But the impression that I got from looking at the record and discussing with these folks and doing research of my own is that the mattress in a box, I guess phenomenon, the business model, what have you, has changed how people perceive the idea of shopping for mattresses in such a fundamental way.

People didn't like to go to the mattress stores. They felt like they were being, you know, gouged or that they were being misled by the sales people. They couldn't compare prices across different products. I mean there's all kinds of things that, there are Internet comedy videos about just how horrible and how rigged that system was.

People didn't like doing it. People avoided doing it. They might have held onto to mattresses longer than they otherwise would have. They might have, you know, taken a hand-me-down mattress from a family member or a friend and brought it to their next semester at college.

And so in some sense, there may have been some nascent demand for these things that people might have bought other mattresses had the experience been different, had the logistics been easier, had it been more convenient, had they had transparency to be able to compare features and functions in a way that they hadn't before. When this happened, when all of the sudden all of this stuff is available to you and you can understand it and you can have it delivered in a box to your house or your dorm room or your walk-up of a brownstone in a major city, that changes the equation a lot.

It makes it, you much more inclined to buy one, whereas before you might have gotten one on Craigslist or from a neighbor or from your family member or something like that. Then also because, as Mr. Emerson pointed out, you know, once you get it out of the box, it's kind of -- it's not terribly easy to transport from that point forward.

Is it possible that if someone moves, are they going to bring it with them? Or are they just going to put it by the curb and then buy another one when they move to the next place or when they start their second year of school? So right there, you're increasing the churn of the purchase cycle, whereas before because they were cumbersome, because they were difficult, they did last a long time and because the shopping experience was so painful, people were likely to buy them a lot less frequency (sic).

So there's an opportunity for an absolute increase in demand that's, you know, far in excess of GDP and, you know, the number of people that we have because of the ease of purchase and just the experience of being able to get one into your home.

MR. EMERSON: This is Eric Emerson, and I'll again turn to the industry witnesses as well. But I think Commissioner Karpel, that Mr. Adams' testimony really answers the question in a way. I think over the POI we've seen a shift in demand, right, from -- so there has been some shift from flat-packed to MiB. We've also seen an expansion of the MiB demand overall, consumption overall.

But I think at any moment in time, there is little overlap in the mind of a particular purchaser, whether they're going to buy flat-packed mattresses or MiBs. As Mr. Adams testified, back in 2016 virtually all of his purchases at that time were flat-packed mattresses. That's the way his business was set up. Today, it's just the reverse.

So you could sort of look at Ashley as a bit of a microcosm for what we've been seeing, a business that has really fundamentally restructured its purchasing activity to go from the flat pack to MiB, but today you wouldn't say I think it's fair to say -- I'm going to let him speak for himself -- but I think it's fair to say he's not for his purchases now weighing flat pack and MiB. He's solidly an MiB purchaser right now.

MR. ADAMS: Yeah. So in addition to that, Brian Adams. So the production of our mattresses shifting to MiB is because of the channels of sales that it opens as well. To be able to ship a mattress to a consumer's home within two days from a production facility in Mississippi is what allows us to sell through an e-commerce channel.

The removal of fear barriers of consumers when we're able to guarantee free shipping, when we're able to guarantee free returns, you've eliminated the fear entirely of buying that mattress online without previously lying on it, and now a consumer's able to get it to their home in time for whatever event they may have.

It's not a one month or 30 day planned purchase for them; it's something that they can execute on instantly, because we can guarantee when their delivery is going to happen, and we can guarantee that if there's any issue, it will be taken care of.

MR. DOUGLAS: So just to build on something -- oh, Steve Douglas, Malouf. Something to build, to build on something that he just said, he touched on the two-day shipping time. The importance of that cannot be overstated. So the rise of MiBs is largely coinciding with the rise of Amazon Prime membership, a Walmart making similar promises to the long-standing Amazon Prime shipping speeds.

Customers more and more these days just expect that a product that they find online can get to their house in two days. They don't need to even leave their bedroom. They pull open their phone, they swipe through, they check the most compelling reviews. They see what Amazon's recommending to them. They trust Amazon because they buy everything on Amazon. They click and they buy a mattress and it's to them in two days.

It's simply an incompatible business model with a flat-packed mattress. You cannot ship them through the Amazon Prime network. They're too big, they're too bulky, they can't go by common carrier. So it's a massive component that's a huge part of that shift.

COMMISSIONER KARPEL: Thanks. Just so I understand your answers, so at one point there was a choice that consumers or retailers who are purchasing CMEs had, between mattress in a box and flat pack. But once they made the shift to mattress in a box and the attributes and the convenience that came with that, they no longer have an interest in going back to flat packed mattresses. Is that the general gist of your position?

MR. DOUGAN: Jim Dougan from ECS, and again I'll let the industry witnesses. There still is demand for flat-packed mattresses. I mean, you know, it's still maybe not the -- well, I guess it's close to the majority of consumption. Over the POI it certainly was the majority of consumption. So we're not saying that there aren't flat-packed mattresses, people don't want them, people don't want to buy them in the traditional way.

But if you're talking about the growth in demand, you're talking about the growth in consumption and you're talking about the growth in subject imports, that is all tied to MiB.

MR. EMERSON: And if I could just make one last comment, Eric Emerson with Steptoe, I think it's really important to clarify between, if you will competition at the individual consumer level and competition at a sort of a higher level in the chain. If I go out to buy a mattress, could I decide between flat pack and MiB? I could, right, because you know, I'm an indivdiual consumer.

But I think when we look at institutions, when we look at institutions like Ashley for example, they're really no longer deciding between the two. They've structured their business so that they are now focused almost entirely on mattress in a box, and they're not going back, and those were Mr. Adams' words.

If you also look in my comments, the top 20 purchasers, as I mentioned, segregate themselves by purchases of subject imports, which is in this -- or domestic product, which in this context it really is almost a surrogate for MiBs and flat pack. 13 of the top 20 purchased one or the other, and that's an astounding statistic. 13 of the top 20 purchased 95 percent, sorry, 95 percent from either domestic or subject merchandise.

I wouldn't say that of those 13 that there was in the mind of that particular purchaser really any competition between flat-packed mattresses and MiB. Now that number may have changed over time as purchasers began to see the value, for example, of MiBs over flat-packed mattresses. That may have changed over time. But at any moment in time, is there really head to head competition between the two styles of mattresses, and I would say the data suggests there's not.

MR. ADAMS: One final point on that is that it's really about a sales channel shift. So as Ashley looks to the future as to --

MR. BURCH: Can you introduce yourself?

MR. ADAMS: Brian Adams. As we look to the future of where our sales are occurring, it's not just within mattresses. When we look across all of the product areas that we do business in, e-commerce is becoming a more and more relevant part of our business today and it's aggressively accelerated. So in order to sell a mattress online, in order for me to offer the value to the consumer that I need to in terms of two-day shipping and the expectations that they have, the mattress has to be an MiB in order to achieve that.

COMMISSIONER KARPEL: So my time is almost up, so I'll pass it along.

CHAIRMAN JOHANSON: All right. Thanks again to you all for being here today. Does marketing of mattress in box and flat-packed mattresses affect consumers' relative preferences for these two sorts of products? I don't recall ever seeing advertising to try to convince folks to buy one or the other. Maybe I'm wrong there.

MR. MIKE DOUGLAS: Mike Douglas, Malouf. I think when you're looking at the marketing, I think what you will see on Purple, what you'll see on Tuft & Needle, what you'll see is originally when they were first advertising for their brands, that was a key component. It was a key component of you don't have to go into stores anymore. You don't have to deal with sales people anymore. We make it easy for you, 100 day free trial. We're taking away all of your worries and your concerns and making it simple.

Since then, they've moved to more brand awareness advertising, focusing more on we're the MiB for you and less on here are the benefits of MiB. Additionally, I think there are unlike what was said by testimony this morning from a few of the Petitioners, there absolutely are images on Amazon and on all other e-commerce showing that it will deliver in a box.

Like I mentioned in my testimony, it's kind of become the cool thing to do, especially if you're a millennial. They post thousands, if not tens of thousands of unboxing mattress videos on You Tube, of people cutting open their box, watching it pop open, having you know, that freak-out moment of being like that was in this tiny little box. It's kind of become a cult phenomenon.

So I think for them, they don't necessarily have to make that a primary message anymore because it's been established and that demand creation has already started.

MR. STEVE DOUGLAS: So Steve Douglas, Malouf. We could probably spend a decent amount of time talking just about online mattress marketing. But in a broad sense, there are a number of ways in which advertising has affected preferences with consumers online. You mentioned you haven't seen them. There's some pretty basic ways to segment your market, so that you can target people based on age. You only, you can advertise in areas that you expect your target demographic to be shopping.

So there's a number of advertising media like podcast, You Tube video pre-roll ads, ads that will follow you around the website. Once you've clicked on their website, or around the Internet, once you've clicked in their website and will follow you wherever you go. So I assure you, just because you haven't seen that marketing, it is definitely there to the tune of tens of millions of dollars, hundreds of millions if you aggregate the industry, and it's a massive component in the shift.

Again, we can get into more specifics if you have more specifics, but that's a general overview.

CHAIRMAN JOHANSON: And you're convinced that this advertising has convinced consumers to switch or to compare products at the minimum?

MR. STEVE DOUGLAS: And then you say "switch," to clarify?

CHAIRMAN JOHANSON: From FPMs to mattress in box.

MR. STEVE DOUGLAS: Undoubtedly.

CHAIRMAN JOHANSON: Okay.

MR. STEVE DOUGLAS: And I guess -- again Steve Douglas -- you can see everything from the cool factor that was even alluded to this morning, the convenience factor. There are a bunch of different ways that they go at it, but it has definitely been a massive component in that shift from people being unwilling, and again I think it's interesting. It's less -- Brian's mentioned this a couple of times now.

It's less a shift of the customer actively thinking oh, I'm going to buy a mattress in a box because that's cool. It's where they're going to buy it, how they're going to buy it, how they're going to get it into their tiny loft apartment in New York City or wherever, where they know space is a constraint. So it's an interesting distinction, but again the data shows that kind of the mattress in a box and online is kind of a decent proxy for each other. So I think in a lot of ways that marketing has driven so much of that online success that it's now starting to spill over into the brick and mortar segments as well.

MR. EMERSON: And Commissioner Johanson, this is Eric Emerson. I just wanted to also maybe put a slight characterization on this as well. Your question asked is this advertising helping switch customers from flat pack to MiB. I think one of the things that it's also doing is it's increasing demand for mattresses period. It's not someone going out "I need a mattress," shall I buy flat pack or MiB. It's spurring demand, just like any other advertising does.

Hey, I think I -- I just saw an ad for this today. I think I'll go off and get one. You get whatever they're happening to advertise. There may be people who wouldn't have bought a mattress because they could have taken a family hand-me-down or gone without or stretched out the use of their mattress longer. This advertising may make them say hey listen, I think I'm going to go off and buy a new one, and we see that in the data.

We see that because mattress, MiB, because overall consumption is increasing, and in particular MiB consumption is increasing.

MR. DOUGAN: Jim Dougan from ECS, Commissioner

Johanson, Chairman Johanson. The other thing that I neglected to mention and one of my factors but I know that Mr. Smith mentioned, Mr. Adams mentioned rather was that the fear factor, right? So the ease of return. So it's not just the ease of delivery, but it's also oh gosh, I want to try this for 90 or 100 days.

One of the things that would have stopped people from buying a mattress online before was well gosh, what am I going to do with this when I get it and what if I don't like it? And I haven't been to the store, so I haven't tried it out. But heck, even if you go to the store and try it out and then you don't like it, my understanding from the research and the industry statements was, you know, it was hard to return an FPM mattress traditionally anyway period, regardless of how you bought it. It was an onerous process and there was restocking fees and all this other stuff.

So what a lot of the MiB folks have managed to do is just make that part easier too. Hey if you don't like it, fine. We'll take it back, and that counts for a lot. And again, spurring demand. You're not making necessarily a lifetime investment. It's going to be easier for you to get. You get it, you don't like it, you send it back.

MR. ROBERTSON: Kyle Robertson at Malouf. I'd agree that there's been millions, hundreds of millions of dollars spent on marketing around this area. It's not just podcast either. It's not just online channels. You see it on TV, you see it in print, you see it on the Metro in D.C. These are things that are becoming more common, and I don't think it's a tendency of people to look at a flat pack mattress versus mattress in a box at this point.

It's something where they see it and it raises aggregate demand where somebody says "I do need a mattress right now. I've been sleeping on that old one for 20 years. This is a good time and it's convenient," and they're able to execute on it very quickly.

CHAIRMAN JOHANSON: Okay. Thanks for your responses there, and getting to the logistics issue, you all write that "The logistics of delivery play a relevant role in purchasing decisions in favor of MiB," and "just-in-time business models are not adequate for today's retail or e-retail and direct to consumer sales channels." This is your brief, the Chinese respondent brief at pages eight to nine.

Could you all please expand on this? How does MiB delivery differ from just-in-time?

MR. ROBERTSON: Kyle Robertson, Malouf. Steve can probably expand on this a little bit more in terms of online distribution models. But this morning we heard the Petitioners talk about their production and how they make to order. When they get an order, they start to produce that mattress. It can take three to four days for that to happen.

That does not work with Amazon Prime shipping. That does not work with second day delivery. You have to have inventory on hand for that. Thanks.

CHAIRMAN JOHANSON: Go ahead.

MR. ADAMS: Brian Adams. So just so we're all clear as to where that trend is going, right now if you're not able to offer two day shipping to the customer, guaranteed two day, which means you order today, it will be at your house in two days. If you're not able to order that, that's table stakes. Amazon's already announced their move to one-day shipping and in D.C. for many items, you can get same day shipping, meaning I order it today, it's delivered today.

That is the direction and the path that it is going. If you are three days of a manufacturing process on a J, you know, just-in-time manufacturing process, you've already ruined the customer experience with three days of manufacturing, much less now it's taking two additional days for me to get it to you. That's five to seven days before you've even -- you're out of the game. You're not competing.

CHAIRMAN JOHANSON: So the domestic industry says that they can deliver in four days. You're saying that's too long?

MR. ADAMS: Without question, and Amazon and other retailers, e-retailers have already announced they are shifting to one day delivery, that that's table stakes to be involved in the game.

CHAIRMAN JOHANSON: Okay. People are pretty impatient.

MR. ADAMS: It's actually we call it the law of reflection. That means that the best experience that you've just experienced as a consumer becomes your minimum expectation tomorrow. That's what others are able to offer, so that's what others in this industry are required to do.

CHAIRMAN JOHANSON: Okay, great. Thanks for your responses. Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Okay, thank you. I mean that's so interesting, just given the comments before that well, if they couldn't get it in a box, then maybe they just keep sleeping on the old mattress. So it's sort of ironic that you're saying well, if these didn't exist, then you know, that sale wouldn't have been made and they'll keep sleeping on whatever. But if they want to buy one, they need to have it today. Like do you see the sort of like potential inconsistency there?

MR. ADAMS: Yeah. I think you can look at any

-- Brian Adams. You can look at any product segment and that is 100 -- that's what we see in every other area of our business as well, is that when a consumer decides that they want it, they want it now, and that that's the consumer expectation today.

COMMISSIONER SCHMIDTLEIN: Okay, okay. So I just want to make sure I understand this argument about that they don't -- that you're saying mattresses in a box and flat-packed mattresses don't compete. I just want to make sure I understand it, because I feel like it's been a little bit muddied after we've had, you know, the evolution of the conversation here through two different Commissioners.

First question that came to my mind when you all made that argument is should there have been two separate like products? If these products don't compete, you're saying, you know, like if they're not going to buy -- if the mattress in the box doesn't exist, the people who have driven that increase in demand, that increase in consumption aren't going to buy a mattress, then why do we have -- why did you agree to one like product that's co-extensive with the scope?

MR. EMERSON: This is Eric Emerson with Steptoe. You know, thinking about the Commission's traditional diversified products test, I think there's a sufficient overlap between the two for those six factors, that there would probably --

COMMISSIONER SCHMIDTLEIN: But weren't those six factors all about whether they compete?

MR. EMERSON: I think that the -- but when you finally drill down, I mean you do have some producers who are making both, for example, in the same -- in the same facility. But the --

COMMISSIONER SCHMIDTLEIN: Some U.S. producers?

MR. EMERSON: Some U.S. producers, exactly right.

COMMISSIONER SCHMIDTLEIN: Uh-huh.

MR. EMERSON: Some Chinese producers may as well. I don't know. But yes, you've heard testimony this morning that some U.S. producers do. So could there have been a two domestic like product argument? You know, I think, you know, just sitting here thinking about prior Commission determinations on that issue, I would think it might have been difficult for the Commission to do that.

But I would say in the case I cited this morning, The Corporation, the court specifically held that even though the Commission found that there was a single domestic like product, that did not prevent the Commission from adopting a segmented industry analysis in that case. So whether or not there's, there could have been a domestic like product argument before, I don't know candidly. But I think that the fact that that was not pursued or that was not considered shouldn't affect the Commission's ability to look at this in a segmented manner now.

COMMISSIONER SCHMIDTLEIN: Okay. So here's a few things that are in the staff report that it would be helpful if you could address, in terms of if we were going to look at these as completely different segments, right.

MR. EMERSON: Right.

COMMISSIONER SCHMIDTLEIN: So first you start with the purchaser survey data, all right, which shows that purchasers viewed U.S. and subject product as comparable with regard to packaging, right, 30 purchasers. Also comparable with regard to online sales. Also comparable 18 plus 7 citing the U.S. as superior, so 25 direct to consumer delivery.

So when I -- because I assume that the extension of your argument, that these don't compete is that the subject imports aren't competing with domestic product, right, and it's just the packaging, you're saying that these industries don't compete.

So why do we see so many purchasers rating U.S. and Chinese product as comparable even on packaging, even on online sales, even on direct to consumer delivery if they're not competing? Or are you saying no, the U.S. does produce MiBs and we do compete with them in that segment?

MR. EMERSON: Commissioner Schmidtlein, this is Eric Emerson. Yes, where there is -- I mean this is going to sound a little tautological, but where there is competition, there's competition. Meaning that if the domestic industry is producing an MiB and the Chinese industry is producing an MiB, then there can be competition. But as you saw from Mr. Dougan's slide, what we are -- what we're saying really is that flat pack mattresses don't compete with MiBs.

That's really the core of the argument, and from that I mean that -- and from that we are also saying most of the domestic production is flat pack and most of the -- and an even bigger share is MiB.

COMMISSION SCHMIDTLEIN: Right. So just as an aside, because this caught my eye, this slide that Mr. Dougan put up, I think it's Slide 13. So based on that argument, you're saying that the decrease in all of this flat pack, right, decrease in consumption overall, had nothing to do with the increased sales of MiBs? So if, right? The logical extension of your argument is well then demand for mattresses, flat-packed mattresses went down over the POI.

So one question I had was why? If you're saying it had nothing to do with the shifting, those MiB sales did not take share from the flat pack, these are wholly separate products not competing with each other, why is flat packed going down, especially when we're in a robust economy, GDP is going up?

MR. DOUGAN: Well I think probably, I don't want to make an overstatement of the case. I think that there is -- the secular shift in demand and the growth in demand that you see isn't attributable just to the normal factors of GDP and, you know, population growth. So there is -- there is I guess the growth in demand and the growth therefore in subject imports or rather actually just the growth in demand and the growth in MiB that sort of exceeds the traditional growth indicators, whatever fluctuation that may be from year to year, is not taking.

That is not taking away from anything. That's new demand, that's burgeoning demand. So is there a segment of -- is there a segment that people are buying MiB, not necessarily subject to imports but buying MiB instead of flat pack? I mean I think at the consumer level, at the end consumer level there are people who are making that choice.

COMMISSION SCHMIDTLEIN: But among the purchasers that we're looking at, because that's what -- right.

MR. DOUGAN: I mean among purchasers? Right. So well I mean it's a derived demand, right? So the consumer demand is pulling it, and if the consumers are demanding less of the flat pack mattresses, then the purchasers will be sourcing less of them, and they're sourcing less of them from domestic producers, because that's who's supplying them. So I don't want to overstate that there's no, you know, end consumer demand that's not a displacement between MiB and FPM, because I think that's an overstatement. But --

COMMISSIONER SCHMIDTLEIN: So you agree that some portion of the decrease in flat pack is attributable to increase in the MiB?

MR. DOUGAN: To MiB, yes.

COMMISSIONER SCHMIDTLEIN: Yeah.

MR. DOUGAN: Yes, because of right --

COMMISSIONER SCHMIDTLEIN: So how can we parse out how much there is that shift there? And then we can -- I guess the second question would be you're saying that this preference for a mattress in the box has driven people to buy a mattress that they wouldn't otherwise buy, but that has nothing to with the price?

MR. DOUGAN: Right. That has to do with --

(Simultaneous speaking.)

COMMISSIONER SCHMIDTLEIN: That they are excited about a mattress coming in a box?

MR. DOUGAN: Or it makes their situation

easier, or they don't have to worry about returns or for all the other things that we talked about, because I mean some of these mattress in a box, they aren't cheaper than a flat pack mattress. I mean they're not.

COMMISSIONER SCHMIDTLEIN: Right.

MR. DOUGAN: They're just -- but it's a lot easier to deal with, right? So someone might choose a high end Purple mattress from one of the other ones or one that might be more expensive, rather than going to a store and buying a flat pack that's less expensive, just because they don't want to -- they don't want to take it home in their car; they want to have it delivered to the house.

So that's not a price-based comparison. So I think there is, you know, a lot of that demand shift has nothing at all to do with price.

COMMISSIONER SCHMIDTLEIN: And how -- what do we look at in the record to discern that?

MR. DOUGAN: Well, I think you have the response of the purchasers, and this is why I talked -- well first of all, you have 33 out of 56 purchasers who say we only sometimes are procuring what we perceive to be the lowest priced product. So the majority of them aren't saying yeah, either frequently or always do I get the lowest-priced product. That makes sense because there's a diversity of price points in features and functions, right?

So they're not all driven, the purchasing decisions aren't all driven on price.

COMMISSIONER SCHMIDTLEIN: But is there anything affirmative in the record saying, that addresses this idea that demand has increased because of the preference for it coming in a box? That's separate from as you acknowledge, I think it's probably wise that you do, that there's some portion of this demand that's shifted from people buying flat pack to it being shipped in a box. In other words, they were going to go buy a mattress, and it was more convenient for them to get it delivered in a box than a flat pack, whatever.

MR. DOUGAN: Sure.

COMMISSIONER SCHMIDTLEIN: But there's another portion of it where you're saying, you know, we're talking about that, what's left and whether or not that increase is being driven by the low prices or it's being driven by a preference for it coming in a box.

MR. DOUGAN: Right, and go ahead Eric.

MR. EMERSON: Yeah. I was going to say, Mr. Dougan probably has more of the record in his head than I do. I think probably we'll need to answer this in a post-conference after we're able to take a look a little bit deeper into the record. But I do want to make one key point, you know.

As Mr. Dougan mentioned, there may have been some tradeoff in a consumer's mind between the two, flat pack and MiB. But here's I think the important thing. For those people who did choose the MiB over the flat pack, they did not do it for reasons of price. That I think goes to the point that Mr. Dougan was making, that price is actually pretty far down on people's minds, in their choice.

They did it for reasons of convenience. At the wholesale level, for example, they did it for reasons of reliability, consistency, quality and so forth. So there may have been some trade off, but critically it was not on the basis of price. But in terms of additional record evidence from the confidential record, we'd have to maybe go --

COMMISSIONER SCHMIDTLEIN: So can I ask just one? Can I indulge with one more question here? So if that was the case of course, then why do we see so much underselling in this record? I mean if the MiBs from China are being selected because of all of these other factors having nothing to with price, why is there so much underselling at such big margins?

MS. GRODEN: If I may quickly, this is Cara Groden with Economic Consulting Services, the other ECS here today. Two points of yours that I wanted to touch on. The first is that though we have quite a data set compiled by staff through a lot of effort, the purchaser responses are not categorized by MiB or FPM. As we saw from Mr. Dougan's Slide No. 7, both the public and confidential versions, we know that there's highly concentrated purchases.

So if we're going to look just at the count of purchasers who are responding through their own experience as to whether U.S. and subject imports are comparable, that might be a little bit misleading.

The other thing to your question about the pricing products, you heard from Kyle's testimony earlier that there is still a lot of variability within the definitions of the pricing products. They're certainly more narrow than they were at the preliminary phase of this investigation, but in terms of you can look at Exhibit 4 to Chinese respondents' prehearing brief to see how varied even the foam densities that were requested by staff are. The cover is not specified in the pricing products.

So while these may seem to be relatively narrow product definitions, they still count for the folks in the industry here as buckets. And so we are seeing a potential large variety of pricing data in each of those products.

COMMISSIONER SCHMIDTLEIN: I see, okay. All right, thank you.

MR. STEVE DOUGLAS: Can I make one more

comment? I apologize. The other thing to look at, when you're looking at the consumer versus the wholesale pricing, when you're talking about consumer demand shifting from flat pack to MiB, there really is far less price that goes into that, because when you look at any MiB price, you can find it in a retail store in a flat pack model.

If you look at our best-selling mattress on Amazon, right, $99 twin mattress, I could go into probably every store in Washington, D.C. and find, if they have that type of product in their store, find a $99 twin mattress that's comparable to what we sell on Amazon. So when you're looking at consumer level choices, price isn't really a determining factor on that either, because when you look at the business models associated, they're getting comparable prices. It really is a demand shift to a new product type.

COMMISSIONER SCHMIDTLEIN: Okay.

CHAIRMAN JOHANSON: Commissioner Stayin.

COMMISSIONER STAYIN: Thank you. Just to catch up on what we're talking about, did I hear you correctly to say that the MiB ships faster than the on-time delivery offered by the, most of the U.S. producers?

MR. ADAMS: Brian Adams, absolutely.

COMMISSIONER STAYIN: What's the difference? One day, two days? I'm trying to understand the difference.

MR. ADAMS: Typically, it's a completely

different model. So if I'm going -- if a consumer's going to be delivered out of a regional fulfillment center, what's called white glove delivery, right, that has to be arranged. It has to work within your schedule, it has to work within the schedule of the distribution center. We need to get that on the calendar and that's usually at least three to four days if not more, typically more. The average consumer's delivery is usually within 7 to 14 days.

COMMISSIONER STAYIN: All right. That clears that up.

MR. ADAMS: The other difference is where the product can be located. I can ship a product to you in Washington, D.C. from a California warehouse and have it arrive here in two days. If the product isn't located in D.C., I then need to transfer it to get to a white glove delivery service. I can ship it from anywhere in the country and get it to you in two days.

COMMISSIONER STAYIN: Does the fact that you have to maintain a large inventory cause an additional cost to you in addition to what you actually have to pay the Chinese producer?

MR. ADAMS: Brian Adams. So based on the volume of product that ships and the fact that it can be located anywhere throughout the country, I don't think it's reasonable to say that it's a large volume of product that has to be maintained in order to be able to ship that product and achieve that model.

COMMISSIONER STAYIN: So that's an additional cost. In addition to it, you actually paid for the product, could you, for the inventory?

MR. ADAMS: What's an additional cost?

COMMISSIONER STAYIN: Warehousing.

MS. MOWRY: This is Kristin Mowry, Mowry and Grimson, counsel to Ashley. If we can get Brian's trucking slide back up there, I think it helps illustrate it, because there's two issues here really, and I'll let Brian expand on them. One is remember that Ashley is a domestic producer. So it's not just what they're buying from the Chinese, where they can warehouse it, but what they're producing in Saltillo, Mississippi.

And in the holding of the inventory, if you look at the difference of volume of what they can with that same warehousing space, the amount of volume is 4X that they can hold in inventory. So they're actually achieving huge cost savings with the MiB, as compared to an uncompressed mattress.

COMMISSIONER STAYIN: Okay.

MR. MALOUF: Can I say one more thing? Sam Malouf. Not to mention the difference and the variance between cost of having multiplicity of manufacturing facilities distributed throughout the United States, and the cost to maintain those over storing in a compressed bulk scenario. There's substantial, substantial savings.

COMMISSIONER STAYIN: Okay.

MR. STEVE DOUGLAS: Steve Douglas with Malouf. If I can just tag on again. The other component of this is that a lot of our retail partners will take direct shipments of entire truckloads, so that that cost that's incurred can actually be spread across the supply chain, because they move in volume. So bear a little bit of cost sometimes within our partners such as Amazon will also bear that cost. Because they have such an extensive network of storage, their cost to store items is significantly lower than most other people's would be.

COMMISSIONER STAYIN: Do the purchasers that ultimately buy the MiB, do they do any comparison shopping? Is there such a thing?

MR. DOUGAN: Commissioner, if you take a look at Confidential Slide 8 of mine, you can see at least one response that would be -- and I can't get into the confidence, but it does address the degree to which the largest purchasers tell their vendors what competing prices are in negotiations. I can't say anything more than that, but the other industry witnesses can speak to this.

COMMISSIONER STAYIN: I guess I'm going to the ultimate consumer that's buying it. Do they -- I mean do they just go on the Internet and say there it is, without comparing it to, you know, the flat and whether other options are there?

MR. DOUGLAS: Steve Douglas, with Malouf. In short, it's going to depend on the consumer. That being said, there are a number of vehicles by which a customer could compare. Online reviews are a huge component of that so they can go and see what other customers experiences are with that same product that they would be purchasing. They do have the ability, of course, to shop in a store as well. So, I mean there's definitely the ability to compare and it's going to depend on the customer level whether they actually take advantage of that method for comparison or not.

COMMISSION STAYIN: Okay. Are there substantive differences between the mattress that's in the box and a flat mattress? Same size you know just apples to apples, but are there any real differences between them?

MR. DOUGLAS: Steve Douglas, with Malouf. I'll let others chime in because this is a key point, but I'll start with the logistical differences, which are overwhelming. So, let's take, for example, a 10-inch, twin-sized mattress. From a logistical standpoint, the difference of that product, even if the mattresses have very similar specs as far as hybrid versus a hybrid, twin versus twin, 10-inches versus 10-inches in the height of the mattress that 10 inches is referring to. From a logistical standpoint, that product for an MiB could be compressed to a box that's roughly 13x13x41 as far as the dimensions of that product.

That's going to ship at the carrier level, so UPS or FedEx, very, very efficiently. It's the size package that their network moves very, very well. If you compare that to a flat-packed mattress, again, same size, same specs the size of that product in a flat pack will be roughly 38 inches or 39 inches by 75 by 10. Those dimensions actually exceed the maximum dimensions that can be shipped in those common carrier networks. So, UPS, USPS, FedEx they won't even touch it. They cannot move it through their network. They have to move it through what's called a freight network or a less-than-truckload carrier. They need to put that product on a pallet and then wrap that up. Then you have to book -- you can't just put it in your stack of packages that are going out at the end of the day. You need to call and have a driver come pick that up, specifically.

COMMISSIONER STAYIN: Excuse me. I meant to say, disregarding the box. It comes out of the box and it opens up.

MR. ROBINSON: Carl Robinson, go ahead.

COMMISSIONER STAYIN: And then you compare it to a flat -- same make, but a flat. Are there differences between them?

MR. ROBINSON: I can speak to the product inside the box. I think shipping is one thing to mention, but there are other distinct differences between mattresses that can be packed in a box and flat-packed mattresses. For example, Corsicana, I think one of the Petitioners testified here today, I think the lion's share of their business is continuous coil, which is a type of coil mattress, an innerspring mattress that cannot be roll compressed. It damages the inside of that mattress. You have to have a specific build of the mattress that allows -- and that was mentioned this morning as well that there are certain defining characteristics around the product that you have to change to make it a roll-packable mattress.

There are also certain foam formulations that react better to roll compression and if you do not have that technical capability, as some U.S. producers do not, they're not able to roll pack consistently and reliably.

COMMISSIONER STAYIN: I wasn't comparing it to an MID made by a U.S. producer. I was trying to compare it to a flat mattress. Not the shipping, not carrying it upstairs, just how it feels. How it feels. Is there a difference between that flat mattress and the mattress that came in the box once it's out, open. It's two of them right next to each other. Is there a different feel? Are they freely interchangeable with each other? I think that's pretty much what the record's been saying, but I want to know whether you agree with that.

MR. ROBERTSON: Not completely. I think it would depend on the situation. In some cases, you could get an identical feel of the mattresses before and after something is roll compressed laying out flat, but in other cases there are very different feels between a mattress that can be rolled compressed to one that cannot.

COMMISSIONER STAYIN: Alright.

MR. ROBERTSON: Does that answer your question?

COMMISSIONER STAYIN: Yes, yes.

MR. ROBERTSON: Thank you.

COMMISSION STAYIN: I've run out of time, so I'll pass it on to my colleague.

CHAIRMAN JOHANSON: Commissioner Karpel.

COMMISSIONER KARPEL: Actually, I was stemming off something Commissioner Stayin had asked. You started talking about the variety of differences between mattresses-in-a-box and FMPs. I think this was Mr. Dougan, I think, you were talking or who was going through -- sorry, now I've lost track.

You were talking about the logistical

differences and then -- sorry, Mr. Douglas. Could you continue with that? I think I would like sort of a full inventory of what you think are the differences from logistics to marketing to physical characteristics -- the sort of laundry list and keep within the 10 minutes I'm allotted for my questions. Don't belabor any point too much, but I want to sort of have the full laundry list.

And then I'm looking to understand if flat-packed mattresses can hit any of those points. I mean some of these like returns, for example, you could develop a return policy for flat-packed mattresses that's really easy for consumers. Maybe that hasn't been done, but that's what I'm getting at. I want to be able to sort of what's the list and then how can we line that up with what some of the analogies for flat-packed mattresses.

MR. DOUGLAS: Steve Douglas, with Malouf. Kyle spoke to the product differences. I'll kind of rest on that there, that you could have similar builds, theoretically, there. To your point, at the end, and then I'll loop back to the most important point.

As far as the returns, you know you could once a flat-packed mattress is open, the return capability would be equivalent -- or once an MiB, pardon, is opened and expanded, the return capabilities would be equivalent to a flat-packed mattress. So, really the critical component as far as from an online standpoint, and others could maybe speak to some other features, but it really does come down to that fulfillment.

So, as I was mentioning before, the size of a flat-packed mattress, even the smallest flat-packed mattresses automatically exclude themselves from some of the key features of success in channels that MiBs thrive in. So, the inability to ship a flat-packed mattress through UPS absolutely destroys your ability to sell that flat-packed mattress effectively on a site like Amazon, for example, because of their dependence on their two-day promise to their customer and their dependence on their fulfillment by Amazon Network. And so that's really what it ends up coming down to is that the flat-packed mattress just in no way can be an effective substitute in the areas where MiBs thrive the most. And again, so much of it comes down to the size and the logistics of the product.

COMMISSIONER KARPEL: Just to follow up, there's been a lot of features of buying a mattress in a box that have been talked about today, but I mean I take your point that it's really into how quickly can that mattress get to the consumer that is really sort of the defining feature of this. You could do returns in a similar way. You could both sell them over the Internet flat-packed or mattresses-in-a-box. You could have clear and transparent information about comparisons, whether or not you're selling a mattress-in-a-box or a flat-pack, but it's really this sort of two-day delivery window that you're saying that mattresses-in-a-box can meet this standard, but it's not possible for flat-packed mattresses to meet that standard. And that alone makes them noncompetitive?

MR. EMERSON: I'd also refer you back to Mr. Adams' slide. And I don't know if you're thinking about your inventory. I'm not sure if this is part of what you're looking for, but if we could turn back to, Marcia, the Ashley slide. If we take a look at this, this is, I think, also part of the inventory. It's not just the shipment portion of it. You know it's not just really I think what Steve was looking at was really kind of at the end of this process -- at the very end of the process, actually, even after the home delivery part or an alternative to home delivery, everything before this too, from the distribution center to the trucking transfer to the fulfillment center, these are also ways in which MiBs and flat-packed mattresses are quite different.

Where a flat-packed mattress, for example, you could not get 1,080 units into a fulfillment center. So, I understood your question to say, well, you know a flat-packed mattress could have a more robust return policy, could have a more robust review policy online. These steps here they couldn't do. And this also, I think, figures into the economics of the MiB marketplaces.

Specifically, as to returns, though, just because that is a point that you made, I would note that the very last column here also talks about returns. One of the interesting parts about the Ashley model is that because they have switched to MiBs they don't need as many returns. This is returns when it gets to your home and it doesn't fit up the stairs. Ten percent of their products got returned for that very reason and now it's less than 1 percent. So, when you're thinking about returns a little bit more broadly, again, this is a fundamental difference between the two mattress styles.

COMMISSIONER KARPEL: Since we're on returns, I mean this is a return for a very specific reason, did not fit, but I guess I'm thinking in my head if you're buying something over the Internet that you've never slept on before seems like you -- you tell me -- you could have a higher return rate because, wow, once I slept on this -- I never tried it out -- this isn't working for me. So, do you have data on returns overall, not just for this specific reason?

MR. ADAMS: With the fear barrier removed of, don't worry, if you don't like it, it can be returned, when consumers get their mattresses they love laying on them. I mean that's not the -- with the amount of content, if you go to any one of these pages online, the amount of content people really invest a lot in reviews, in what other people are saying about the mattress and they spend a significant amount of time reading about it. So much so that if one comments says this mattress lays firm for one person that can trigger a no buying situation. For another customer that can trigger a buying situation because that is what they're looking for. They don't get that in the traditional brick-and-mortar setting.

They can't look at what 10,000 people said about this mattress and really understand and have that real understanding of what it is people are feeling after they've actually purchased that product.

MR. DOUGLAS: Steve Douglas, with Malouf. We can't speak to the exact percentages because it's sensitive information, but I can say that our return rate for online mattress-in-a-box sales is extremely low.

MR. ROBERTSON: One of the things I mentioned this morning or one of the things that was mentioned this morning and wasn't disputed was the quality of mattresses coming from the subject imports. They recognize the quality that's in those products. They are high-quality products and in a lot of cases higher quality products than the U.S. mattresses. And overall, that also means to me that we also have a return rate with our domestic or our subject import mattresses -- sorry. Does that make sense? We have a lower return rate on our domestic -- sorry. We have a lower return rate on our international mattresses than we do on our domestic. Thanks.

COMMISSIONER KARPEL: I feel like I've heard a few different things and I just want to make sure I understand. So, I thought I'd understand from Mr. Douglas that the sort of key, defining feature between mattresses-in-a-box and flat-packed mattresses is the ability to use a common carrier, which translates into the ability to deliver these mattresses in two days or less.

But now I'm hearing some differences there may be in terms of returns. It seems like on returns you could conceivably have the same return policy for a flat-packed and for a mattress-in-a-box. You could similarly have ease of buying over the Internet with reviews flat-packed and mattresses-in-a-box, so I think that's my understanding. If any of you who've also responded to this question think that I have it wrong, please, I want to hear that.

MR. ADAMS: I think what's important to note is the success and the ability for MiB versus flat-packed to be sold through E-commerce. MiB is what drives E-commerce. E-commerce is what drives all those other downstream benefits. To be able to sell a flat-packed mattress through the E-commerce channel is not a successful model because you can't use a drop ship. You can't use UPS, FedEx, USPS to deliver that product. So, we're starting to think some of the confusion you're noting is what's attributed to E-commerce versus MiB, but in order to be successful in E-commerce you have to have MiB. That's your only option.

MS. GRODEN: I'd also point your attention to the confidential staff report in Appendix. I'm looking at pages E-8 and E-19 and that's where you break out subject imports and U.S. producer shipments by channel. And what I think you've heard from the industry witnesses here is that I guess you could say that U.S. producers could've sold flat-packed mattresses through E-commerce avenues, but it would've been very difficult. It's not conducive to the necessary shipment logistics that are incumbent upon a producer trying to sell through that channel.

And what we see is over the POI there's been very different participation in that channel by U.S. producers and for shipments of subject imports and I think we should keep that in mind.

CHAIRMAN JOHANSON: Alright, substantial numbers of purchasers report that both domestic and subject import mattresses usually meet minimum quality specifications, and this is in the pre-hearing report at page 215 -- at Table 215, page 2227. What are some of the reasons for mattresses not meeting minimum specifications?

MR. ROBERTSON: I can speak to that. One of the things, as I've mentioned, is decompression issues. If a mattress that has come rolled compressed in a box is not compressed correctly it will not recover, meaning that it will not return to its full height and you've got a flat mattress without any buoyancy or support in it. So, that is one of the reasons why it might not meet minimum standards. Also, to add on, Brian also mentioned this morning fire retardentacy is another issue where occasionally if a U.S. or international supplier, for that matter, doesn't have the capability to protect that and meet CPSC standards, that could definitely below minimum standards, as required by the government. Thanks.

CHAIRMAN JOHANSON: So, the whole issue with them not unraveling correctly that just applies to the mattress-in-a-box.

MR. ROBERTSON: Yes, that's correct. That would just apply to a mattress-in-a-box. And, yes, when you open it up it would just stay flat. It's not going to come back to a full height.

CHAIRMAN JOHANSON: How often has that happened?

MR. ROBERTSON: With good suppliers, it's extremely rare.

CHAIRMAN JOHANSON: Okay.

MR. ROBERTSON: For U.S.-made ones they were at higher rate.

CHAIRMAN JOHANSON: Do you know why that is?

MR. ROBERTSON: So, there is some proprietary technology in regards to foam formulation. I stated that in the preliminary post-conference hearing, but I can submit that again in post-conference today -- post-hearing today. There are some preliminary foam or proprietary foam technologies that allow for it to be compressed more reliably, some of those are -- that's one of the factors. Other times it's a compression rate that's too high. Just because you have a machine that can compress mattresses doesn't mean that people know how to use those correctly. If they haven't been trained or haven't had the breadth of experience of a larger supplier they can definitely have issues with that.

The other thing is inventory holds. If you hold a mattress for too long and it sets in a warehouse for two years that thing will have a harder time recovering from that compression.

CHAIRMAN JOHANSON: Do you know of any other quality differences between domestic and imported mattresses and boxes?

MR. ROBERTSON: That's a good question. I could probably talk for an hour about different quality standards within mattresses. And like I mentioned, counselor Baisburd -- Yohal Baisburd mentioned that you could change a single thing about any mattress -- any part of that mattress you could change a lot of different ways and so there is a wide standard of quality among the products that we're talking about here.

MR. MALOUF: Another significant component is the vertical capability of the factory. So, many of our overseas partners do everything in house. They control everything from the cellophane the mattress is wrapped in to the cover to the carton -- manufacturing the carton. And here in the United States, that's very, very uncommon, if not, nonexistent for a single factory to control all those levels. So, obviously, internal control leads to a lot higher quality and we've seen that.

CHAIRMAN JOHANSON: Okay, thanks. U.S. importers, U.S. shipments of flat-packed mattresses increased sharply from 2016 to 2017, then declined even more sharply from 2017 to 2018 and declined again in the first half of 2019. This can all be seen at Table 27 of the pre-hearing report. Do you all know what accounts for these fluctuations in FPM import shipment volume?

MR. DOUGAN: We will look into that. Off the top of my head, I do not know the answer to that. But what I do know is that those are trivially small quantities relative to total subject imports and relative to FPM consumption and it's a shrinking share of FPM consumption over the POI, but we'll see if we can find out what those fluctuations are attributable to.

CHAIRMAN JOHANSON: Okay, thanks, Mr. Dougan.

What effect did the filing of the petition in September 2018 and the imposition of preliminary duties in June 2019 have on subject import volumes in the first half of 2019?

MR. ROBERTSON: Overall, with the threat of dumping coming down, there's a risk for us, as importers of products, and with that we had to seek out other sources for producing our products outside of China.

MR. DOUGAN: I mean there was a decline in the shipments between the first half of '18 and the first half of '19. I'll have to look more closely at the monthly data and sort of parse that a little bit to do that more finely. Looking at the annual periods and the half-annual periods, you definitely see the decline. The degree to which that's attributable to the filing of the case or the imposition of duties is going to depend on the precise timing of that. And also, there's the issue of the 301 tariffs, so we can look at that more for post-hearing.

CHAIRMAN JOHANSON: Okay, I look forward to seeing that. As you know, that's the type of thing we would commonly look at in an investigation.

MR. MCLAIN: I think it's important to note that here the Section 301 tariffs were ahead of the timing of the preliminary remedies here, so you have in September of 2019 an announcement that the List 3-Section 301 tariffs, which covers mattresses were going to increase from 10 percent to 25 percent on January 1. And then the original preliminary determination date in the Commerce proceeding for the mattresses anti-dumping case was scheduled for February 25, 2019. And both of those deadlines were subsequently delayed, but from the date that it's in the staff report it's hard to see that there was a meaningful effect of this case on monthly import levels as opposed to other factors, including quite clearly the Section 301 tariffs.

CHAIRMAN JOHANSON: Okay, yes, anything you all -- if you want to address that any further in your post-hearing brief, please feel welcome to do so.

Getting back to the whole market segmentation issue, if there are price leaders in the industry are they different for flat-packed versus mattress-in-a-box products?

MR. DOUGAN: I'll let some of the industry folks talk to this. If you'll look in the staff report, the most commonly cited price leaders in the staff report are domestic producers or retailers who trade primarily in domestic merchandise. And given the composition of the shipments from the U.S. producers, it would tend to be a lot of that discussion is around flat-packed. So, at least with regard to the ones that are mentioned in the staff report, it's going to deal mostly with any kind of leadership in the flat-packed, but I'll let the other industry witnesses speak to that.

MR. DOUGLAS: Mike Douglas, Malouf. I would say that just because there are such varied business models in each segment I think there are naturally price leaders in each, but how to compare them is pretty tough.

CHAIRMAN JOHANSON: Okay. My time is expiring right now. The yellow light is on, so I'm going to end this for now. Commissioner Schmidtdlein.

COMMISSIONER SCHMIDTLEIN: Yes, okay, thank you. Alright, I just have a couple more questions. Again, they go back to this question about competition between the two, so I just wanted to hear your response. One of the arguments that the Petitioners make is if you look at the table with regard to the shift in purchases, which I believe is at V-26, V-26 in the staff report -- maybe not. I'm sorry, V-56 -- 55 to 56.

It's at 27 of their brief. If you look at that table and calculate the percentage decline that purchasers reported in domestic products versus the increase in their purchases of subject import, you get a 17.6 percent decrease in domestic purchases over the POI and a 15 percent increase in purchases of subject imports. And their argument is, isn't that evidence of direct competition; in other words, shifting from domestic product to subject product. And in many of them, if you look through the list you do see an almost one-for-one percentage change, right, with regard to many of the purchasers, you'll see the exact same percentage change in reduction of domestic purchases and then the same percentage increase in subject purchases. So, I guess the question is, doesn't that demonstrate a shift from domestic to subject.

MR. EMERSON: Commissioner Schmidtlein, we'll probably have to address this is post-conference. I believe it's all confidential.

COMMISSIONER SCHMIDTLEIN: the numbers are all confidential -- well, the individual numbers are confidential.

MR. EMERSON: Sure. But I would say, no, it's not necessarily a shift from domestic to import. I think so much as a shift from flat-packed to MiB and I think Mr. Adams can speak to this as well. He would be -- again, without commenting on the specifics of the Table, his testimony earlier was he was a 95 percent FPM purchaser at the beginning of the POR and he's a 95 percent MiB purchaser now. Now, he probably did -- and so I think that's really the shift that you're seeing and you see that mirrored again in the broader trends in the industry. You're seeing purchasers finding the value in the MiB segment and it just so happens that those are the mattresses that the Chinese industry has been making for quite some time and those are the mattresses that are unavailable from domestic sources.

COMMISSIONER SCHMIDTLEIN: Well, there was some capacity. They did increase their production of MiBs, right?

MR. EMERSON: But only recently -- only in the very recent months, year -- 18 to 24 months.

COMMISSIONER SCHMIDTLEIN: What is your response to their argument this morning that they actually have the capacity to produce millions of those MiBs?

MR. EMERSON: For this, I would turn it over to one of our industry.

COMMISSIONER SCHMIDTLEIN: Okay.

MS. GRODEN: I want to point out quickly that, first of all, the purchaser questionnaires, again, don't differentiate between FPM and MiB and then also the shift in purchases that we're seeing in this table is of the composition of their purchases, right? So, you would see an equivalent shift "from U.S. producers --

COMMISSIONER SCHMIDTLEIN: Let me just interrupt you. You would've preferred that the purchaser questionnaires differentiate between those two?

MS. GRODEN: I'm saying we have a lot of information on the shipments into the market, but in terms of considering the purchaser data that we have right now, unless we can look into narrative information about whether or not they were purchasing only MiB or flat-packed, that's not information we have available to us right now.

COMMISSIONER SCHMIDTLEIN: So, was there an opportunity for you all to request that the Commission modify those questionnaires to specifically ask for that information?

MR. DOUGAN: Commissioner Schmidtlein, yes. We spent some time on the comments for the draft questionnaires back in March and you know, frankly, this is something -- I don't have them in front of me, so I don't know that this is something we asked for and didn't get or it wasn't something we didn't ask for. So, we'll look and see --

COMMISSIONER SCHMIDTLEIN: Given that it seems to be the essence of your case, right?

MR. DOUGAN: Right.

COMMISSIONER SCHMIDTLEIN: This is the case.

MR. DOUGAN: Well, one thing I would -- and just in comment to and building a little bit on what Ms. Groden said and what Mr. Emerson said, we'll have to address this in post-hearing because the individual shifts are confidential. The next table in the staff report, which is Table V-26, so that's on pages 57, 58 -- V-57 through V-59.

COMMISSIONER SCHMIDTLEIN: Lost sales.

MR. DOUGAN: Which is basically them saying whether they purchased subject imports rather than domestic on the basis of price. So, the first table you referred to said, yes, there was a shift. Now, some of that may have to do with MiB versus FPM, maybe it's not the same thing. Okay, we can parse that as well, but the real question is did they shift on the basis of price, and the next table says they didn't. That the quantity that the purchaser said, yes, there was a cheaper import and we bought it because of that. It's 655,000 units, which is less than 1 percent the total purchase of imports.

So, you have -- and this is why I emphasized the concentration of the purchasers, right, because the Top 10 are a huge percentage of the market and they're not saying that they switched on the basis of price. They're saying that they had other reasons for increasing their purchases of the subject imports. And in some cases they said it was -- first of all, it was the logistics thing and the ability to deliver, et cetera, et cetera. Sometimes it was, well, we increased both. You know it wasn't instead of. It was in addition to. But when your E-commerce sales are going through the roof, you know you're going to be getting from everyone and then the customer decides what they want.

And so, let's say if it's Amazon I mean one of the things we heard this morning was, well, Tuft & Needle used to have 20 out of the Top 50 rankings on Amazon and then they fell off because of low process imports. Mr. Douglas can tell you why that happened and it had nothing to do with price.

COMMISSIONER SCHMIDTLEIN: Okay, before you do that, though, remind me. So, some portion of the flat-packed has been displaced by MiBs, but there's another portion of the flat-packed that the -- remind me. Do you all have any theory as to what was causing that decline if it wasn't displacement by the MiB?

MR. DOUGAN: I think what we said is that there is -- I think it was the other way around is what we were saying, is that a portion of the growth in MiB was perhaps a displacement of FPM, MiB category, in general, as opposed to FPM category, in general. But a large portion of the growth in MiB was sort of entire secular growth -- .

COMMISSIONER SCHMIDTLEIN: So, are you saying then, though, the entire decline in flat-packed was attributable to displacement by MiB? No, some portion of the decline -- put aside the growth, how much the growth.

MR. DOUGAN: Right, right, right.

COMMISSIONER SCHMIDTLEIN: Some portion of the decline in flat-packed that was not attributable to displacement by the mattress-in-a-box.

MR. DOUGAN: I don't want to say all of it, so I'll have to talk to maybe some of the industry folks and we'll think about that for post-hearing.

COMMISSIONER SCHMIDTLEIN: Okay. I mean does anybody have -- I mean, given that you have experience in the industry or watching this industry, there's n theory about like why people stopped buying flat-packed other than -- again, I understand part of it they were buying MiBs, but I understood you all to say before not the entire decline in flat-packed was attributable to displacement. So, there was no like -- was there some other reason, given that the economy was pretty strong? You know normally we would hear, well, the economy wasn't doing well. People postponed purchases -- you know that kind of thing, but that's not the case here in terms of the economy.

MR. EMERSON: Yes, Commissioner Schmidtlein, you know I think that there are things we can say that it's not attributable to, and I appreciate that that is maybe not the answer you're looking for and certainly one we would want to give you more fulsomely in a post-conference brief, one of the things it is not attributable to, of course, are imports of flat-packed mattresses from China because those were vanishingly slim during the POI. So, it's not a matter of head-to-head competition between U.S. flat-packed mattresses and Chinese flat-packed mattresses where someone was going off and buying a Chinese mattress at a cheaper price. So, that's pretty clearly not on the record.

I think that there is undoubtedly to some degree -- and I don't know that we could quantify it here at the table -- but I think there is undoubtedly some degree where demand shifted where there was people -- some segment of the population decided they didn't like flat-packed mattresses anymore and they would instead buy MiBs. I think that that's -- I don't think that we could say that that didn't happen.

COMMISSIONER SCHMIDTLEIN: Right.

MR. EMERSON: But I think it's important, again, to understand the reasons why that might have happened, again, not for pricing reasons.

COMMISSIONER SCHMIDTLEIN: Yes, I understand. We talked about that. I just wondered about the other portion. What the theory for why that was declining.

MR. ROBERTSON: Although I think there might be a little bit of a dynamic or small shift in demand as far as flat-packed to rolled compressed mattresses, but that doesn't take into account other things, and we can go into more detail, but Mattress Firm, for example, has had some significant struggles throughout the last couple of years.

They are a dominant player within the flat-packed mattress arena -- a dominant player, a dominant customer for the Petitioners.

There has also been some competition within the Petitioners between SSB and Tempur Sealy to get spots on their floor. And I think, overall, it's been a net decrease in flat-packed mattresses.

COMMISSIONER SCHMIDTLEIN: Okay, alright, well, I invite you to address it in the post-hearing. And Mr. Douglas, would you like to address that?

MR. DOUGLAS: Steve Douglas, Malouf. Similar to what Kyle alluded to, I think kind of the painting -- or the picture that's been painted, pardon, is that everything just comes down to price again and so he alluded to the decline in sales of Tuft to Needle that was testified to this morning. And again, they've even specifically said this is all coming down to price.

At the end of the day, as I mentioned before, there are a host of other factors. Specifically, with that Tuft to Needle mattress and specifically, on Amazon, there was a period in which they were ranked much higher than they currently are. They had tens of thousands of reviews and their star average, their average review score which customers use to decide what they're going to purchase was between 4.8 and 4.9 stars, which is an unbelievably great review score.

During the period of investigation, Amazon made some shifts in how they calculate review scores. They had a lot of bad press about reviews not being trustworthy. So, what they did is they went through and if customers couldn't have been verified to purchase that product they would either remove or un-weigh that review. And Tuft to Needle had thousands of unverified reviews, so their score went from 4.8, 4.9 down to 4.2. We have a host of data that we can supply in the post-hearing brief that shows if you go from even a 4.3 to a 4.2 that changes what's displayed on the product detail page. Instead of showing 4.5 stars, it will show four stars and that change alone will cut your sales in half instantaneously.

So, during this time, Tuft to Needle went from 4.8 or 4.9 to -- I think currently they're at a 4.1, so of course their sales declined, but that change had nothing to do with price. Presumably, their price could've stayed perfectly consistent for production cost, for sale to Amazon, it wouldn't matter. That change in review score would be enough to significantly shift their sales in and of itself, so it's a very complex ecosystem.

COMMISSIONER SCHMIDTLEIN: But Tuft to Needles only does mattress-in-a-box, right?

MR. DOUGLAS: Yes, so that'll happen with a mattress-in-a-box, but the industry isn't all just about price and so that's an online example, but Mattress Firm and other acquisitions, stores going out of business, there are things that can have a similar effect in the flat-packed mattress that would just be extremely difficult to hone in on the exact factor that lead to this or that. The bottom line is, though, is that the picture that's being painted of, oh, it's always price and it's all price is just simply not the case.

COMMISSIONER SCHMIDTLEIN: Okay, alright. Thank you.

MS. MOWRY: I think somewhere in that questioning you had a question about domestic capacity and if you did, I'd like to speak to it.

COMMISSIONER SCHMIDTLEIN: Sure.

MS. MOWRY: So, I think one thing we heard a lot about this morning that we really need to be precise about is domestic MiB capacity, and so, of course, I'm going to turn to Mr. Adams to talk about what that entails, but I just want to think -- I think Ms. Alves and both Mr. Baisburd referred to page 18 of their pre-hearing brief where they talk about capacity utilization. And if you look also at Exhibit 4 of their brief, there are two charts. The data is confidential, but the chart itself is the same as what's in the questionnaire, which separate out compression capacity and production of compressed products versus compression and rolling capacity and production of compressed and rolled and I so I need the Commission to be really mindful and really precise about how they look at that because compression capacity is not an indicator of the ability to produce MiB. It's only compressed and rolled that results in MiB. So, I'll turn to Mr. Adams to talk further about just the differences in production and the model, if you want to hear about it or we can --

COMMISSIONER SCHMIDTLEIN: Well, my time has expired. I don't know if we want to go back around and we can do this in the second round.

CHAIRMAN JOHANSON: Commissioner Stayin.

COMMISSIONER SCHMIDTLEIN: I'm sorry. We'll come back to it.

COMMISSION STAYIN: Tell me something about the mattress industry and China. I notice on page VII-3 it talks about industry and China and it says that the Commission received questionnaires from 13 firms that export to the United States from China. And they said that the production of mattress --on page VII-3, industry and China. It says that they received questionnaires from 13 Chinese firms. These firms export to the United States accounted for approximately 59.7 percent of imports of mattresses from China and then down below it says that this production --

these estimates accounted for -- of the overall production of mattresses in China. Does that sound about right to you in terms of the capacity in China to produce mattresses?

MR. HAWS: Yes, I would agree that that does sound fairly accurate. I can't speak to any specific numbers, but capacity in China for mattress production, specifically, MiBs has never been an issue for us. As Sam mentioned earlier, they're barely vertically integrated and that hasn't been a concern for us.

MR. EMERSON: I think one of the difficulties for the industry is that it's fairly diffused and I think getting our arms around a complete number of how many producers are there in China to be able to validate that figure would be fairly difficult because some of these -- there are certainly some larger producers and we represent some, but I don't know that we could validate that specific figure.

COMMISSION STAYIN: Okay. I noticed in your brief and some of your testimony that you emphasize the importance of selling on the Internet and in your brief you had suggested that the U.S. industry had not taken advantage of that possibility and was not using it. And yet, today they basically said they are selling on the Internet. Maybe you could clarify it for me. Are they -- the U.S. industry selling MiBs on the Internet?

MR. DOUGLAS: Steve Douglas, with Malouf. Yes, it's an important distinction between selling on the Internet and selling effectively on the Internet. So, we wouldn't dispute the fact that they've had presence on the Internet for a long time, but that presence, up until very recently, wasn't ever anything of any real significance. And until you get to the point of 2014-ish with Casper and Tuft to Needles, when they start to come onto the scene in a more meaningful way, they haven't really been very significant outside -- the domestic producers, outside of those companies. And we've seen that they've had a nice trajectory, for the most part.

MR. ADAMS: I think the distinction here is it's a question of whether they're selling flat-packed or MiB on the Internet. We manufacture in the United States and of course we sell on the Internet. Our conversion from flat-packed to MiB is what has allowed our E-commerce operations to explode.

COMMISSION STAYIN: They also comment upon the importance of placement, whether it's in a store -- a brick-and-mortar store or where you're placed by Amazon on their list. And they'd said where you're placed has a lot to do with where your price is. Is that correct, to your knowledge?

MR. DOUGLAS: Steve Douglas, with Malouf. Yes, hearing the testimony this morning was honestly a bit eye-opening. It underscored for me, just to be blunt, a deficit in understanding of how those factors play into placement.

There was mention made this morning that you negotiate for a placement with Amazon, which is laughable. There's no negotiations. It's algorithms. There's again all the factors that I mentioned before -- review score, your review quantity, your ship speed, your customer service score, your content score, and so there are a ton of different factors that play into that.

COMMISSION STAYIN: Price is the most important point in that whole list of qualities?

MR. DOUGLAS: Sales history, typically -- and again, it's going to vary channel-by-channel because each channel is going to have a different algorithm with how they weigh all those different factors. Some will take into account factors that aren't taken into account elsewhere. Typically speaking, sales history and sales volume tends to be the most important factor. That being said, the actual weighing and presence or absence of any of those factors on any channel is tightly guarded, proprietary information by those channels. So, we can come up with kind of an approximate estimate that we use and price is definitely a component in that, but it is certainly not the only nor is it the primary factor in that determination.

MR. MALOUF: I think to clarify sales history that's time in position, so that means the time you've been on that site for sale. There's been a lot of very misstated information about when the Petitioners showed up online. By showing up online, they may have had a listing on Amazon at some point in 2010 or whenever they're claiming, but as far as actually playing the game, they did not start playing the game, just as Brian mentioned, until recent years.

There's even claims also that have been talked about, about how they've been on the site and they've had MiB capability for all these years. In the case of Brooklyn Bedding, they claim to be one of the first, if not the first, mattress-in-a-box producer. We actually imported from China their first compressed mattress so that they could reverse engineer and produce it here. So, that's further evidence to the fact that a lot of technologies did not exist here and were late behind China.

So, furthermore on Steve's point, this market that the Petitioners are talking about, this new market we developed. We were actually the disrupters, not Casper. We existed on the site five years before Casper. Casper made it public and the U.S. Petitioners want that piece of the market. They can't get it. The doors are locked. We've been set up there for years. As Steve mentioned, it's not based on price. You can't come in with a cheaper product and disrupt it. You can come in with a brand and disrupt it. The real estate has been squatted on, to a certain extent, by us for long enough. They can't have that business.

MR. DOUGAN: Commissioner Stayin, just to repeat something that Mr. Douglas said, there was a talk about how Tuft to Needle had fallen off of the first page of the search results because of Chinese price competition, but what he said is, no, it had nothing to do with that. They had a 4.8 or a 4.9 review score that lead their mattresses to be 20 out of the Top 50 or something like that.

When Amazon changed their policy to scrub the fake reviews that were on the site, they went from 4.8 rating to a 4.2 rating. Their placement on the front page like evaporated overnight and that alone would cut -- with no prices -- no change in their prices, no change in relative price of the Chinese imports that would change their placement all by itself. And when you're not on the front page that's what's going to affect your sales.

COMMISSION STAYIN: Would you go back to what you were talking to me about just before about the efforts you made and the success that you've had in locking up a placement on the Amazon page.

MR. MALOUF: Steve Douglas can address this in a more succinct way, but the ability to be ranked in these third-party sites like Amazon comes from staying power or sales power or time in position, not by price and not by really anything else. It's like a Google website. It's like SEO. It takes time and positioning. So, my feeling about this whole case is that we emerged a new market a long time ago, a decade ago and the Petitioners want that market in addition to the old market that they built for decades and they still have that market. And it's a new market and the reality is it's not possible to just jump in overnight, by price or by any other way. It's been time in those positions and it's been a lot of years of learning that customer base and servicing them through these online channels.

MR. STEED: I would also mention that this has taken a significant investment on our part and we're talking to the tune of -- we have our own videography studio in house to do our own videos to post those online. We have our own photography studios in house. We spend an amazing amount of time, resources, capital, employment opportunities in order to, not only get to those levels, but invest in that real estate, so to speak. And I just want to make that very clear; this is not just a timing issue. This is an investment that we've been making for years.

COMMISSION STAYIN: Are you a marketer of the company that is primarily responsible for the sale of MiBs from China in the U.S. market?

MR. MALOUF: Yes. I think Steve should address this more, but, yes, we are the brand that shows up on the online site. So, if you look at the top-selling mattress it's a Linen Spa mattress. That's our brand. It's our product.

COMMISSION STAYIN: Okay.

MR. EMERSON: Commissioner Stayin, if I could make one other point and this is just to echo something that Steve had said earlier today. It's also critical to understand that the price that you see on the Amazon website, the one that you and I might buy is not necessarily related to the price at which Malouf sells to Amazon. And there are specific instances where the price that is on the Amazon website is lower than the price at which Malouf made the sale to Amazon. Why? Because as Steve mentioned, there's a great war going on between Wal-Mart, Amazon, and others to become sort of the principal place that people buy everything and they're willing to take the loss to do that.

So, I think that even if -- so price is not the significant driver, but it's also important to understand that that's not always a price that the Chinese producers or even someone like Malouf gets to set. It's a price that oftentimes set by Amazon based on their own economics. And we can submit, if you'd like in post-conference, specific examples of sales to Amazon, sales by Amazon to show those price differences.

COMMISSION STAYIN: Thank you.

CHAIRMAN JOHANSON: Commissioner Karpel.

COMMISSIONER KARPEL: I wanted to ask you to respond to a couple of arguments that Petitioners had made earlier. One is about the average unit values. And we saw that average unit values for domestic shipments increased over the POI and we asked them why. Why is that? To simplify, they said it's product mix. We're selling more higher-end versus lower-end product, which we've lost sales to the Chinese imports. I guess I'd ask you to respond to that. You've also pointed to rising average unit values as evidence that there isn't price effect, so can you speak to that please?

MR. DOUGAN: Commissioner Karpel, Jim Dougan. We will do our best to look into that using the confidential data. I don't want to speak to now because all that stuff is confidential. But also, we'll have to look into the record, maybe individual producers, individual pricing products, because I'm not sure that we have the evidence to either confirm or deny that that's the case. We'll obviously look and do our best to analyze that claim with the evidence that's available on the record.

COMMISSIONER KARPEL: And the other is, we heard from at least a few domestic producers that focus on producing Mattresses in a Box, and they stated that they had lost sales to imported Mattresses in a Box, and in large part due to price. We've heard you say that price isn't where the competition is happening, but how do I square what you're saying with what they told us this morning?

MR. DOUGAN: We'll take a look at the individual company lost sales' information that's on the record, but in aggregate, it's tiny, right, it's less than 1% of reported purchases. So, if they're saying that they didn't have an opportunity, or they felt like they're not selling as what we wanted, well, we know that, you know, are they not selling as much through Amazon because of competition, low-priced imports?

Or are they not selling as much because they had a stockout and dropped in the rankings? You know, I mean, so is that a price-related competition? Or are they, you know, losing the throughput at some of these e-commerce retailers for reasons having nothing to do with price. Because the lost sales record indicates from Slide 6--there we go--I mean 600, it's pretty small, and that's the record --

COMMISSIONER KARPEL: I'm not just asking about lost sales. I think that's a particular data set, but I think they were speaking more generally in terms of having felt pricing pressures, even though they're a Mattress in a Box producer, feeling pricing pressures from lower-priced imports of Mattress in a Box, and some of the interactions I've had with their purchasers about price in relation to imports.

So I'm just trying to get it beyond just the lost sales data, that narrative that they've been discussing with us and that we see some evidence of in terms of lowering, you know, declining market share of domestic product versus imports.

MR. DOUGAN: Sure, I think the thing to keep in mind is that the U.S. producers of MiB, their shipments increased really substantially and made a positive contribution to overall domestic industry market share, which declined as a whole, but all because of FPM. So that's one factor in there.

Now, what you're talking about -- we'll have to address specific claims with the evidence that we have on the record. You know, they're saying that there's specific price competition that they're not getting -- and again, the question is, where is that sale being lost? And why is their customer not making the sale? And they're saying it's because of price. Or is their customer just being, you know, sort of negotiating with them?

Because the end customers' sale, if it's, you know, if it's Casper or Tuft & Needle or whoever else is doing that, if their sales competition may not be based on price. They may be losing sales at Amazon or Walmart for reasons having nothing to do with price.

They may say, yeah, well, there's a lot of Chinese stuff in the market and you guys need to lower your prices to us, but that's a negotiation tactic, as opposed to what's actually driving the volume of sales through some of these channels. But we'll take a look at that in more length. And Steve, sorry, did you wanna talk to that?

MR. S. DOUGLAS: Yeah, Steve Douglas with Malouf. I don't know exactly which testimony you might be referring to. There was a lot that kind of focused on price, so it's tough to parse out exactly which component you're speaking to, but one thing that did get mentioned that Jim touched on was the part about, you know, we go to Amazon and they tell us that our price isn't good enough, that it needs to be lowered.

We've been selling Chinese mattresses to them. They tell us the same thing. It's absolutely, so it's a programmatic ask actually from the, and we have this from Amazon employees, they ask that of everyone no matter what. They have higher-ups at Amazon at the VP level, that on a programmatic basis, whether that be, depending on your account, it could be a three-, six-, or twelve-month rolling cycle.

They will come to you and ask you for lower prices automatically. Doesn't actually mean that your prices are off, they're just trying to squeeze you for more money. It's just part of their -- it's their VPs down to their DMMs, down to the Account Manager levels, they'll tell that to everybody, whether you're making in the United States or in China, doesn't matter.

MR. MALOUF: Also, the petitioners don't represent a unified team. They're competitors with each other. And we've talked about this a little bit before, but the amount of marketing dollars that are being dumped in the market now are unprecedented. It's been said on record, Nectar, one of the main D-to-C sellers, spends $350,000 daily on Google advertising. And they're not the only ones. We know Casper's numbers are very close to that. So the hundreds of millions of dollars are being spent are creating price pressure to everybody, and they also have a lot more options to decide between. So I think that's a major, major factor that the whole industry is experiencing.

MR. M. DOUGLAS: I think there's also--and this is gonna sound a little harsh, and so I apologize to the colleagues in the back--but, you know, we've used some of the domestic MiB producers and Kyle and Jordan can speak to that experience, but when we decided to move the business away from them to China, it had almost nothing to do with price. It had to do with their service levels, it had to do with their quality, it had to do with their communication and none of that are they gonna look internally and say, "You know what, I should probably do better." What they're gonna say is, "Well, it's because of the pricing. That's why they changed. It's because they wanted cheap stuff."

That's not the case. And we can say that as a first-hand example of somebody who has bought Mattress in a Box from the United States. We did that specifically. There's one program in particular that we used Elite foam to supply and they missed their ship windows time and time again, said they shipped to end consumers when they didn't. We ended up losing that program and have not been able to place mattresses with that customer that they were part of supplying to, since then.

And that was in 2016. They won't give us another shot because of how badly bungled that domestic supply did on the program. And so they can claim all day it's because of price, but in reality, they don't have the expertise, they don't have the knowledge, they don't have capacity or the bandwidth to actually produce what they're claiming they can produce.

COMMISSIONER STAYIN: Just may I -- hello? So this is interesting. So you, early on had one of them as a supplier of MiBs and they did not perform --

MR. M. DOUGLAS: Correct.

COMMISSIONER STAYIN: -- and therefore you found China as a more reliable supplier?

MR. M. DOUGLAS: Yeah, we were actually already using China, and so it was a pretty stark contrast in the service levels that we received.

COMMISSIONER STAYIN: All right, thank you.

COMMISSIONER KARPEL: I just wanna clarify, understand your argument. So the only information we have, this sort of idea that you're putting forth that competition is not on price, it's on other factors. Is the information we have in Section 2 of the staff report, which are these purchasers indication of how comparable domestic imports and domestic product are on a variety of factors, price just being one of those. But it's showing that purchasers out there are comparable.

So your response to that is, look, you should have asked the question differently. You should have asked, you know, as between MiBs, domestic and imported, what's your answer, as between flat-pack mattresses, what is your answer? Is that --

MR. DOUGAN: Commissioner, the only evidence you have of that is not only in Section 2. You have it in

Section 5, where you have only six of fifty-six purchasers you said that the domestic producer lowered their price in terms of competition. And only 0.8% of total purchases were arguably shifted from domestic to subject import on the basis of price. And so you put those things together, along with the purchasers' sort of narrative responses that you have, and those things do kind of go together.

MR. MICHAEL DOUGLAS: I think additionally, and I don't know which slide it was on, when you asked the purchasers why they made the decisions that they made, price was I think number six on the list for that reason--the availability, quality, reliability of supply, product consistency, were all higher responses, more important responses because that's the problems that you have with domestic producers, or have had historically.

MR. DOUGAN: Commissioner, if I can just add something to what Mike said. And Steve has mentioned this as well, as it came out in the conversation yesterday, and the importance through e-commerce of being in stock, and shipping on time, and being able to fulfill the logistics. And if you screw that up, if you are out of stock, your rankings drop. Your sales drop immediately, right?

So if your primary, or one of your primary channels, your main channel is e-commerce, your main customers are Amazon and Walmart and Wayfare, you are not--

the amount of sales that you could lose, and the placement of the real estate that you invested in for so long and you worked to get, could be screwed up so badly so quickly by being out of stock and not having reliability of supply, that getting 5 or 10 percent, or whatever, any kind of like price differential that you think you can get, it's not worth it. It's not worth it.

You are there because your supply chain has been established to allow you to continue to fulfill the demands of these very large, very concentrated purchasers whose decisions--you know, your ranking is not really going to be helped by you changing your price and cutting the price. Your ranking is going to be up there because you've been able to consistently supply them and meet the promises that they make to their end customers like their Amazon Prime people. Is that accurate, guys?

MR. STEVE DOUGLAS: Steve Douglas, That is absolutely correct. Being operationally sound is probably the most under-appreciated component of success on Amazon.

A brief example to speak to that. A few years ago we had a product that was the number one product in the category. We were selling hundreds of it a day on Amazon. It was a very profitable component of our business. And there was a forced out-of-stock through basically a clerical error with Amazon. And in the short period of time that lasted just a couple of weeks, we went from the number one to completely irrelevant, and that product has never recovered, ever. So we lost millions upon millions of dollars in sales from that one product for a brief outage.

And so that just underscores the importance for us of having a supply chain that is perfectly reliable. If you don't have it, price won't matter. All the marketing in the world, having a brand that's amazing and cool, none of it will matter if you don't have that logistical capability, if your supply chain is not sound, and if you are not operationally perfect you will fail.

And the experience that we've had with domestic producers is that they are just simply not capable of providing that operational soundness for us in our supply chain.

CHAIRMAN JOHANSON: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Okay, thank you. So I was just looking at the table that Commissioner Karpel was talking about and listening to your testimony about the unreliability of the U.S. industry, which of course always brings me back to the question of why do we see so much under-selling? Right? Because typically, if a supplier is unreliable, another supplier is providing something, usually we would not see that kind of under-selling. Usually the suppliers would not leave that much money on the table, since you need that reliability.

So I would invite the attorneys to address that in a posthearing brief, as well. I understand that you don't find the pricing data probative because the categories are too broad, and we'll look back to see whether you all had asked for different categories when we gave you the opportunity.

But, Mr. Douglas, did you want to comment on that?

MR. DOUGLAS: Yes. Just like in America there's multiple factories vying for the same business, there's the same competition that happens in China. So just because it's inexpensive in China and everywhere in China and they're competing and trying to fight for pricing, or whatever it is, doesn't mean that it's necessarily the primary cause of decision making, if that makes sense.

COMMISSIONER SCHMIDTLEIN: No.

MR. DOUGLAS: What I mean is that when we go, and we have the number one selling, there's more than one supplier in China that can take that business. So they fight amongst price amongst themselves as much as anything. But again, that's not the determining factor for us. They're just trying to edge each other out. Because when you're already dealing with operationally sound manufacturers, it is a component that they can compete on.

COMMISSIONER SCHMIDTLEIN: I see. Okay. So one of the other things that caught my eye was in response to purchaser comparisons, right? So we asked purchasers to compare U.S. product to Chinese product.

And purchasers answered that for availability overall and reliability of supply, we have--let's just start with availability--19 purchasers said that U.S. was comparable; 11 said the U.S. was superior; for reliability of supply, 19 said U.S. was comparable; 12 said U.S. was superior; and then we had, for each of those 5 saying inferior 4. So the overwhelming majority saying "superior" or "comparable." Further down, I know we've had a lot of discussion about delivery time, and this kind of confused me, U.S. versus China, we have 18 purchasers saying U.S. is superior on delivery time; 13 saying that U.S. is comparable. So 31 purchasers finding that U.S.--only 4 saying U.S. is inferior. But when it comes to price, 21 purchasers say U.S. is inferior. So even if you want to put aside the pricing data, right, you don't want to look at that, why do we see--you know, this is sort of inconsistent with what your all's testimony is.

How do you explain that? Go ahead.

MR. DOUGAN: Commissioner Schmidtlein, I can't speak to that right now. I think a lot of it is going to have to do with who are the individual companies who were responding to that. And so we were saying--so for posthearing, we certainly will address this question, because it's going to involve going purchaser by purchaser.

So there's a lot of responses here, right. These are 30, 40, 50, depending on--

COMMISSIONER SCHMIDTLEIN: Right. And, you know, we did get a good response to our purchaser--

MR. DOUGAN: You absolutely did.

COMMISSIONER SCHMIDTLEIN: --questionnaire, yes.

MR. DOUGAN: Ten of those are more than three-quarters of the market. Three of those are even more than that, right? So there is single-digit number of purchasers who basically are the market, okay, for mattresses.

But beyond that, there's got to be a distinction between those who are buying FPM and those who are buying MiB. So with that, I think just the pure tabulation of those number of responses might not give you the same indication.

So obviously the response of an Amazon, or a Walmart, or a Wayfare, or somebody like that who is at least very, very prominent in the MiB space, might be different.

So, again, that's all confidential. I'm not sure, but we will--I understand your question, and we will address it with confidential information in posthearing.

COMMISSIONER SCHMIDTLEIN: Okay. And then--and you can also include the next table where we asked for them to rank--not rank, but identify whether they believe subject imports are interchangeable with domestic product. And purchasers reported--13 purchasers reported "always interchangeable,"; 13 reported "frequently interchangeable." Again, that is a pretty high--you know, 26 reporting always or frequently interchangeable.

MR. DOUGAN: Understood. We will--

COMMISSIONER SCHMIDTLEIN: Even the importers, 15 reported that they were frequently interchangeable.

MR. DOUGAN: Sure. I mean, we'll address this. And I think, at least from the importer side, I mean some of that may have to do with the fact that they're sort of saying, well, we're as good as they are. You know, our quality is as good. I mean, they don't want to be saying, no, we're not interchangeable because we suck. So, anyway, we'll take a look at that more closely.

MR. MALOUF: Commissioner, Sam Malouf. I just wanted to address a little bit the reason I think for some of that data.

There's an underlying and underscoring issue of capacity for fulfillment in the United States still. We'd love nothing more than to work with the U.S. suppliers. It would simplify our lives, our business. Customers would love to buy U.S.-made product.

The reality is, once again, the Petitioners are not a united front of supply chain. So they in the aggregate may have substantial capacity, but they compete with each other. And even more, a lot of the Petitioners are brands that would never sell to us.

They make and sell their brand. And the other Petitioners that are left aren't vertical. So they have issues with a lot of the things we've mentioned, producing product that is reliable, consistent, and loved by customers.

So I think capacity issue is real because it's fragmented. And among competitors, some of which aren't even in the business of selling to people like us, they'd like to sell our customers, and some of that sales channel is not available to them.

COMMISSIONER SCHMIDTLEIN: Um-hmm. Which reminds me--Mr. Adams, did you want to finish your answer from the prior round?

MR. ADAMS: Yeah, just going back to the--Brian Adams--so going back to the discussion on compression versus compressed and rolled, it is not the case that the category of capacity referred to as compression can be converted to compressed and rolled by simply rolling it. It's two completely different manufacturing processes for two completely different channels.

Compression refers to essentially taking 25, 40 mattresses at a time and pushing them down, strapping them so that you can more efficiently deliver that product throughout a system.

But as I think was mentioned this morning, it does not end up in a consumer's home that way, right? When it gets to a distribution center, it's cut, it's opened, and released, and then they're brought to a consumer's home.

You know, Ashley's model in our conversion to compressed and rolled is really, we call it a super plant, which means it is massive volume going through that facility. And the reason why is that in order for that compression and roll machine to work, you have to push massive volume through it. To make the investment in that type of a machine, you have to have massive volume.

COMMISSIONER SCHMIDTLEIN: So is it one machine, compression and roll?

MR. ADAMS: You can--yeah, so you can buy it one of two ways, right? So you can buy a compression that feeds to a roller, or buy it all combined into one, but it's still two separate processes: It's compressed, moves, it rolls, it bales it, which basically after you roll it you put a layer of plastic around the outside of it to hold it together, and then you box it. And in order to feed that machine, you have to make massive upstream investments, right? So the number of sewing machines that you need is multiplied, because you need to make more mattresses in order to make that machine efficient. You need more quilters. You need all of these additional upstream processes, additional areas for layering foam. That is completely different than the model you heard this morning, which is I have 40-plus plants feeding my individual areas. You can't make that investment in 40-plus plants and be effective because of the volume that has to go through that single machine.

When you can push the volume through that machine, you are able to make that investment make sense for a business.

So it's a completely different model. It's a super plant with massive volume coming out of it versus localized models that don't need to invest in that mattress in a box because they're just trying to serve that local market versus trying to serve the entire United States.

COMMISSIONER SCHMIDTLEIN: Um-hmm.

MS. MOWRY: Kristin Mowry. I think we heard this morning about, well, we at Leggett & Platt are able to sell these machines, so obviously there's all this extra capacity out there. So I'd just like Brian to talk a little bit more about just the redesign, the re-engineering, the other--in addition to the investments you just mentioned, the other work that goes into switching over.

MR. ADAMS: Yeah, you can't take a noncompressed mattress and just compress it and roll it. That's not how it works. There's massive investment that goes into changing in foam, changing in your actual--

COMMISSIONER SCHMIDTLEIN: Yeah, no, I understand that. But I thought what we heard this morning was they have that existing capacity for compressing and rolling. And what they're not doing is running second shifts.

MR. ADAMS: So the difference in--I think the statement was they had the capacity for compression, which is not--it is not a subset of compression and rolled. Compression and rolled is significantly different than just compressing mattresses.

COMMISSIONER SCHMIDTLEIN: Okay, so you did not hear them this morning talk about having capacity to roll? The rolling?

MR. ADAMS: I think the discussion on machinery was about compression.

COMMISSIONER SCHMIDTLEIN: Okay.

MS. MOWRY: Kristin Mowry. We will look back at the transcript, but as I remember Commissioner Karpel's questions specifically about MiB production capacity, which was a very targeted question. And then as each witness gave their response, I think things got a little--a lot more amorphous and people were talking about other shifts, and they went beyond the specific question of MiB production capacity.

So we will look back at the transcript and look and see what holes were jumping out to us as that testimony came out, but that's what I meant before about we need to be really precise about what really is existing MiB production capacity. And that's why Ashley can speak to the incredible investment, and the real, complete turnaround that they made. They looked at the market. They said, this is where the future is. This is where we're going to make all of our investment. We're done with flat-pack uncompressed mattresses. We're going to focus only on MiB. And so--

COMMISSIONER SCHMIDTLEIN: And Ashley is--so you're not importing the mattresses already in a box?

MR. ADAMS: We do both, but we manufacture in Saltillo, Mississippi. We manufacture MiBs.

COMMISSIONER SCHMIDTLEIN: That's right. But you're importing also from--obviously, you're on Respondent's--

MR. ADAMS: We're involved in all areas of the supply chain.

COMMISSIONER SCHMIDTLEIN: Okay. And when you import, does it come already in the box?

MR. ADAMS: Correct.

COMMISSIONER SCHMIDTLEIN: Okay. And then, what, you just put your label on it?

MR. ADAMS: Already--the manufacturers are working with our--

COMMISSIONER SCHMIDTLEIN: They're already doing that?

MR. ADAMS: Yes.

COMMISSIONER SCHMIDTLEIN: Okay.

MS. MOWRY: And just to follow up on that, he also spoke about the other constraints on their ability to produce domestically. So the other raw material supply constraints. Otherwise, Ashley would do as much as they possibly can.

MR. ADAMS: Yeah. I mean, we'd love to manufacture everything here in the United States. That's the model, right? It makes the most sense. But the supply chain constraints, and us being able to have a localized supply chain to be able to do that, it doesn't work.

COMMISSIONER SCHMIDTLEIN: Um-hmm.

MR. ADAMS: I mentioned it my testimony, but foam is a--you know, I was hearing this morning all the foam capacity does not reflect the experience that we have. We also manufacture upholstery, right? So to say that there's open capacity for manufacturing foam for beds might exist, but it just means that that is going to be converted from existing sales, right?

I have capacity constraints within foam, both within our manufacturing of upholstery and our manufacturing of bedding that my contracts limit the amount I can actually purchase from these organizations. It is not my experience that there is large, open capacity for foam. It doesn't exist from our ability to purchase it.

COMMISSIONER SCHMIDTLEIN: Okay.

MS. MOWRY: To put a finer point on it, I think the way you were explaining it yesterday is great, if my foam supplier now says they will give me all this more foam for my mattress production, that's fabulous. But now I will be completely cut off from my upholstered furniture production.

So there's a finite amount of foam that they've been limited to, and that's what is constraining their further domestic production of MiBs.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ROBERTSON: Kyle Robertson, I would echo that from our experiences we haven't seen the capacity there. I would dispute that, from this morning. We haven't seen it, and I think overall you can't just have a mattress compressing machine and say, oh, look, we have 20,000 pieces that we can push through this right now. There's a lot that goes into that, and it's not just the machines.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. STEVE DOUGLAS: Steve Douglas with Malouf, if I could just sum that up, it seems like a lot of what was testified to feels more like theoretical capacity than actual real-life capacity based on the experiences that we've had.

COMMISSIONER SCHMIDTLEIN: Okay. Alright, thank you very much.

CHAIRMAN JOHANSON: Commissioner Stayin?

COMMISSIONER STAYIN: No questions.

CHAIRMAN JOHANSON: Commissioner Karpel?

COMMISSIONER KARPEL: I just have one follow-up question on this capacity issue. You said you have to have a large volume of mattress production to make it efficient to use a compression and rolling machine. Could you elaborate on that? Are these machines such a significant capital investment? Is that the reason? Or can you have a smaller version of these machines?

MR. ADAMS: Yeah, exactly. It's the capital investment that's made in the compression and rolling and the automation of that process. It's a massive capital investment. In order for that machine to, number one, operate efficiently, and operate in a manner that makes business sense, you have to completely redo the entire feed into that machine in order to do it in an efficient manner.

So to just think through it, the method of manufacturing of mattresses, as was discussed this morning, in these 40-plus plants in these localized plants is what we call bench manufacturing. Which means that I literally on a bench this side bring my parts in and I start making my bed, and it's started and completed in this small little area.

The difference in that and going to an automated plant and a plant that is using this rolled and compress machine, is the assembly line process, right? Now these mattresses are being fed in, and every individual station is doing their part as it goes along an automated path and then gets to that mattress-in-a-box machine.

But if you are not compressing a mattress every 10 seconds through that machine, it will never pay for itself. It is such a capital investment to be able to do that.

CHAIRMAN JOHANSON: Do any other Commissioners have questions?

(No response.)

CHAIRMAN JOHANSON: No Commissioners have questions. Does staff have any questions for this panel?

MR. CHANG: Calvin Chang, Office of Investigations. Staff has no questions.

CHAIRMAN JOHANSON: Okay. Do Petitioners have any questions for this panel?

MR. BAISBURD: No.

CHAIRMAN JOHANSON: Okay, then, this panel is dismissed. We appreciate you all being here today.

We will now proceed to Petitioners rebuttal and closing, and I will just remind you all that Petitioners have 11 minutes of direct, 5 minutes of closing, for a total of 16 minutes.

Respondents, when you all appear for your rebuttal and closing, you have 3 minutes of direct, 5 minutes of closing, for a total of 8 minutes.

MR. BURCH: Closing remarks on behalf of Petitioner will be given by Yohai Baisburd of Cassidy Levy Kent. Mr. Baisburd, you have 16 minutes.

CLOSING STATEMENT OF YOHAI BAISBURD

MR. BAISBURD: Thank you very much. Yohai Baisburd from Cassidy Levy Kent. I'll try to be as brief as possible, since it's a long day and we can all use some rest. I have tremendous respect for Mr. Emerson, but I want point out when he started his panel, the very first thing he said is mattress in a box, to say that mattress in a box is merely a difference in packaging is a fundamental misunderstanding of what's happening.

One of the two largest Chinese producers, Health Care and Lilly, who you see in front of you, this is what they told the Department of Commerce of November 15, 2018 in their rebuttal comments on product characteristics. "The type of packaging used is not a characteristic of the product itself." So trying not to bring anything new to the table in the United States, the U.S. and Chinese sell foam, inner spring and hybrid mattresses.

The U.S. and Chinese sell mattresses in all forms of packaging, including the mattress in the box and non-mattress in the box. You have companies like Casper and Tuft & Needle who source their U.S.-made mattresses through private label programs of members of the mattress petitioners. Those private label programs are available to any U.S. retailer who or seller who wants to have a mattress in a box to sell. This was made very clear in the responses to questions from staff and our post-conference brief and we'll reiterate that in our post-hearing brief.

There's no shortage of people in the United States with the knowledge, the equipment, the employees and the supply chain to make mattress in the box product. The U.S. industry as a whole sells everything to everybody in every channel, and so do Chinese imports. This is not about why a mattress in a box is better than a flat-packed mattress. The U.S. industry as a whole is agnostic between MiB and flat-packed because they produce both.

This case is about how low-priced Chinese imports impact the market as a whole. One of the largest online brands is Saatva. If you're a fan of Super Bowl commercials, you may remember that they had a commercial in the Super Bowl in January of 2019. That's S-A-A-T-V-A. All of their product is flat-packed, not MiB, and they are one of the largest online brands today.

So there's no shortage of U.S. capacity for foam or for any of the cloth or other inputs and components that go into mattresses. We'll provide more information in our post-hearing brief, but our clients are the foam producers. They produce the foam and they produce the foam mattresses and they produce the mattress in the box, and they can speak specifically about their capacity. There are no quality issues. I mean Commissioners, you've been pointing this out but I want to reiterate this.

Table II-15 says the U.S. always has the ability to meet minimum quality specifications or usually has that ability, 25 times for always and 17 times for usually. In contrast, China only has 13 for always and 15 usually. We're not, there's no question that there's comparable quality as between the U.S. production and the Chinese imports.

There's also no issue with respect to lead times. So on page 2-20 of the report, and this is the record, the U.S. producers have an average lead time averaging four days from produce to order, and they have three days from inventory. In contrast, importers have a lead time averaging five days from inventory. It takes them 51 days if it's produced to order in China, and it takes 60 days if it comes out of a Chinese manufacturer's inventory.

The record that was compiled by, you know, tabulating dozens of questionnaire responses, is unambiguous that there is not a lead time issue in the United States for getting mattresses to market. The only thing that China introduced was absurdly low pricing. The pricing record on here is unbelievably clear. You gathered the pricing data that the Respondents wanted. They wanted data separated out by MiB and non-MiB, and you gave it to them. They asked for certain densities and you gave it to them.

You may have adjusted the densities a little bit, but you gave them the physical characteristics they asked you to gather. No matter how you look at that pricing record, the end result is the same. It's underselling throughout the period, throughout the products. This issue about, you know, Amazon taking a loss or Walmart.com taking a loss or Wayfair taking a loss, that doesn't impact your data. Your data is the price at which these companies sold their product to them.

We need to step back from what's being listed on the websites. This is not a case about what's happening at the consumer sale. This is a case about what's happening at the wholesale level. The unbelievable, overwhelming majority of sales in this market are by U.S. producers or U.S. importers to wholesalers, to retailers, at the wholesale level.

That's where this market is and that's where there's price competition. What the company retailers do with that once they bought the product is a separate discussion. The underselling resulted in clear market share shifts that is unambiguous on the record. Basically you've heard and this is true, that there are a grouping of sales around promotional periods or tax refunds. Well effectively the Chinese imports have done a two to three year promotional period with their low prices into the U.S. market.

The market share shifts occurred throughout the market, and to this I would direct you to Table 7 of our brief, and we'll break it down even further in our post-hearing brief. No matter if you look at cores, you know, inner spring hybrid foam, if you look at packaging, MiB versus non-MiB and if you look at channels, the market share shift is clear.

Let's talk about MiB in particular. The domestic industry has lost market share to brick and mortar in MiB even though the U.S. industry increased its shipments. MiB is growing. No one disputes that. It's an important part of the market. It's the majority yet, but even though the U.S. industry increased their sales into that -- with that product MiB, into brick and mortar, they lost market share to the Chinese and they lost it because of price.

The domestic industry also lost market share for direct to consumer Internet sales, even though they increased their shipments to MiBs into that channel of distribution, and the reason they lost those sales is based on price. I'd like to address some things that came up about Ashley, and I have permission from Leggett and Platt to say this.

In Eric's, in Mr. Rhea's testimony, he talked about losing sales to a U.S. customer for sofa sleeper mattresses. That customer was Ashley. So sofa sleeper mattresses are not mattresses in a box, okay. So that sale, loss of sale was because of price to the Chinese, and once this case was brought, those sales came back to Leggett as Mr. Rhea testified earlier today. That has nothing to do with mattress in a box.

What we have to be very careful about what Ashley is talking about is that they're talking about their private brand, Ashley mattresses. They're also one of the largest purchasers of flat-packed mattresses from U.S.

producers. So what they presented today is a very narrow set of what they're talking about. But what's really interesting is here you have a large national retailer who is telling you that they switched from flat-packed mattresses to mattress in a box.

Where I come from, that's called competition. Where I come from, there were two people in the market offering products, and you had the choice to buy one or buy the other, and you ended choosing based on price. I'll also point out that their explanation of the logistical efficiencies is not consumers pulling mattress in a box into the market. It's they're talking about what they view for their own operations as an efficiency.

Here, the Chinese respondents at every point want you to go as granular as possible, right? They want to look at the specific performance of one of the U.S. producers, who happens to be a big importer as well. Or they want you to just look at MiB, or they want you to just look at Internet sales. If you take a step back and look at the record as a whole and the industry as a whole, it paints a very clear and consistent picture and one the Commission is very used to seeing, surging imports, declining market share, pervasive underselling and the impact.

I want to say something. I am both humble and proud to represent the mattress petitioners who've brought this case on behalf of the more than 10,000 U.S. manufacturing employees who work across the country. It's not a bug to have 40 or more or hundreds of manufacturing plants across the United States. It's a feature that allows this industry to be cost-competitive when they're faced in a marketplace with fairly traded imports.

So what was the impact on that broad industry that is located across the country? At a time of growing U.S. demand, the U.S. industry lost market share, and all indicia of injury have declined (sic) over the POI. I wanted to use some real numbers, so I'm going to talk about Table C-1. C-4 is where the related parties are excluded and the trends are the same.

U.S. capacity is down five percent, even though demand overall increased. Production is down ten percent. Capacity utilization is down four percentage points. U.S. shipments are down both in quantity and value. There are 1,092 fewer workers from 2016 to June of 2019, and they're getting less hours and lower wages. Operating income is down 17 percent, net income came down 32 percent, capital expenditures are down 17 percent and to a question that arose earlier, there is a cost-price squeeze. COGS to net sales ratio went up while operating and net margins went down.

The only thing that grew in this market were

Chinese imports, shipments of Chinese imports by 125 percent, from 3.6 million units in 2016 to 8.2 million units in 2018, all at the direct expense of the U.S. industry. Chairman Johanson asked the question it's unusual to see an industry like this with a broad manufacturing footprint across the United States. It's not what we typically see here at the Commission.

The reason that is is five-six years ago there were negligible imports from China, and in this very short period of time they've grown to the size of the market that is on the record, and you see how quickly it is. We brought the case at the early end, while there's a U.S. industry that is broadly based that still can support the market and meet the demand that there is here.

So with that, I ask that the Commission please find that there is material injury or threat of material injury by reason of the dumped, low-priced Chinese imports. Thank you.

MR. BURCH: Thank you Mr. Baisburd. Rebuttal and closing remarks on behalf of Respondents will be given by Eric C. Emerson of Steptoe and Johnson. Mr. Emerson, you have eight minutes.

CLOSING STATEMENT OF ERIC C. EMERSON

MR. EMERSON: Thank you again for your time today. It's been a long day, and I certainly don't plan to use all of my time either, and in a blatant effort to curry the favor of the Commission I'll try to keep it as brief as possible. This is always the hardest position. It's the grossly unfair part to Respondents. Mr. Baisburd, my good friend, has had more than two hours to plan his final remarks. I have had but two minutes. So I'll do my best, which will also keep it very short.

We have shown you time and again in so many different ways the segmentation that is in this market. Segmentation takes place both at the producer level. At the producer level, again to Commissioner Schmidtlein's point, if Petitioners are at -- if the domestic industry is as agnostic as they say about what they are producing, then why do individual producers, why are individual producers so polarized?

Some produce flat packs, some produce MiBs. If they're truly agnostic, they should as the question suggested or at least asked, why aren't they producing both. Well, the answer is very clear. It's because at least at the producer level, they have structured their operations to produce one type of product or the other. Again to Commissioner Johanson's comment that gosh, you know, we see a lot of factories here, far more factories than we would normally see.

Well, that's not -- I mean I heard Mr.

Baisburd suggest that that's part of a robust U.S. manufacturing operation, perhaps true. But it's also designed to counteract the inherent cost ineffectiveness of shipping flat pack mattresses across the United States. Of course you need to have factories closer to your customers if your shipping costs are significantly higher.

If costs of shipping, if it's a high shipping cost to value ratio, you do need to disperse your factories around the United States, yet another thing that leads to inefficiency. MiB producers, on the other hand, can have much larger facilities, much more efficient production because they don't have to worry nearly as much about the shipping cost from those individual factories.

Indeed, we're shipping all the way from China, and because of the graphic that Mr. Adams showed from Ashley, the shipping costs are a fraction of what the domestic industry faces. That's polarization, that's segmentation on the producer level. On the purchaser level, we see the same thing. Commissioner Karpel, you had asked about is there really a shift going on, and maybe I didn't -- I was trying to be, maybe my answer wasn't as clear. I think at any -- I think over the POI, there was a shift clearly from some flat pack demand turning into MiB.

But at any given -- and Mr. Adams again is a great example of that, where they decided, Ashley, the

U.S.'s largest furniture producer, they decided, you know, we need to get into this part of the market, this segment of the market. It's more cost efficient, it's better for our customers, customers like it more. Today, as he makes purchases today, he's not thinking about flat pack mattresses anymore.

So in the moment now, when the demand takes place, he's not thinking about those purchases anymore. Again, individual purchasers, 13 of 20 of purchasers responding to Commission questionnaires purchased 95 percent or more of their purchases from either subject imports or the domestic industry, and those two are also very much aligned with flat pack or MiB.

So I think it really -- if I had my good friend Mr. Baisburd's case, I'd argue it the same way he is. I would say don't worry about the detail. Please don't focus on the detail. Let's go to 30,000 feet, let's took a look at some broad import trends. Imports are up, no doubt about it, and from that level we should win the case.

But that's not the level where the Commission should be focusing, because the Commission needs to make a causation analysis. Did subject imports cause injury to the domestic industry? The domestic industry is principally a flat pack manufacturer. We were importing MiBs throughout the period. These two are fundamentally not in competition now in the marketplace.

There's also been tremendous testimony about whether or not the domestic industry has the ability to produce sufficient quantities of MiBs. I think we've gone over this in great detail, so I'll only touch on it briefly. Mr. Dougan had a great slide that showed the compression bottleneck capacity and MiB demand, which vastly outstrips what the Petitioners reported their ability to roll and compress in their questionnaire responses.

Compression machines, compression capacity, but even compression capacity is not the appropriate measure. As Mr. Adams testified, it is very hard to make these mattresses. A lot can go wrong, as Mr. Robertson said. If you don't get them right, you open the mattress up and it remains flat. It's very difficult to make these mattresses.

Clearly, there are supply chain issues, there are engineering issues and the domestic industry is not in a position yet where they are a reliable supplier of the MiB demand in the United States. As Mr. Douglas, Mike Douglas to my left indicated, he has -- they have direct experience with the domestic experience's failure to be able to supply mattress in a box that they wanted to purchase in the United States.

To the online point for just a moment. You know, I think that Steve Douglas made great points today about the importance of the online environment, and the online environment is intricately tied to the rise of MiB sales in the United States. It is not a price-driven activity online, nor is it in the market in general, and that's what your purchasers' questionnaires are showing you.

Subject import resellers have been online for a substantial period of time. They have staked out that real estate at the top of those search results, not because of price but because all of the other factors that Mr. Robertson listed. Reliability, ability to convert, the content of the website. That's how you get to the top and that's how you stay at the top.

The idea that simply through lower pricing you'll float to the top of the list is directly refuted by everything that Mr. Robertson had to say today. Circling back finally to impact on the domestic industry, I would recall again Mr. Dougan's slide that -- just showing the different directions that the flat pack and MiB segments of the domestic industry are moving.

Mr. Baisburd just said the only thing that's different about the domestic industry is the influx of Chinese imports. That's wrong. The U.S. industry has also increased its shipments of MiBs into the U.S. market, right? That segment of the market is doing much better, as Mr.

Dougan's slide demonstrated.

Finally, last point, underselling. We talked a bit about the underselling issue and the fact that even the -- and again with respect to the staff, that even the product categories were not sufficiently specific. We did provide comments and they were largely accepted on the pricing products, just to be clear.

But we also submitted a submission by the Petitioners showing what they wanted their connum to be at the Department, a 32 position connum, the longest I have ever seen to show really the minute detail at which they thought it was appropriate to make comparisons between factors of production and the sales to the United States.

This is a far cry from what the Petitioners had suggested, and we put that on the record with our comments. Thank you again for your time. It does look like I have used all of it. My deepest apologies to stand in the way of your weekend. Thank you very much.

CHAIRMAN JOHANSON: Thanks again to all of you for appearing here today. I would like to make one suggestion. Brooklyn Bedding did not submit a producer questionnaire. If you all would consider doing that, that would be appreciated by the Commission. With that, I'll make the closing statement.

Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by October 22nd. Closing of the record and final release of data to parties occurs on November 12th, and final comments are due November 14th. With that, this hearing is adjourned.

(Whereupon, at 4:54 p.m., the hearing was adjourned.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Mattresses from China

INVESTIGATION NOS.: 731-TA-1424

HEARING DATE: 10-11-19

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 10-11-19

SIGNED: Mark A. Jagan
Signature of the Contractor or the
Authorized Contractor's Representative

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

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