

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation No.:
UNCOVERED INNERSPRING) TA-421-5
UNITS FROM CHINA)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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) Investigation No.:
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Thursday,
February 19, 2004

Room No. 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at
9:30 a.m., before the Commissioners of the United States
International Trade Commission, the Honorable DEANNA
TANNER OKUN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

DEANNA TANNER OKUN, CHAIRMAN
JENNIFER A. HILLMAN, VICE CHAIRMAN
STEPHEN KOPLAN, COMMISSIONER
CHARLOTTE R. LANE, COMMISSIONER
DANIEL R. PEARSON, COMMISSIONER

APPEARANCES: (cont'd.)

Staff:

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 WILLIAM R. BISHOP, HEARINGS AND MEETINGS
 COORDINATOR
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 BRIAN ALLEN, INVESTIGATOR
 WILLIAM GEARHART, ATTORNEY
 HEATHER SYKES, INDUSTRY ANALYST
 CLARK WORKMAN, ECONOMIST
 DAVID BOYLAND, ACCOUNTANT/AUDITOR

In Support of Relief:

On behalf of American Innerspring Manufacturers:

JAMES J. BUSH, Vice President, Bedding Products
 Division, Hickory Springs Manufacturing Co.
 JEFFREY C. MILLER, Senior Vice President, Atlas
 Spring Manufacturing Co.
 WILLIAM JEFFREY WOOD, President, Western Division
 Bedding Components, Leggett & Platt, Inc.

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 Memphis, Tennessee

In Opposition to Relief:

On behalf of Zhejiang Huaweimei Furniture Co., Ltd.;
 Nanjing Kylin Mattress and Furniture Factory; Nanjing
 Lachao Bed-Clothes Co., Ltd.; Bao Ding Yongan Furniture
 Material Co., Ltd.; Foshan Yuantian Mattress Machinery
 Co., Ltd.; The China Chamber of Commerce for Import and
 Export of Light Industrial Products & Arts-Crafts and
 its member (CCCLA):

JOHN G. REILLY, Director, International Trade
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I N D E X

	PAGE
OPENING STATEMENT OF WILLIAM A. GILLON, ESQUIRE, BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC.	5
OPENING STATEMENT OF MICHAEL P. HOUSE, ESQUIRE, KAYE SCHOLER, LLP	9
TESTIMONY OF JAMES J. BUSH, VICE PRESIDENT, BEDDING PRODUCTS DIVISION, HICKORY SPRINGS MANUFACTURING CO.	12
TESTIMONY OF JEFFREY C. MILLER, SENIOR VICE PRESIDENT, ATLAS SPRING MANUFACTURING CO.	18
TESTIMONY OF WILLIAM JEFFREY WOOD, PRESIDENT, WESTERN DIVISION BEDDING COMPONENTS, LEGGETT & PLATT, INC.	23
TESTIMONY OF WILLIAM A. GILLON, ESQUIRE, BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC	29
TESTIMONY OF MICHAEL P. HOUSE, ESQUIRE, KAYE SCHOLER, LLP	107
TESTIMONY OF JOHN G. REILLY, DIRECTOR, INTERNATIONAL TRADE ECONOMICS, NATHAN ASSOCIATES, INC.	121
CLOSING STATEMENT OF WILLIAM A. GILLON, ESQUIRE, BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC.	180
CLOSING STATEMENT OF MICHAEL P. HOUSE, ESQUIRE, KAYE SCHOLER, LLP	184

P R O C E E D I N G S

(9:30 a.m.)

1
2
3 CHAIRMAN OKUN: Good morning. On behalf of
4 the United States International Trade Commission, I
5 welcome you to this hearing on Investigation No.
6 TA-421-5, Uncovered Innerspring Units From China.

7 The Commission instituted this investigation
8 under Section 421(b) of the Trade Act of 1974 to
9 determine whether uncovered innerspring units from
10 China are being imported into the United States in
11 such increased quantities or under such conditions as
12 to cause or threaten to cause market disruption to the
13 domestic producers of like or directly competitive
14 products.

15 Schedules setting forth the presentation of
16 this hearing and testimony of witnesses are available
17 at the Secretary's desk. I understand the parties are
18 aware of time allocations. Any questions regarding
19 time allocations should be directed to the Secretary.

20 As all written material will be entered
21 fully into the record, it need not be read to us at
22 this time. All witnesses must be sworn in by the
23 Secretary before presenting testimony.

24 Finally, if you'll be submitting documents
25 that contain information you wish treated as business

1 confidential, your requests should comply with
2 Commission Rule 201.6.

3 Madam Secretary, are there any other
4 preliminary matters?

5 MS. ABBOTT: No, Madam Chairman.

6 CHAIRMAN OKUN: Very well then. Let's
7 proceed with opening statements.

8 MS. ABBOTT: Opening remarks in support of
9 relief will be made by William A. Gillon, Butler,
10 Snow, O'Mara, Stevens & Cannada.

11 CHAIRMAN OKUN: Good morning.

12 MR. GILLON: Good morning. Madam Chairman,
13 I am William Gillon. My co-counsel this morning is
14 Ms. Julie Baldrige. I represent American Innerspring
15 Manufacturers, the trade association that represents
16 North American manufacturers of innerspring units.

17 I appreciate the opportunity today to
18 present AIM's case that a remedy under Section 421 is
19 warranted against innerspring imports from China. I
20 would like to state at the outset that we have
21 received excellent cooperation and assistance from the
22 Commission and its staff. We are impressed with the
23 staff report. We appreciate the effort it took to
24 pull that document together in so short of a time
25 period, and we agree generally with the findings of

1 that report.

2 As you are all aware, Section 421 was
3 developed in recognition of the fact that with China's
4 accession to the World Trade Organization and with the
5 permanent granting of most favored nation status to
6 China, U.S. manufacturers would be facing different
7 and intense competition from Chinese manufacturers of
8 product.

9 Section 421 recognizes that China represents
10 a different kind of competition for U.S. companies.
11 China is a different kind of competitor. Section 421
12 gives this Commission, the Administration and even
13 China the opportunity to adjust to these new market
14 realities.

15 I included in our prehearing brief a
16 statement made by Robert Cassidy, one of the lead
17 negotiators in the U.S.-China WTO accession agreement.
18 He stated that Section 421 was intended to: "Address
19 the fundamental inequities when a non-market economy
20 country like China joins a multilateral trading system
21 that depends on the efficient operation of market
22 mechanisms."

23 A non-market economy does not have the
24 mechanisms in place to bring supply and demand into
25 equilibrium. It creates, in his words, excess

1 capacity and tends to overproduce, flooding markets in
2 other countries.

3 Madam Chairman, Section 421 is a new animal.
4 It was designed to carry out a specific purpose. It
5 was part of the agreement not just between China and
6 the U.S. or China and the world, but also between the
7 U.S. Government and U.S. manufacturing. It
8 acknowledges that there are bumps in the road to China
9 becoming a fully functioning part of the world's
10 market economy. It offers protection to U.S.
11 industries while that transition is occurring.

12 The witnesses that will testify today on
13 behalf of AIM will describe the U.S. innerspring
14 industry. They will discuss the increases they have
15 seen in imported innerspring units from China, and
16 they will describe the market disruption that has been
17 caused by these imports. They will discuss how their
18 market is being affected by severe price undercutting,
19 a loss of customers, a loss of market share, an
20 erosion of margins, severe in some cases, decreases in
21 production and shipments and decreases in overall
22 operating income.

23 More significantly, they will indicate that
24 as worried as they are about the current state of
25 affairs in their industry, they know the situation

1 will worsen. It is clear that the level of imported
2 innerspring units from China will continue to grow and
3 that this growth at these low price levels poses a
4 serious threat to the well-being of the U.S. industry.

5 We have presented clear evidence of market
6 disruption by any ordinary meaning of that term, but
7 we must prove more. We must prove that the imports
8 from China are a significant cause of material injury
9 or that those imports pose a significant threat of
10 material injury.

11 I have already mentioned the impacts that
12 have been caused by imports at these current levels.
13 We have and will present evidence indicating that
14 given the cost structure of the innerspring industry
15 in China, given their likely capacity to produce and
16 given the prices at which they are exporting their
17 products, prices are enhanced by China's unwillingness
18 to float its currency.

19 This industry faces an imminent threat of
20 serious injury. We believe the imports will continue
21 to grow dramatically. We believe they will continue
22 to be offered at ridiculously low prices.

23 It has taken us some time to develop our
24 case. The innerspring industry began noticing
25 increased levels of imports in mid 2002, but our

1 initial investigation, using Customs data, did not
2 show these imports. It was only upon additional
3 investigation and by trusting the data that the
4 industry believed to be correct that we found the
5 imports entering the United States under a variety of
6 tariff headings, none of which we believe to be
7 correct.

8 We believe this misclassification is
9 happening to avoid paying the applicable six percent
10 duty on these products. This activity further
11 disrupts the U.S. market and creates further price
12 distortion.

13 Madam Chairman, members of the Commission, I
14 again thank this Commission for the time and the
15 effort it has expended in this investigation to date.
16 I appreciate your consideration of the evidence we
17 will present, and I ask that you find in favor of
18 AIM's petition.

19 CHAIRMAN OKUN: Thank you.

20 MS. ABBOTT: Opening remarks in opposition
21 to relief will be made by Michael P. House of Kaye
22 Scholer.

23 CHAIRMAN OKUN: Good morning.

24 MR. HOUSE: Good morning. Madam Chairman,
25 members of the Commission, my name is Michael House of

1 the law firm Kaye Scholar on behalf of the Chinese
2 Respondents in this investigation.

3 Madam Chairman, this is a case that should
4 never have been brought. Certainly when one looks at
5 the record before this Commission one wonders why we
6 are here at all. It is not an overstatement to say
7 that the Commission has rarely, if ever, encountered a
8 healthier domestic industry.

9 It is also not an overstatement to say that
10 the Commission has rarely, if ever, heard a case in
11 which the claimed injury was attributable to imports
12 as minuscule as they are in this case. When one looks
13 at the record here with the U.S. industry operating at
14 these profit levels, with the U.S. producers rolling
15 out constant price increases and with no discernable
16 price suppression at any point throughout the period,
17 according to the Commission's own staff report, on
18 this record how can these minuscule import volumes of
19 innerspring imports have had anything at all to do
20 with what has been an astoundingly successful U.S.
21 domestic industry during each of the last five years?

22 Where is the market disruption? We have an
23 extraordinarily healthy domestic industry. The profit
24 figures for the U.S. innerspring industry, which are
25 confidential, are quite telling. The profit levels

1 are not the only indicator of industry health on this
2 record. Indeed, there is not a single financial
3 performance indicator that suggests anything other
4 than a strong and robust U.S. industry throughout the
5 period.

6 And what of import volume? In absolute
7 terms, the increase in imports of innersprings from
8 China has been tiny, and the rate of increase has been
9 declining relatively over the most recent two annual
10 periods. These are imports whose U.S. market share
11 has gone from zero to negligible over the last five
12 years. These level are simply too small to have had
13 any significant causal connection to any of the
14 performance indicators of this industry.

15 Price effects? The data compiled in the
16 staff report demonstrate that Chinese imports have had
17 virtually no price suppressing or depressing effect on
18 U.S. innerspring prices. In fact, the data show that
19 the unit values of U.S. producer shipments rose over
20 the period of investigation. These figures are not
21 surprising in a market where one dominant U.S.
22 producer controls pricing and supply to the extent
23 that Leggett & Platt does here.

24 Moreover, the record shows the steady march
25 of price increases by the domestic producers, price

1 increases that stick and which more than cover the
2 feared increases in raw material cost. Finally, the
3 domestic industry's claims of lost sales and lost
4 revenue simply do not hold up under scrutiny.

5 These are certainly not the extraordinary
6 circumstances that Congress had in mind when it
7 authorized the extraordinary trade remedy of Section
8 421. The Commission should issue a negative
9 determination and terminate this investigation.

10 Thank you.

11 CHAIRMAN OKUN: Thank you.

12 Madam Secretary, will you please announce
13 the first panel?

14 MS. ABBOTT: The first panel in support of
15 relief should please come forward. Madam Chairman,
16 all witnesses have been sworn.

17 CHAIRMAN OKUN: Mr. Gillon, it looks like
18 your panel is ready. You may proceed.

19 MR. BUSH: Good morning, Madam Chairman,
20 members of the Commission. My name is Jimmy Bush, and
21 I'm executive vice president of the Bedding Products
22 Division at Hickory Springs, which has innerspring
23 plants in Micaville, North Carolina; Sheboygan,
24 Wisconsin; and Holland, Michigan.

25 Hickory Springs is a privately held family

1 business formed in 1944 and headquartered in Hickory,
2 North Carolina. My responsibilities, although fairly
3 comprehensive, are overseeing normal business
4 activities, ongoing strategic planning and maximizing
5 the profitability of these locations and the welfare
6 of their employees.

7 I'm also the current president of the
8 American Innerspring Manufacturers, which Hickory
9 Springs joined in 1981. AIM is a trade association
10 that represents North American manufacturers of
11 innerspring units. AIM was established in 1966. I
12 welcome the opportunity to share my concerns with the
13 Commission and the concerns of AIM. My company
14 strongly supports the petition filed by the American
15 Innerspring Manufacturers.

16 My company and the other members of AIM
17 manufacture innerspring units. These units are the
18 guts of an innerspring mattress. They are composed of
19 a series of coils, usually bonnell springs, that are
20 laced together and bound by heavier border rod. They
21 are made of steel. They are manufactured as a unit.
22 That is, we make a twin size unit, a full size unit
23 and so on. Those individuals units are shipped to our
24 customers, who use them in the manufacture of beds I
25 trust each member of the Commission sleeps on.

1 The innerspring industry in the United
2 States is composed of two major groups. The first is
3 the bedding supplier that provides mattress
4 manufacturers with their innerspring needs. This
5 group includes Leggett & Platt of Carthage, Missouri;
6 Hickory Springs, of Hickory, North Carolina; Atlas
7 Spring of Gardena, California; Suvall Spring of
8 Detroit, Michigan; Arbor Spring of Anderson, Indiana;
9 and a few other very small producers.

10 The second group is comprised of maker/
11 users. This group manufactures innersprings for their
12 own consumption in the production of finished
13 mattresses. This group consists of Sealy of Trinity,
14 North Carolina; Simmons of Atlanta, Georgia; Symbol
15 Sleep Products of Richmond, Virginia; American Bedding
16 of Tampa, Florida; and Dixie Bedding of Miami,
17 Florida.

18 Most, if not all, of these maker/users buy
19 some of their innerspring usage from members or
20 members' other supplier groups. Also, some members of
21 the maker/user group will sell innersprings, usually
22 their excess production, to other mattress
23 manufacturers.

24 Although there are several distributors
25 located around the United States, they play a very

1 small part in the industry. Among other reasons for
2 the lack of a large distributor network is that
3 margins for innersprings, especially bonnells, will
4 not support two sets of profits.

5 The U.S. innerspring industry is relatively
6 small. Our business tends to be done on a
7 relationship basis rather than by order-to-order or a
8 contract. The customer either requests a quote for
9 innersprings that he is using or that he may want to
10 use or we submit one on units that we know he is using
11 or products that could replace what he is using.

12 Negotiation, feedback, dialogue back and
13 forth occurs until either a price that is satisfactory
14 to both is found or until we determine we cannot make
15 a profit on the sale. We do not tend to operate with
16 set price lists in our industry. Not only is this the
17 tradition the business has developed. It also
18 reflects the individualized nature of our product.

19 Sometime in 2001, the overall industry began
20 to notice the initial wave of the innerspring units
21 imported from China. This is significant to all of us
22 as U.S. manufacturers supply such a high percentage of
23 the U.S. demand for innerspring. The initial wave
24 grew tremendously in 2002 and did not really slow down
25 in 2003.

1 Others will provide more detail this
2 morning. I know the Commission has a significant
3 amount of information in front of it today. Let me
4 just say that the prices being quoted to American
5 mattress manufacturers for Chinese innersprings have
6 disrupted the traditional method of doing business in
7 our industry in short order.

8 Chinese prices are substantially below the
9 manufacturing cost of Hickory Springs and most, if not
10 all, of AIM's members. These prices leave no room to
11 negotiate if U.S. manufacturers intend to stay
12 solvent. As a result, U.S. innerspring manufacturers
13 have lost potential sales.

14 Presently, the greatest concentration of
15 Chinese innersprings is in the southern California
16 area specifically and the west coast generally. Thus,
17 most of the damage and negative impact has been felt
18 in these areas. However, as with most things starting
19 in California, they are coming east rapidly.

20 Chinese innersprings have started showing up
21 in limited quantities in Texas, Georgia, Florida and
22 Mississippi. The internet is being used to promote
23 the availability of Chinese innersprings anywhere in
24 the United States at prices we cannot even begin to
25 touch.

1 U.S. producers are at a distinct
2 disadvantage when it comes to competing with Chinese
3 innerspring products. The members of AIM who brought
4 the petition are all good, corporate citizens. By
5 that I mean we pay our taxes. We abide by all
6 regulatory agency rules, the EPA, OSHA, EEOC, et
7 cetera. We obey all legislative laws, minimum wage,
8 ADA, child labor laws, et cetera.

9 We adhere to NLRB policies, and we provide
10 vacation pay, holiday pay, health insurance and
11 retirement, 401(k)s and/or pension plans. China
12 producers have very little in the way of added cost
13 with respect to environmental concerns or worker
14 protection or minimum wages. Most of all, we provide
15 employment to a large number of U.S. citizens whose
16 jobs are now being threatened through no fault of
17 their own.

18 The former president of Suvall Spring &
19 Wire, which recently was purchased by Leggett & Platt,
20 is of the opinion that price pressures in mattresses
21 and in innersprings caused the failure of at least one
22 of its two most significant customers leading to his
23 financial difficulties. I am attaching to my
24 testimony a written statement by Paul Suvall, who
25 could not be here today, concerning the operation of

1 Suvall Spring & Wire and being a member of AIM.

2 Thank you. I'll be happy to answer the
3 Commission's questions.

4 CHAIRMAN OKUN: Thank you.

5 MR. MILLER: Good morning, Madam Chairman
6 and members of the Commission. My name is Jeff
7 Miller. I'm senior vice president at Atlas Spring
8 Manufacturing located in Gardena, California.

9 My responsibilities, although fairly
10 comprehensive, are substantially focused on the sales
11 and marketing areas of the business. I am involved
12 extensively in dealing with customers, including
13 product and pricing negotiations.

14 Atlas Spring has been involved in the
15 manufacture of innersprings since 1932. We are
16 currently the third largest producer of innersprings
17 in the United States. While we sell products across
18 the United States, our business is concentrated in
19 California with approximately 60 percent of sales
20 generated within 100 miles of our production facility.
21 Atlas is an active member of American Innerspring
22 Manufacturers and an active member in the larger
23 bedding industry through its participation in the
24 International Sleep Products Association.

25 I welcome the opportunity to share our

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1 concerns with the Commission. I am here today because
2 Atlas Springs strongly supports the petition filed by
3 the American Innerspring Manufacturers. Our products
4 represent predominantly the basics within the
5 innerspring category. Our customers consist of mostly
6 independent bedding manufacturers, as opposed to
7 larger branded customers such as Sealy and Serta.

8 This bedding market has been static in
9 recent years with a declining customer base. We have
10 found it necessary to expand geographically across the
11 United States in order to grow sales volume. We
12 compete directly with other domestic manufacturers
13 such as Leggett & Platt and Hickory Springs and
14 because of our location and type of customer are most
15 vulnerable to competition from offshore sources such
16 as China.

17 The types of products that make up the
18 largest share of our business, called bonnell type,
19 are common to all innerspring manufacturers and
20 relatively easy to manufacturer. There are no
21 significant restrictions as far as patents, and the
22 manufacturers of bedding use these products from
23 multiple sources interchangeably.

24 Since 2000, sales in our innerspring
25 category have decreased significantly. These

1 decreases are in large part due to the imports from
2 China. We attribute a direct loss caused by China
3 imports when customers begin buying Chinese products
4 and stop buying entirely from Atlas or switch part of
5 their business to the Chinese products. A partial
6 confidential list was included in the original
7 petition. I can develop a more complete list that can
8 be included in post-hearing materials if it will be
9 beneficial to the Commission.

10 Without question, the only reason we are
11 seeing ever increasing imports of innerspring units
12 into the United States from China is price. The
13 direct experience of Atlas supports the price
14 undercutting allegations contained in the original AIM
15 petition and the price differentials noted in the
16 public version of the staff report.

17 As an example, the key product in which we
18 compete with Chinese product is a 336 Queen. The
19 average price of this product in the markets that I
20 service has dropped by a significant amount. This is
21 even more significant given that this product was
22 already sold under value.

23 I submitted other examples to the Commission
24 in the confidential questionnaire showing declines in
25 the average price of this product over the period 2000

1 to 2003. We face similar price pressures across our
2 product line. Most, if not all, of the Chinese
3 imports of which I am aware are priced below my
4 operating cost. If I match those prices, I would go
5 out of business in a few years. If I don't match
6 those prices, I will go out of business even quicker.

7 In an effort to offer products that were
8 viewed as either directly competitive with or better
9 than the imported product we have shifted production,
10 trying to offer better products at lower prices. This
11 has increased our overall average unit selling price
12 for the total innerspring category, but has had a
13 substantially negative impact on operating margins.

14 It should be pointed out that during the
15 period 2000 through most of 2003 we saw our raw
16 material costs decline. This allowed us to tread
17 water with respect to operating margin. That decline
18 has ceased, putting new pressure on our prices. Raw
19 material costs are on the rise, and these increases
20 are not really reflected in the information the
21 Commission has gathered so far.

22 I have recently received letters that I have
23 supplied to our counsel, letters from our steel and
24 wire rod suppliers. I delivered these letters to our
25 counsel just before the hearing. If necessary for the

1 Commission's deliberations, we can provide that
2 information to you in post-hearing material.

3 The escalating raw material prices have in
4 large part been attributed to Chinese consumption and
5 the resulting lack of supply. It has been documented
6 that the Chinese market is paying a premium for steel.
7 How then are they able to maintain price? There is
8 something not right and essentially unfair with this
9 scenario.

10 We have indicated the significant loss of
11 revenue, accounts and margin. Atlas Spring has also
12 seen our production as a percent of capacity in 2003
13 decline from 2000. The number of employees and hours
14 worked has declined since 2000. We have committed to
15 the necessary capital expenditures to remain
16 competitive, but the double edged pressure of China
17 product pricing and steel price increases will be
18 devastating.

19 Atlas Spring has every desire to continue
20 its operations. However, given the impact to date of
21 imports from China and the prospect for future
22 negative impact, it is hard to look forward in a
23 positive manner. It is very feasible that we would
24 not continue to produce if the situation is not
25 corrected. The remedy sought by AIM will provide my

1 company the ability to operate with decent margins
2 while further shifting my production to better compete
3 with China imports.

4 I sincerely believe that your decision is
5 vital to the future well-being of innerspring
6 manufacturing in the United States. I will be happy
7 to take any questions.

8 CHAIRMAN OKUN: Thank you.

9 MR. WOOD: Good morning, members of the
10 Commission. My name is Jeff Wood, and I'm president
11 of the Western --

12 CHAIRMAN OKUN: Mr. Wood, if you could just
13 pull that microphone just a little bit closer so we
14 can hear you better? Thank you.

15 MR. WOOD: My name is Jeff Wood, and I am
16 president of the Western Division Bedding Components
17 of Leggett & Platt, Inc. I am representing Leggett &
18 Platt because the division for which I am responsible
19 is closest to the Pacific Rim, has had the longest
20 exposure and is currently the most affected by
21 imported innersprings from the People's Republic of
22 China.

23 Leggett & Platt was founded as a bedspring
24 company in 1883. We incorporated in 1901 and have
25 been under public ownership for the past 26 years.

1 Leggett & Platt has operated continuously for 121
2 years.

3 Today, we are a diversified manufacturer
4 that conceives designs and produces a broad variety of
5 components and products for our customers. Although
6 we operate five distinct business segments,
7 innerspring manufacturing for the mattress industry
8 continues to be our core business.

9 The U.S. Spring Group, which is part of the
10 Residential Furniture business segment, operates eight
11 major innerspring producing facilities and another 18
12 distribution warehouses servicing every major
13 population center of the country.

14 Our primary focus is to be a low cost
15 producer of innersprings while providing exemplary
16 quality and customer service. All major spring plants
17 are LP-9000 certified, which is our version of ISO-
18 9000, employ continuous improvement techniques and
19 manage their production scheduling, inventories and
20 distribution utilizing manufacturing resource
21 planning.

22 Leggett & Platt's innovations in all phases
23 of spring production and mattress manufacturing have
24 enabled our customers to provide a comfortable set of
25 bedding to the U.S. consumer at the most popular \$599

1 price point in Queen size for over 10 years.

2 Approximately two and a half years ago,
3 innersprings from China began hitting our shores at
4 prices we estimate to be 38 percent below industry
5 levels. An American company selling at these levels
6 would most likely be considered predatory and could
7 expect government intervention.

8 We believe the first exporter was a company
9 in Zhejiang outside of Nanjing, China, which was owned
10 by the Chinese military. After Zhejiang realized some
11 success as they started spreading the word across
12 China to other innerspring manufacturers, mostly
13 maker/users, of the tremendous opportunities for sales
14 in the United States, they immediately had a captive
15 audience.

16 With the Chinese Government's program of
17 refunding the 17 percent value added tax on exports,
18 they had a built in profit selling at very low
19 margins. Furthermore, as we researched this new
20 competition, we discovered that it did not appear that
21 the importers are using correct tariff classification
22 on entering innerspring units, thereby avoiding the
23 six percent duty required by law. At current levels,
24 the improper and illegal classifications are costing
25 the U.S. Treasury and add to the disruption in the

1 market.

2 Many of the offered prices are below our
3 cost. Matching prices to recoup some overhead
4 expenses is an option. The problem with this
5 philosophy is regaining this lost volume would free up
6 current Chinese capacity so the manufacturers or
7 distributors could go to another of our valued
8 customers with cut rate pricing. We would end up
9 chasing them from one customer to another until the
10 entire market is at levels where Leggett & Platt,
11 Hickory, Atlas and Suvall would have to vacate the
12 industry.

13 Not matching prices is another option.
14 While current capacity in China is somewhat limited,
15 its near term capacity can and will be unlimited.
16 Like J.P. Leggett and C.B. Platt mechanically formed
17 coils and hand assembled innersprings in 1883, the
18 Chinese worker does so today. The roughly 40 cent per
19 hour factory wage in China enables them to form enough
20 coils for a full size innerspring unit for
21 approximately 13 cents in labor.

22 Then they take these coils to a lacing table
23 and lace them together for approximately 40 cents per
24 unit. Attaching the border rod costs around seven
25 cents. This type of hand labor operation in the

1 United States, even at a low wage of \$8 per hour,
2 would cost us \$12. Thus, we use automated equipment
3 where each machine costs \$500,000 plus.

4 The Chinese equipment to produce these hand
5 assembled units costs around \$1,200 units. The
6 Chinese labor is less than the depreciation expense on
7 our machines, not to mention buildings, benefits,
8 labor and other overhead.

9 Growth on exports to the United States could
10 quickly expand. However, should those who manufacture
11 innerspring units for use in mattresses in China
12 determine that there are more profits in exporting the
13 innerspring units to the United States, with the
14 refund of the VAT acting as an incentive it is not
15 improbable that a tremendous production capacity for
16 innersprings could be shipped virtually overnight from
17 the domestic mattress industry in China to the United
18 States export market.

19 We know of 29 accounts in California alone
20 that are using China as their main source of supply.
21 Although California was the first point of entry,
22 containers are now going to Texas, New Jersey,
23 Arizona, North Carolina, Georgia, Florida,
24 Pennsylvania, Tennessee, Indiana, Minnesota, Colorado
25 and West Virginia.

1 Leggett & Platt gave price concessions in
2 2003 in California that we estimate affect our
3 earnings by over \$400,000. These concessions will
4 negatively impact earnings by a considerably greater
5 amount in 2004.

6 We estimate the annual sales volume already
7 lost in California impacting the two major suppliers
8 in that market, Leggett & Platt and Atlas Spring, is
9 in excess of \$10 million. Should we lose all this
10 western business, we estimate it to mean volume losses
11 about five times that amount. Reduced bonnell sales
12 have forced us to cease manufacturing in the past year
13 in Oxford, Massachusetts, and Bean Station, Tennessee.

14 The short term effects of not increasing
15 duties on imports from China will send a signal to
16 Chinese manufacturers that the opportunities remain
17 extensive and more of these \$1,200 machines will be
18 put into production utilizing the low labor cost that
19 is increasing their capacities. The long term effect
20 will more severely disrupt the U.S. market for
21 domestic innerspring manufacturing causing a
22 significant transformation for the market that exists
23 today.

24 The short term effect of increasing duties
25 will depend on the current correct classification of

1 the product entering our country. Correct
2 classification will slow the market disruption that
3 exists today. The long term effect and the length of
4 time the duty is necessary is dependent on many
5 variables -- the way the Chinese currency is valued,
6 the difference in cost of steel worldwide and whether
7 or not wages in China remain at current levels.

8 Thank you, Madam Chairman and members of the
9 Commission and your staff for your time today and your
10 extensive work in this investigation. I would be
11 happy to take any questions.

12 CHAIRMAN OKUN: Thank you.

13 MR. GILLON: Madam Chairman, we have no more
14 prepared statements to make this morning, so we're
15 happy to open up for questions at this time.

16 CHAIRMAN OKUN: Okay. Thank you, Mr.
17 Gillon.

18 Before we begin our questions, let me thank
19 each of the witnesses for being here today. We
20 appreciate you taking the time to travel to be with
21 us, to give your testimony and your willingness to
22 answer questions.

23 With that, Commissioner Koplan will begin
24 the questioning this afternoon.

25 COMMISSIONER KOPLAN: Thank you. Thank you,

1 Madam Chairman, I'm willing to go until this
2 afternoon.

3 First, just a housekeeping matter. Mr.
4 Gillon, if the letters that Mr. Miller referred to in
5 his direct presentation could be made a part of the
6 record, I would appreciate that.

7 MR. GILLON: I'm sorry, Commissioner. Could
8 be?

9 COMMISSIONER KOPLAN: Mr. Miller made
10 reference to some letters that were made available to
11 the other side today and indicated that you had them
12 and that they could be made a part of the record.

13 MR. GILLON: Yes, sir.

14 COMMISSIONER KOPLAN: If you would do that,
15 I would appreciate it.

16 MR. GILLON: We will do that in a post-
17 hearing submission. I would like to keep them
18 confidential.

19 COMMISSIONER KOPLAN: Thank you. Certainly.

20 First, I appreciate the fact that each of
21 the suppliers provided his testimony yesterday so that
22 I had an opportunity to review it in advance of
23 today's hearing.

24 However, I am about to do something I have
25 not done in the five and a half years that I've been

1 here because at this point I am troubled by my
2 examination of the record developed thus far. I hope
3 that today my questions serve to flag for you in a
4 constructive manner the problems that I have and thus
5 be of assistance to you both during the hearing and
6 for purposes of your post-hearing submission.

7 Before I begin my questions, I will be
8 candid and tell you that at this point I do not see
9 myself reaching an affirmative determination in this
10 investigation. As an example, I am stuck on the fact
11 that I do not believe the level of subject imports
12 during the period examined are significant, nor do I
13 believe the record supports a finding that they will
14 rise to such a level in the imminent future.

15 Also, in my opinion, the domestic industry
16 as a whole is operating at a level of profitability
17 that far exceeds comparable industries that have come
18 before me, nor do I observe a rapid increase in
19 imports in either absolute or relative terms.

20 I base all of this on the record that
21 includes business proprietary information that members
22 of the industry cannot examine, but those under APO
23 can. Perhaps it would have been preferable for you to
24 have altered the timing of your filing, but that was
25 your choice.

1 I want to be clear that I speak for myself
2 only and not for my colleagues. I will now begin my
3 questions.

4 First, at page 9 of your prehearing brief
5 you identify the, and I quote: "...very reality that
6 led AIM to file its petition with the Commission. A
7 rapid surge of innerspring imports from China
8 seriously threatens the existing market in the United
9 States.

10 "If left unchecked, this flood of imports
11 will open an unnatural hole in this sector,
12 unnecessarily depriving U.S. workers of their jobs and
13 unnecessarily moving more manufacturing capacity to
14 China. The remedy available under Section 421 was
15 designed to avoid market disruption caused by
16 dramatically increasing imports from China."

17 Your explanation makes clear to me that what
18 led AIM to file its petition was the hope that we
19 would make an affirmative threat determination in this
20 investigation. Please respond.

21 MR. GILLON: Mr. Koplan, if it's okay I'll
22 lead with this response and see if any of the
23 manufacturers wish to add to it.

24 COMMISSIONER KOPLAN: Certainly. Certainly.

25 MR. GILLON: Commissioner Koplan, what led

1 us to file this petition was the lost customers/lost
2 sales that were being experienced by U.S.
3 manufacturers coupled with an initial inability to
4 actually find Customs data on the imports in the
5 places that we thought it was supposed to be.

6 COMMISSIONER KOPLAN: If I could just break
7 in for one second on that point?

8 With respect to your allegations of lost
9 sales and revenue, I note that the staff has been
10 unable to confirm most of those allegations. Staff
11 attempted to do that by contacting the purchasers
12 noted in the lost sales and lost revenue allegations.

13 Can you provide us with affidavits or other
14 documentation in support of those allegations as a
15 post-hearing submission?

16 MR. GILLON: Yes, Commissioner Koplan, we
17 can.

18 COMMISSIONER KOPLAN: I apologize for
19 interrupting.

20 MR. GILLON: Let me qualify that statement
21 just a bit because certainly some of those allegations
22 will be off by a little bit, maybe by a date or by
23 quantity amounts or by price amounts, but in general,
24 yes.

25 COMMISSIONER KOPLAN: Okay. I'm sure from

1 looking at the table you know why I'm asking the
2 question.

3 MR. GILLON: Yes, and I read through them.
4 Agreements or disagreements could be based on a
5 variety of things. I also noticed some date
6 discrepancies that I wondered a little bit about
7 myself after I saw the responses and the confidential
8 data.

9 COMMISSIONER KOPLAN: Thanks for that. I
10 apologize for interrupting, but I didn't want to miss
11 that point.

12 MR. GILLON: Certainly. Let me regain where
13 I was.

14 COMMISSIONER KOPLAN: Okay.

15 MR. GILLON: Okay. We initially filed this
16 petition because the members of this industry were
17 experiencing lost sales, lost markets. They were
18 having customers that they had traditionally done
19 business with that they were no longer doing business
20 with, and the reasons they were being given was
21 because of direct competition with imported units from
22 China. They were being quoted at prices that were
23 very low.

24 Jeff, you may want to finish this up and
25 just talk about that just a bit when I get through.

1 Certainly as the material has come in and as
2 this case has developed, a threat determination is
3 certainly the emphasis of my prehearing brief at this
4 stage.

5 COMMISSIONER KOPLAN: I appreciate your
6 response.

7 Mr. Miller?

8 MR. MILLER: I think the only thing that I
9 would add to that would be significance I guess is
10 somewhat relative. Significance to us. It's major
11 significance. I'm sure you've looked at the
12 information that we've submitted in the confidential
13 questionnaire.

14 The impact on our business has been
15 significant. In California, as Mr. Wood had alluded
16 to, there are numbers and numbers of customers who are
17 participating in purchasing products from China. The
18 difference in the price is significant when we're
19 talking in the 30 percent range on some items. It's
20 significant when it's compared to our ability to
21 produce at a certain cost. It's under our cost. It
22 certainly is significant.

23 We can provide substantial detailed
24 information as far as price quotes to substantiate the
25 allegations. I don't know why they did not respond.

1 Quite frankly, we do have evidence to submit.

2 COMMISSIONER KOPLAN: Thank you very much.

3 Let me just note if I could for you that in
4 a Section 421 case our analysis is not a regional
5 analysis though. We have to look at the industry as a
6 whole. Let me use that comment as a segue to my next
7 question, if I could.

8 In your petition, you state that, and I
9 quote, and this is in the public version at page 23 so
10 I can use these numbers. "In 2001," you state, "China
11 was .226 percent of total apparent consumption. This
12 percentage grew to .81 percent in 2002 and has almost
13 tripled to 2.38 percent through September 2003."
14 That's in the public version of your petition at page
15 23.

16 I cannot refer to the actual final
17 percentage of domestic consumption for full year 2003
18 because it is BPI, but I can say that it does not
19 appear to exceed your number.

20 Now, Respondents argue in their brief at
21 page 4 that the increase in imports has been small
22 absolutely when they examine imports from China as a
23 share of use production and has been declining
24 relatively in that the increase from 2002 to 2003, and
25 that's a confidential number that I can't use here,

1 was less than the increase from 2001 to 2002. They
2 made reference to that earlier.

3 They conclude that under no stretch of the
4 imagination can such an increase be described as
5 rapid. At another place they describe the imports as
6 insignificant both in absolute volume and relative
7 market share because the amount of Chinese shipments
8 are, in their words, tiny. What is your counter
9 argument?

10 MR. GILLON: May I take a minute and get my
11 petition that I don't have up here with me to look at?

12 COMMISSIONER KOPLAN: I'll tell you what. I
13 see my time is about to expire. I'll let you start
14 off my next round --

15 MR. GILLON: Okay.

16 COMMISSIONER KOPLAN: -- by responding in as
17 much detail as you'd like to to that question.

18 MR. GILLON: Sure.

19 COMMISSIONER KOPLAN: Thank you, Madam
20 Chairman.

21 MR. GILLON: I better write it down so I
22 don't forget it.

23 COMMISSIONER KOPLAN: I'll repeat it for you
24 at the start of the next round if that's a problem.

25 MR. GILLON: Okay.

1 CHAIRMAN OKUN: Thank you again, Madam
2 Chairman.

3 CHAIRMAN OKUN: Thank you.
4 Commissioner Lane?

5 COMMISSIONER LANE: Good morning. Thank you
6 for coming. I have a few questions.

7 The first question is for Leggett & Platt.
8 If I understand, you are a public company. Is that
9 correct?

10 MR. WOOD: Yes, we are.

11 COMMISSIONER LANE: And you are
12 participating in this case because of market
13 disruption and that you are seeing your profits
14 decline, as I understand it.

15 Has Leggett & Platt had to cut its dividend
16 to its stockholders in the last two or three years?

17 MR. WOOD: No, we have not. The section of
18 business dealing with innersprings at Leggett & Platt
19 amounts to about eight percent of our revenues.

20 COMMISSIONER LANE: In the prehearing brief,
21 the allegation is made that the change in competition
22 or the change in bringing in the imports from China is
23 going to change the competitive situation among the
24 U.S. innerspring manufacturers.

25 How much competition is there now between

1 the companies that are providing the innerspring
2 components?

3 MR. GILLON: Madam Commissioner, are you
4 addressing that to anyone in particular?

5 COMMISSIONER LANE: Leggett & Platt.

6 MR. GILLON: Okay.

7 MR. WOOD: Right now, outside of the maker/
8 users, the maker/users predominantly being Sealy and
9 the Simmons Company, there is about 62 percent of the
10 market of all the mattresses made in the United States
11 that are available for companies like ourselves, for
12 Hickory, Atlas, Barber, L.A. Spring. There's a number
13 of small manufacturers spread across the country, so
14 there is good, solid competition.

15 Honestly, Sealy Mattress sets the market
16 price since they're the industry leader in mattresses
17 and they are a maker/user. The rest of the industry
18 pretty much follows them.

19 COMMISSIONER LANE: What about the component
20 parts, the innerspring components? Is there a lot of
21 competition between Leggett & Platt and the other
22 parts of the industry?

23 MR. WOOD: Yes. It's constant between us
24 and Hickory and us and Atlas and naturally the Chinese
25 units. There's other units coming in from South

1 Africa, from Germany, et cetera.

2 COMMISSIONER LANE: Another part of the
3 prehearing brief said that: "If left unchecked, this
4 flood of imports will open an unnatural hole in this
5 sector, unnecessarily depriving U.S. workers of their
6 jobs and unnecessarily moving more U.S. manufacturing
7 capacity to China."

8 Are any of the firms that are in this
9 petition today moving jobs to China?

10 MR. WOOD: I guess to answer that best, we
11 have manufacturing in China. We have bought maker/
12 users out of that, which is the same way we built our
13 business in the United States over the years. We are
14 producing strictly for the domestic market in China.

15 What I mean to say, and, quite frankly, we
16 cannot move our manufacturing to China and ship it
17 back to the United States at the levels that the
18 Chinese are doing so. We would not be moving jobs to
19 China as a company, but we would be moving jobs to
20 China as an industry I guess. Does that answer your
21 question?

22 COMMISSIONER LANE: Yes. As I understand
23 it, you attribute the declining consumption of
24 innersprings in this country to the Chinese imports.
25 Do you attribute the decline to anything else?

1 MR. WOOD: Well, naturally after 9-11 the
2 entire economy went down. We have a pretty good
3 handle. We're in our customers every day. A lot of
4 the customers that we were selling all across the
5 country, we have month-to-month sales reports of what
6 they were purchasing prior to buying from the Chinese,
7 so if you see what they're purchasing now you really
8 have a good feel for how many units are being brought
9 in from China.

10 COMMISSIONER LANE: The numbers that I have
11 looked at in the staff report indicate that the
12 industry itself has a high operating income throughout
13 the 1999-2003 period. In view of this strong
14 performance, how are you suffering injury now?

15 MR. WOOD: I honestly feel that we're
16 involved in the filing of this petition because of the
17 future threat, which we feel is very real.

18 As you can see from the numbers and the
19 petition itself, the current numbers are very low. If
20 you're talking one, two, three percent it is not going
21 to affect our profitability at this point.

22 At what point do you file a petition? Do
23 you wait until half of your customers are gone to
24 China and then they would act with the Respondents to
25 try to keep their costs down at some time in the

1 future? I don't know what point in time that is.

2 I know the bedroom furniture manufacturers
3 are filing an antidumping petition which is coming up.
4 They're doing that after they've already lost 50
5 percent of their business and shut down countless
6 factories in North Carolina and that part of the east
7 coast. I just don't know what the number is.

8 COMMISSIONER LANE: That's what I was going
9 to ask you. Do you have a guess as to what you think
10 the volume of imports has to be before it does
11 adversely affect your profits?

12 MR. WOOD: I really don't have that number,
13 but I could certainly develop it and send it in a
14 post-hearing brief.

15 COMMISSIONER LANE: Okay. That would be
16 fine.

17 Tell me a little bit about how the industry
18 prices its product and how quickly you can respond to
19 either lowering the price or increasing the price as
20 the situation changes.

21 MR. WOOD: We could respond fairly quickly,
22 as others on the panel have stated earlier. There's
23 been significant scrap steel increases in the world in
24 the past six months. I mean, a year ago scrap steel
25 prices were \$100 a ton. Right now, they're around

1 \$260 a ton, and they anticipate they'll go as high as
2 \$500 a ton by the end of the year.

3 We have announced three price increases in
4 the course of five months strictly because of our raw
5 material costs, which we cannot afford to absorb those
6 costs. I have been with Leggett & Platt for 25 years
7 this year, and I have never seen anything like this in
8 my career.

9 COMMISSIONER LANE: Is it your experience
10 that once one of the companies raises its prices or
11 lowers its prices that the rest of the domestic
12 industry follows suit?

13 MR. WOOD: It's definitely in the case of
14 lowering prices it's always market driven, or it has
15 been in the past. In raising prices, it is more steel
16 driven. I mean, steel is 98 percent of the raw
17 material in that product, and that includes packaging.

18 COMMISSIONER LANE: Okay. Thank you. My
19 time is up, and I'll save the rest of my questions for
20 the next round. Thank you.

21 CHAIRMAN OKUN: Commissioner Pearson?

22 COMMISSIONER PEARSON: Good morning.
23 Welcome to the panel. Welcome back to Washington, Mr.
24 Gillon.

25 I'd like to know a little bit more about

1 what's happening in the marketplace broadly. What's
2 been going on with demand in the United States,
3 consumption of the product in the United States?

4 MR. BUSH: Demand for the last several years
5 other than the event of 9-11, which we all suffered
6 from, they've come back to pre 9-11 levels.

7 The bedding industry in the United States is
8 basically a mature industry. There's not a huge
9 amount of growth in any one year. It has a lot to do
10 with housing starts and relocations during the summer.
11 That tends to be when people replace mattresses in
12 their houses.

13 COMMISSIONER PEARSON: Are mattresses
14 considered a consumer durable? Is it something that
15 people buy them only when they really need them, or do
16 people upgrade them just because newer and better ones
17 are available?

18 MR. BUSH: It would be a durable. The
19 average life of bedding fit in a home is somewhere
20 around 11 years. Other industry associations are
21 trying to reduce that number with some success, but
22 not as much as we as producers would like them to.
23 Yes, it's a durable good.

24 COMMISSIONER PEARSON: What are the main
25 products that the steel innersprings compete with?

1 MR. BUSH: Competitive to innersprings to be
2 used in mattresses?

3 COMMISSIONER PEARSON: Right. If a consumer
4 is going to go out and buy something to sleep on, I
5 know there are other choices. Give me some sense.

6 MR. BUSH: There are solid foam core
7 mattresses, and those can be anything like a viscal
8 elastic, which you're seen advertised as TemperPedic,
9 which is a very expensive foam, down to extremely
10 cheap foams for a low entry point price-wise.

11 Air is one of the newer ones that are out
12 there where again a brand name would be Select
13 Comfort, which I know you've seen advertised. It is a
14 viable competitor.

15 Water beds have kind of run their course.
16 There's still some out there, but water is a viable
17 alternative to an innerspring as far as the core of
18 the sleep surface.

19 COMMISSIONER PEARSON: Okay. So they hit
20 their high water mark and have gone on?

21 MR. BUSH: Yes, back in the 1970s.

22 COMMISSIONER PEARSON: What about futons?
23 Is that so small as to not be a factor?

24 MR. BUSH: Futons are not seen as a primary
25 sleep source. They're kind of replacing the hide-a-

1 bed market, the sofa sleeper market, as a temporary or
2 extra bed going mostly into dens or recreational rooms
3 or something as the spare bed.

4 College students, college towns, seem to use
5 them more as a primary sleep surface than most
6 residential areas.

7 COMMISSIONER PEARSON: Okay. I was a
8 college student once too, so I understand.

9 MR. BUSH: Yes, me too.

10 COMMISSIONER PEARSON: Of all of the
11 possible choices that consumers have when they go out
12 to buy something to sleep on in this country, what
13 percentage is made up by the steel coil innerspring
14 mattresses?

15 MR. BUSH: We estimate somewhere around 85
16 to 90 percent of the sleeping surfaces in the U.S. are
17 innerspring.

18 COMMISSIONER PEARSON: Okay. Has that been
19 relatively steady over time, or are some of the other
20 alternatives gaining market share?

21 MR. BUSH: That has been relatively steady.
22 Things like water beds come into vogue, and they take
23 a bigger chunk for a couple years. They run their
24 course, and something like air or foam, specialty
25 foams or something will come in and do the same thing.

1 Consistently, we're in that range.

2 COMMISSIONER PEARSON: Okay. My
3 understanding is that shipments of adult sized
4 innersprings in the United States increased even
5 during the period of investigation when imports of
6 innersprings from China were rising. Is that correct?
7 Do you know?

8 MR. WOOD: I would think it would be.
9 Normally there's real growth in the United States of
10 three to four percent, and if the Chinese innersprings
11 are running under that figure it's very possible.

12 COMMISSIONER PEARSON: Okay. What was
13 leading to that, just domestic demand growing faster
14 than the increase in Chinese imports and so the
15 difference was made up by domestic production?

16 MR. WOOD: After 9-11, there was a
17 significant decrease in sales. I think that it
18 created some pent up demand, which could show
19 increases in the years 2002 and 2003 would be my best
20 guess.

21 COMMISSIONER PEARSON: Okay. Just some
22 delayed purchasing when everybody was very uncertain
23 about the future?

24 MR. WOOD: Right.

25 COMMISSIONER PEARSON: Yes?

1 MR. BUSH: Mattresses are a delayable
2 purchase. I mean, they wear gradually over time to
3 where there's no point that -- I mean, when you blow
4 an engine in the car you know you need to go get a new
5 car. You don't blow an engine in an innerspring.
6 It's a delayable purchase. If something in the
7 economy is not right, you can delay it for a year or
8 two and then come back and buy one later.

9 COMMISSIONER PEARSON: Would you have
10 expected to see the increase in Chinese imports
11 without having the increase in apparent domestic
12 consumption that we've seen then in this catch up
13 period after 9-11?

14 MR. BUSH: Yes. I think they were coming.

15 MR. WOOD: I don't see any reason why we
16 wouldn't anticipate an increase. Based on the price
17 differential, the experience that we've had and
18 dialogue with customers is that it's too substantial
19 for them not to participate when given the
20 opportunity.

21 I would expect that even under the
22 circumstances of a flat demand here in the United
23 States that it would have increased at that point.

24 COMMISSIONER PEARSON: My understanding is
25 that there were some price increases in the

1 marketplace in late 2003 and now early 2004. Is that
2 correct?

3 MR. WOOD: Yes, absolutely.

4 COMMISSIONER PEARSON: What has led to that?

5 MR. WOOD: The increased cost of scrap steel
6 in the world because it's all being consumed by China.
7 Not all of it, but it's being driven by that. The
8 construction in China is so strong right now that just
9 the amount of rebar they're using is incredible.

10 Again, you know, a year ago you're talking
11 \$100 a ton for scrap steel. Today it's I heard
12 yesterday \$260 was the number. It could go as high as
13 \$500. We're paying more for scrap steel today than we
14 were paying for wire six months ago.

15 Scrap steel has to go through a large rod
16 mill and be converted. Then it has to go to a wire
17 mill and be redrawn. It's a very expensive process,
18 so that's what has driven that.

19 COMMISSIONER PEARSON: Okay. So you would
20 see it as a cost driven price increase?

21 MR. WOOD: Oh, absolutely.

22 COMMISSIONER PEARSON: It's not something
23 that was demand pulled?

24 MR. WOOD: Absolutely.

25 COMMISSIONER PEARSON: Okay. When steel

1 increases in price in the United States, it tends to
2 increase in price worldwide I would assume.

3 MR. WOOD: Yes.

4 COMMISSIONER PEARSON: So do the cost
5 increases that you are dealing with, do they apply to
6 manufacturers in all other countries?

7 MR. WOOD: They definitely should. I mean,
8 it is a world market. The price increases we have
9 seen in the past, we have not seen that go to the
10 mattress manufacturer from the distributors of the
11 Chinese goods.

12 MR. MILLER: I'd like to respond to that if
13 I could.

14 COMMISSIONER PEARSON: Sure.

15 MR. MILLER: Yes, we definitely should see
16 it on a worldwide basis, and everything that we've
17 seen and heard indicates that it is a worldwide issue,
18 but we are not seeing it directly affect the pricing
19 of the imported products from China.

20 COMMISSIONER PEARSON: So they are somehow
21 absorbing whatever cost increase they're dealing with?

22 MR. MILLER: That's correct. Yes. Yes.
23 That's our understanding.

24 COMMISSIONER PEARSON: I think I'll come
25 back next time and raise some questions relating to

1 threat. Given that the light has changed color, I
2 will go ahead and pass for now. Thanks.

3 CHAIRMAN OKUN: Thank you, and thank you
4 again to all the witnesses for the answers you've
5 given so far.

6 Mr. Wood, I'll start with you. In response
7 to Commissioner Lane's question you had talked about
8 kind of the timing of the filing and that you see a
9 threat out there and that you offered to provide some
10 additional information on kind of what that volume
11 increase would need to be for you to start feeling it.

12 Help me out a little bit just in terms of,
13 and obviously, Mr. Bush and Mr. Miller, I would like
14 to hear from you as well in terms of for this industry
15 and its business cycle how your operating margins play
16 into that.

17 In other words, I think what Commissioner
18 Lane referenced is we see a lot of businesses come
19 through here, a lot of different types of industries,
20 and we're often looking at when they make money in
21 their business cycle and how it goes up and down.

22 Can you describe for me how you see
23 innersprings? In other words, is the period that we
24 looked at typical? I heard you said demand decreased.
25 Post 9-11, you've seen an increase again. How your

1 company is doing during this period, has it been
2 consistent with past historical experience for you?

3 MR. WOOD: I think it's been fairly
4 consistent as far as how cyclical the business is,
5 although it crescendos towards the end of September
6 every year.

7 The quarter-to-quarter revenues in the
8 bedding side of the business will very rarely
9 fluctuate more than one percent from 25 percent, so
10 it's very, very stable throughout the year as far as
11 that goes. When you're dealing with a lot of pieces,
12 naturally you have to have inventory builds to account
13 just for that one percent, but it's not that
14 significant.

15 CHAIRMAN OKUN: Okay. How about Mr. Bush
16 and Mr. Miller? You're much smaller players in this
17 market. How do you see the cycle?

18 MR. MILLER: Well, it does not change from
19 quarter to quarter. It's fairly consistent throughout
20 the year.

21 I would say probably for the period, the
22 five-year period, it's probably if you looked at
23 similar periods, five-year periods in the past, it's
24 probably not too dissimilar as far as the growth.
25 It's a mature industry. We really don't look for

1 substantial increases in growth from year to year in
2 this category.

3 There have been some drives by the industry
4 to increase the average price of a mattress. I think
5 that's driven producers to try and supply higher price
6 point supplies within those innerspring, within those
7 that may have had some effect on the actual sales
8 volume of the category.

9 I think you should look at, and I don't have
10 the numbers in front of me, but you should look at the
11 units versus the sales volume. I think that's had
12 some effect. Other than that, there hasn't been -- it
13 shouldn't be too dramatically different from the past.

14 CHAIRMAN OKUN: Mr. Bush?

15 MR. BUSH: Just echoing on what Jeff said
16 about the drive by our customers to produce better
17 units. Part of the numbers I think, especially in the
18 latter years of this five-year period, have been
19 skewed in that the demand for high end bedding, stuff
20 going at \$1,000 or more in queen size retail, has
21 jumped tremendously.

22 These use better quality units; not
23 necessarily the ones represented that we're
24 petitioning about today, but they're carry a little
25 bit higher margin for us and higher margin for our

1 customers. There was a skew towards that over 2002-
2 2003.

3 CHAIRMAN OKUN: Okay. I think maybe you've
4 referenced this in these answers, but when you're
5 looking out one or two years in your industry right
6 now, what do you see? This has been described as a
7 mature industry. Do you see much change in demand?
8 Do you see it coming up a bit, kind of again trying to
9 look at the fairly near future, the next one year or
10 two years?

11 MR. BUSH: As the population grows, we'll
12 continue to get more business. As housing starts,
13 that's generally a good indicator of what business
14 will do. When the business climate is good and there
15 are a lot of relocations, people transferring jobs or
16 being transferred within the job from one place to
17 another, this seems to spur business.

18 You know, none of those have a great effect.
19 We're never going to see a 10 percent or a double
20 digit jump in our industry again. Three to four
21 percent is a healthy year. One to two percent is an
22 okay year. We've been having some declines on pieces
23 sold in the last few years.

24 CHAIRMAN OKUN: Okay. Mr. Miller or Mr.
25 Wood, any other thoughts on that in the near future,

1 the imminent future?

2 MR. MILLER: No. I would just add that, you
3 know, we would expect that things would get somewhat
4 better than they have been for the last couple of
5 years. There obviously is a direct relationship or
6 should be a direct relationship between the housing
7 business and our business.

8 We haven't seen that in the last couple of
9 years, and that I would say we would attribute to just
10 the downward pressures of the economy. Once that
11 begins to open up, I think we should see a little bit
12 of growth maybe on the upper end, but, as Mr. Bush has
13 said, it's not going to be substantial.

14 CHAIRMAN OKUN: Okay. Mr. Wood, anything
15 other than that?

16 MR. WOOD: No.

17 CHAIRMAN OKUN: Okay. One of the arguments
18 we've seen and I'm sure we'll hear when Respondents'
19 panel is up relates to Leggett & Platt, Mr. Wood, and
20 I think maybe Commissioner Koplan referenced this
21 earlier that you're a big player, well positioned,
22 very impressive if you read the annual reports for the
23 company as a whole and that you're in a very good
24 position to withstand whatever is coming when you have
25 this type of market power.

1 I wondered if there was anything else you
2 wanted to add in response to that, again recognizing
3 that we have other parts of the industry here. I
4 think the Respondents' argument is if you look at
5 where the market power is and your ability to have had
6 price increases during this period that the threat, as
7 you would argue, it's harder to make that case when
8 you're well positioned going forward.

9 MR. WOOD: I agree. We are well positioned,
10 and I hope we're just talking about the innerspring
11 segment of our business.

12 We have had increases. Again, there is
13 currently limited total capacity in the world on
14 innersprings. I would be quite fearful even today
15 with the price increases we've had to pass on in the
16 last few months that the 12 million mattresses sold in
17 China every year, which we believe 95 to 97 percent
18 contain innerspring mattresses, with the increases
19 we've had in the United States they could easily
20 convert that maker/user innerspring production to U.S.
21 exports virtually overnight if it's more profitable to
22 them.

23 CHAIRMAN OKUN: I want to make sure I'm
24 clear on that. Are you talking about them sending
25 over the complete mattress or transferring it and

1 shipping the innerspring?

2 MR. WOOD: No. Transferring their
3 innerspring production rather for internal consumption
4 of that company to export itself if it's more
5 profitable. Some of those companies have done that
6 and continue to make that shift from making it into a
7 finished mattress to exporting the innerspring to the
8 United States. That's a huge concern at this point.

9 CHAIRMAN OKUN: Okay. Mr. Gillon, I think
10 probably this question is best put to you. It's a
11 little bit I think of a followup to the question
12 Commissioner Koplan was asking about the volume and
13 what rapidly increasing means under this statute.

14 I wondered if you could comment on that in
15 terms of, in other words, the numbers are confidential
16 in this record. We have other cases that we can look
17 at, including under Section 406, which had a similar
18 rapidly increasing standard.

19 Is it your contention that where you have
20 virtually no imports in the market if you see any that
21 that meets the rapidly increasing standard, or does it
22 mean something else?

23 MR. GILLON: Well, it's going to require, of
24 course, more than if you see any increases in the
25 product. It's up to this Commission to determine what

1 that level is. As you stated, I don't have all the
2 information and all the records and what levels are in
3 various industries.

4 With respect to this industry, it was a
5 level of imports that the manufacturers began to see
6 their business go away and began to see it go away at
7 prices that they didn't feel they could respond to.
8 They couldn't develop any kind of a strategy to
9 respond to to slow the growth.

10 As the imports have continued and continued
11 to grow, and I believe have grown substantially
12 certainly in terms of the absolute numbers from
13 virtually nothing to a presence in the market, it's
14 confirmed their opinions initially.

15 CHAIRMAN OKUN: Okay. If you could for
16 post-hearing, as I understand it of the previous 406
17 cases the data on market penetration of subject
18 imports is public. If you could take a look at those
19 cases and compare it to the information in this case
20 as it relates to the rapidly increasing volume
21 requirement I'd appreciate that for post-hearing.

22 MR. GILLON: I'll be happy to do that --

23 CHAIRMAN OKUN: Okay.

24 MR. GILLON: -- as well as probably attempt
25 to draw some kind of distinction between 406 and 421.

1 CHAIRMAN OKUN: Okay. Thank you very much.
2 There was one 421 case where it's public, but I think
3 that's the only one. Thank you.

4 Vice Chairman Hillman?

5 VICE CHAIRMAN HILLMAN: Thank you.

6 Before I make my comments, I want to welcome
7 you to the Commission. We appreciate the time that
8 you've taken to be with us, as well as all the
9 information in the petition and the brief.

10 Let me start, if I could, with a little bit
11 more trying to understand this issue of the
12 competition that you're feeling from China. I mean, I
13 think as you're hearing from all of us, we're
14 struggling a little bit because, quite honestly,
15 compared to most of the cases that we see the volume
16 of imports in terms of percentage market share,
17 however else you want to look at it, I think it's fair
18 to say it's very small in comparison to basically any
19 other case that we've seen.

20 I need to understand exactly where and how
21 you really feel this competition from China. Maybe
22 let me start on the regional side of it. Do you feel
23 Chinese imports are competing more specifically in a
24 certain part of the country, or are you feeling the
25 competition throughout the nation?

1 MR. MILLER: Well, there's no doubt that it
2 is regional, substantially regionally, has been up to
3 this point I should say. California was the closest
4 in proximity, so geographically it was first.

5 There may be other factors that would have
6 made it more comfortable for Chinese producers to sell
7 to Asian manufacturers in that market. However, we're
8 seeing that expand at a very rapid rate throughout the
9 country at this point. It has been stated in many
10 other states in the United States now.

11 Just in reference to the price increases,
12 that the domestic industry actually is finding it
13 necessary to try and put forward at this point,
14 they're really fairly recent. Only the late fourth
15 quarter and early first quarter of this year has the
16 industry tried to put forth some price increases out
17 of necessity because of rising steel prices.

18 It remains to be seen what effect that's
19 going to have, whether or not we'll actually be able
20 to implement those price increases or whether that
21 will result in more of the demand going to China,
22 which is what we're hearing from our customers at this
23 point.

24 It is moving rapidly across the country. It
25 is moving from small, regional manufacturers to larger

1 national groups who are either contemplating or have
2 begun to import products from China. In absolute
3 numbers, I mean, we feel that these are significant,
4 absolute numbers that we've seen. We also I think
5 feel that they may be understated because it's very
6 difficult to find the actual numbers from the data.

7 In terms of where it's going to go, we
8 believe that it will go quickly to much, much higher
9 numbers.

10 VICE CHAIRMAN HILLMAN: Mr. Bush, you're in
11 North Carolina. That's sort of far from the west
12 coast. Tell me, are you feeling direct competition
13 from the Chinese and at what kind of accounts?

14 MR. BUSH: Ma'am, when we started this, no,
15 we were not seeing any coming into the eastern part of
16 the United States at all, but in the last four to
17 probably six months we are definitely seeing them.

18 I found out Tuesday morning before I started
19 up this way that an account we had, had lost to
20 Leggett & Platt -- well, actually we took it from
21 Leggett & Platt, lost it back to Leggett & Platt. The
22 company has now gone to China. They have nine
23 container loads on order as of right now is what they
24 told our salesman on Tuesday morning before he called
25 me Tuesday afternoon.

1 Yes, it's definitely in North Carolina.
2 I've also been told when having to inform customers of
3 the increase in our raw materials so, therefore, an
4 increase in our prices that we're forcing them to go
5 to China. I've been told that by the president of the
6 second largest mattress manufacturer in the United
7 States. Excuse me. Third largest. It depends on
8 which numbers you use.

9 I've also been told that by some smaller
10 group presidents that we're forcing them they say to
11 go to China. They're talking about we'll start
12 investigating bringing in Chinese imports and
13 distributing to their members themselves.

14 VICE CHAIRMAN HILLMAN: Okay. So this is
15 both large accounts and small accounts?

16 MR. BUSH: Large and small. Yes, ma'am.

17 VICE CHAIRMAN HILLMAN: Mr. Wood, help me
18 first to understand how significant Leggett & Platt's
19 presence is on the west coast. I mean, if we look at
20 where your facilities are located, it wouldn't leap
21 off the page to me that you're a major presence on the
22 west coast, but tell me a little bit about how
23 significant you think your market is on the west coast
24 of the United States.

25 MR. WOOD: Naturally I can tell you fairly

1 accurately in a post-hearing brief, but it's
2 significant. We have locations in Salt Lake City;
3 Seattle, Washington; Portland, Oregon; Vacaville,
4 California; South Gate, California; and Phoenix, which
5 are the major --

6 VICE CHAIRMAN HILLMAN: When you say
7 locations, do you mean distribution?

8 MR. WOOD: Distribution centers, but we
9 manufacture innersprings in Los Angeles and in
10 Phoenix, Arizona.

11 VICE CHAIRMAN HILLMAN: Okay. Again, would
12 you describe for me the nature of where you see the
13 competition most heavily from China?

14 MR. WOOD: There are four major mattress
15 manufacturers in the United States, being Sealy,
16 Serta, Simmons and SpringAir.

17 The one that Jimmy was relating to that has
18 told him that now that you're raising prices we're
19 going to have to go to China is the only one of the
20 four that have not gone to China on visits and fact-
21 finding tours in the last six months, to my knowledge.
22 They may have too, but I am positive the other three
23 have gone in the last six months.

24 They are looking very strongly to China.
25 Naturally, capacities are not in place at this point,

1 but that does not mean they could not be turned on
2 fairly quickly.

3 VICE CHAIRMAN HILLMAN: Okay. If I look
4 within the segments of the industry, would you say the
5 Chinese product is more in the smaller size sort of
6 other category, or are they in this kind of upper --

7 I think you described, Mr. Miller or Mr.
8 Bush, in response to the other questions that there's
9 been this increase in demand in very high end, more
10 expensive mattresses. Where are the Chinese
11 primarily?

12 MR. BUSH: The Chinese so far, and here
13 again this is something that's changing, have stuck
14 strictly with the bonnell type of innerspring.
15 Bonnell is the workhorse of the industry, probably
16 comprising of 60 percent of the usage, the total usage
17 in the industry.

18 It can be anything from a fairly -- we go by
19 coil count. Generally the number of coils in a unit
20 and the gauge of the wire, the thickness of the wire,
21 is what determines the value of the unit. A bonnell
22 unit has a wide range. You can make as low as a 180
23 coil count unit, and all these numbers I'm throwing
24 out are the number of coils in a full size mattress.

25 VICE CHAIRMAN HILLMAN: Right.

1 MR. BUSH: As low as 180 up to a 1,000 coil
2 bonnell innerspring. It covers the whole gamut of
3 price ranges. Primarily what we're seeing coming in
4 from China are the low to the middle range of these
5 units.

6 VICE CHAIRMAN HILLMAN: Okay. Anybody else
7 want to comment on that?

8 MR. MILLER: The only thing I would add is
9 that I have seen products in the other range of
10 products coming in. Samples at this point, but it's
11 clear that there are bedding manufacturers in the
12 United States that are pushing the manufacturers in
13 China to produce a wider range of products.

14 I think in the public version of the staff
15 report that I saw it indicated that it was only in
16 these bonnell type standard innerspring types, but
17 they are actually importing products that relate to
18 futons and other categories currently in California.
19 I think it probably will be only a matter of time
20 before that expands to the balance of the United
21 States.

22 VICE CHAIRMAN HILLMAN: Okay. You
23 mentioned, Mr. Bush, that 60 percent of the market is
24 the bonnell type. What is the other? What type of
25 innerspring is not bonnell?

1 MR. BUSH: There are several others.
2 There's a light wire, high coil count unit generally
3 referred to as an LFK. Leggett has a trade name for
4 it. We have a different version of one we call
5 Interact. There are these. There are continuous wire
6 units. Leggett & Platt's brand name for that is
7 MiraCoil. There's also MultiLastic and SuperLastic.

8 VICE CHAIRMAN HILLMAN: And these would be
9 higher end?

10 MR. BUSH: Generally. Yes, ma'am.

11 VICE CHAIRMAN HILLMAN: Okay. All right.
12 Within these segments or even within sizes, is it more
13 profitable for you in terms of what you get in your
14 value versus what it costs you to make again a twin
15 versus a king or a bonnell type versus some of these
16 other high end? Which products are most profitable
17 for you to be in?

18 MR. BUSH: From a call standard, a
19 manufacturing call standard, there's really no
20 difference. You could almost divide it by the number
21 of coils and then multiply it by the next one to get
22 your cost.

23 Price-wise, the larger sizes should be more
24 profitable, but generally the queen size, which is the
25 most popular bedding size in the U.S., is the price

1 football. That's what gets beat down to where some of
2 your other sizes actually will carry more margin than
3 your queen size do.

4 VICE CHAIRMAN HILLMAN: Okay. Is there
5 generally a sort of price correlation between all the
6 sizes? In other words, if a queen sells for X, does a
7 king sort of always sell for X plus a certain number
8 and then move down?

9 MR. BUSH: There's a general percentage
10 correlation, but not a dollar amount or whatever.
11 Here again, you do what you have to do versus your
12 competition to get the business.

13 VICE CHAIRMAN HILLMAN: I appreciate those
14 answers. Thank you.

15 CHAIRMAN OKUN: Commissioner Koplan?

16 COMMISSIONER KOPLAN: Thank you, Madam
17 Chairman.

18 First, I just want to say, Mr. Gillon, I
19 really appreciate your putting our focus on the threat
20 aspects of this. I'm going to focus on that with you
21 in this round.

22 Having said that, the question that I closed
23 with I think has been covered now that it's come all
24 the way around back to me, so I don't think I need to
25 revisit that. The Chairman I think closed the loop on

1 that for me as far as I was concerned.

2 If I can, I'll move on. Although this isn't
3 a dumping case, I will note as I analyze what's going
4 on here that prices of imports from China, and this is
5 public. This is public. It's in our staff report.

6 The prices of imports from China were lower
7 than U.S. producer prices in all of the 35 quarter
8 comparisons, and the percentage margins of
9 underselling range from 11.3 percent to 20.4 percent
10 for Product 1, from 17.4 to 27.4 for Product 2, from
11 21.2 to 25.7 for Product 3, from 29.1 to 31.1 for
12 Product 5, and from 29.2 to 32.3 for Product 6, all
13 significant underselling margins.

14 I want to come to talk to you about in
15 reference to the future. I note that on I guess it
16 was page 25 of your public brief you stated that, and
17 I quote: "Exact data concerning China's capacity to
18 produce innerspring units for export to the United
19 States has been difficult to obtain." That's a direct
20 quote.

21 What I'd like you to do is respond, and
22 perhaps it's best for the post-hearing, but anything
23 you might say now I'd appreciate, to the fact that
24 when you look at Table 4-2 of the staff report that's
25 in Chapter 4 that table includes projections of

1 Chinese production capacity, production, shipments and
2 inventories for 2004 through 2006.

3 Now, most of that table, a lot of it is
4 business proprietary, but this is not, and I'm noting
5 that capacity is projected to increase only marginally
6 from 752,000 units in 2003 to 755,000 units in 2006,
7 and exports to the United States are projected to
8 increase from 265,000 units in 2003 to 308,000 units
9 in 2006.

10 How do I take that into account, those small
11 projected increases? How do I take that into account
12 for purposes of my threat analysis?

13 MR. GILLON: Commissioner Koplan, I will
14 address that in more detail in a post-hearing brief
15 because I think getting into the basis for those
16 projections and how they're calculated by the staff is
17 core and key to a decent answer that I would give you
18 on that point, but that is where my analysis would
19 start.

20 COMMISSIONER KOPLAN: I appreciate that.

21 You've recommended or you requested that the
22 Commission recommend a tariff of an additional 39
23 percent for an indeterminate number of years if we
24 make an affirmative determination.

25 Could you provide us with the details of the

1 economic methodology that you applied when arriving at
2 that recommendation, including your projected level of
3 subject imports for the years 2004, 2005 and 2006 and
4 for what period of time would you recommend that the
5 relief remain in effect if it was granted?

6 I know you were going to have an economist
7 here today. I don't know if he would have been able
8 to be of assistance on that.

9 MR. GILLON: And he certainly will be of
10 assistance when I prepare that.

11 COMMISSIONER KOPLAN: Okay.

12 MR. GILLON: May I ask for a clarification?

13 COMMISSIONER KOPLAN: Sure.

14 MR. GILLON: When you said projected levels
15 of imports, are you saying without any remedy being
16 taken by the Commission? Would you like it in both
17 cases?

18 COMMISSIONER KOPLAN: Yes.

19 MR. GILLON: Okay.

20 COMMISSIONER KOPLAN: Yes. I would
21 appreciate that. I was basing it on this. I'm seeing
22 what the Chinese say they are going to be sending in.

23 MR. GILLON: Right.

24 COMMISSIONER KOPLAN: I'd like to know how
25 you would interpret the numbers, assuming that you get

1 the tariff that you're asking for.

2 MR. GILLON: Sure. Sure.

3 COMMISSIONER KOPLAN: It's not quantified in
4 your brief. You could compare it both ways.

5 MR. GILLON: Sure. Yes, sir. I'd be happy
6 to do to that.

7 COMMISSIONER KOPLAN: Okay. Have I made
8 that one clear, though?

9 MR. GILLON: Very clear.

10 COMMISSIONER KOPLAN: Okay. Thank you. I
11 don't think I have anything further. I want to thank
12 you all for your testimony, but I think that does
13 conclude my questions.

14 I'm sorry. I do have one. You had a rather
15 detailed footnote. I think it was Footnote No. 6 in
16 your brief on your interpretation of threat.

17 MR. GILLON: I'll note that I put it in a
18 footnote. Yes, Mr. Commissioner.

19 COMMISSIONER KOPLAN: When I look at threat,
20 although the statute is silent, as you said, I look to
21 see whether it's imminent or not. Is that where you
22 would come out? I couldn't tell.

23 MR. GILLON: I understand that the
24 Commission uses the word imminent, and certainly that
25 little construct that I went through wouldn't preclude

1 that being part of that definition.

2 COMMISSIONER KOPLAN: Okay. That's why I'm
3 asking that when you give these projections that
4 you're doing it in the immediate future and that's how
5 you're defined it.

6 MR. GILLON: Right. Right.

7 COMMISSIONER KOPLAN: Thank you. Madam
8 Chairman?

9 CHAIRMAN OKUN: Commissioner Lane?

10 COMMISSIONER LANE: Just a few more
11 questions.

12 You acknowledge, probably in practicality,
13 it's probably every 20 years, and is that part of why
14 there is a decrease in demand?

15 MR. BUSH: Well, ma'am, another trade
16 association, the International Fleet Product
17 Association, does have numbers to support the -- I
18 think it's 10.7 years as of right now, as when people
19 replace their mattresses.

20 Now, that doesn't mean to say that some
21 people don't keep them for 20 or 25 years. You know
22 people like that and I know people like that.

23 COMMISSIONER LANE: Well, it's because your
24 mattresses are so good, right?

25 MR. BUSH: That's part of it.

1 COMMISSIONER LANE: When you talked about
2 the loss of sales and you were talking about one of
3 your customers saying that they had been in touch with
4 a Chinese manufacturer nine container loads were on
5 their way over here, how much are nine container
6 loads? I mean, how many units is that?

7 MR. BUSH: For that particular customer,
8 that would be a two to three-month supply.

9 COMMISSIONER LANE: Okay, and your customers
10 that you are losing that are buying Chinese product,
11 are they buying all Chinese product or are they
12 continuing to buy from the domestic industry also?

13 MR. BUSH: Ma'am, most of them will continue
14 to buy some fill-in items when the containers are
15 late, when they don't get there, or items that they do
16 not get from China, either the upper end or the lower
17 end or small numbers, you know, small users, something
18 like that, they will continue to try to buy from a
19 U.S. supplier.

20 COMMISSIONER LANE: And when these customers
21 switch to the lower priced Chinese product, are the
22 prices on their finished product go down also?

23 MR. BUSH: Not that I've seen, ma'am.

24 COMMISSIONER LANE: Okay.

25 MR. GILLON: If I may, Commissioner Lane,

1 let me be sure that the question you asked is very
2 specifically answered about number of units in a
3 container.

4 I know that Jeff knows kind of what those
5 number are. Do you know kind of off the top of your
6 head?

7 MR. BUSH: Generally you get 800 to 1,000
8 pieces, depending on size ordered in a 40-foot
9 container.

10 COMMISSIONER LANE: Okay, thank you.

11 Okay, earlier one of you referred to a
12 future threat of material injury. Were you basing
13 that statement on the current level of imports from
14 China or a higher level of imports in the future?

15 MR. GILLON: Commissioner Lane, we expect
16 there will be a higher level of imports in the future.

17 COMMISSIONER LANE: Okay, what do you base
18 that on?

19 MR. GILLON: I based that on the immediate
20 history that we have seen; on what our estimate will
21 be of productive capacity in China; the rate of use of
22 steel and other manufacturing inputs that, you know,
23 go into a variety of products in China; and the low
24 capital expenditures that it requires to get into this
25 business in China as compared, for example, to the

1 capital expenditures it requires in the United States.

2 COMMISSIONER LANE: Okay, if you regard
3 material injury as imminent, when would you estimate
4 such material injury would occur and why?

5 MR. GILLON: Commissioner Lane, you know,
6 questions similar to this was posed to Mr. Wood
7 earlier, and I think -- as a matter of fact, I believe
8 that you posed that question, and I wrote down in my
9 notes that you were kind of specifically asking
10 Leggett & Platt at that particular time.

11 I would like to go back and consult with
12 these gentlemen and get some data, and if you wish it
13 to be both on a company basis and on an industry
14 basis, I can do that since there is a larger player
15 here.

16 COMMISSIONER LANE: Yes, that would be fine.
17 Thank you. On an industry basis.

18 MR. GILLON: Okay.

19 COMMISSIONER LANE: Now, part of the record
20 shows that there have been acquisitions and
21 consolidations in the U.S. industry. How has that
22 affected employment?

23 MR. WOOD: There have been very few
24 acquisitions of actual innerspring producing companies
25 in the United States over the past five years. Prior

1 to that, Leggett & Platt started a very active
2 acquisition program going back to 1967. Most of the
3 businesses in the innerspring industry in the United
4 States were family-owned businesses, and a lot of
5 times when they would pass from one generation to the
6 next they would falter, and they would come to us and
7 ask them if they could sell to use basically. Most of
8 them were very friendly acquisitions.

9 As far as employment goes from acquisitions,
10 naturally there is some synergies. The reduction of
11 employment in this industry has probably gone down far
12 more by innovations in technology of machinery than it
13 has by acquisitions.

14 I hope that answers your question.

15 COMMISSIONER LANE: Yes, it certainly does.

16 That's all the questions I have at this
17 time.

18 CHAIRMAN OKUN: Commissioner Pearson.

19 COMMISSIONER PEARSON: Thank you.

20 Could you explain to me what pocket coils
21 are and why it was decided to exclude them from the
22 product under investigation?

23 MR. WOOD: I'll explain what they are and
24 Bill can explain why it was excluded because I'm not
25 sure.

1 Pocket coils are innerspring coils that are
2 not sewn together by wire. They are actually put into
3 a material pocket which is sewn after each coil, and
4 then either glued together or sewn together to make an
5 entire unit. This was the basis of the Simmons Beauty
6 Rest unit, and it is today.

7 This is probably the largest -- not the
8 largest selling, but it's far more significant in
9 Europe today than it in the United States if you take
10 Simmons out of the equation. Most of the innersprings
11 sold in the United States are primarily helically sewn
12 together units if you take the maker user Simmons out
13 of the equation.

14 COMMISSIONER PEARSON: Okay. And why it
15 was --

16 MR. GILLON: Well, Commissioner Pearson, we
17 worked quite awhile on the definition of this product
18 to be sure that everyone understood it, and that
19 definition is stated in the notice of hearing. Talked
20 about coils sewn together with the helical springs.

21 When questions came back from manufacturers
22 about the pocketed coils, in fact, pocketed coils are
23 not sewn together through the use of helical springs.
24 So instead of trying to make an amendment to that, and
25 when learning of the percentages of the industry that

1 is involved in pocketed coils, also that there do not
2 appear at this time to be pocketed coil units being
3 imported from China at this particular time, we
4 decided to stay with the petition as the definition
5 was at that time.

6 In other words, we didn't think that
7 definition actually technically covered the pocketed
8 coils.

9 COMMISSIONER PEARSON: Okay. So are the
10 pocketed coils higher end items then?

11 MR. WOOD: Used in the Your Honor, they are
12 sold mostly in higher end bedding. However, there are
13 helically sold units that are in higher end bedding
14 also, and I don't know what the most expensive
15 mattress would be in the United States today, probably
16 at Chattum & Wells, or maybe a Duxiana, or King's
17 Down, and all of those units have helically sewn
18 innersprings in them.

19 COMMISSIONER PEARSON: Okay. Give me some
20 idea, if you could, of some percentage of U.S.
21 consumption of mattresses would be the ones that have
22 pocketed coils, because I don't have any idea.

23 MR. WOOD: I could provide you with near
24 exact numbers in a post-hearing brief.

25 COMMISSIONER PEARSON: Okay, thanks. That

1 would be fine.

2 There has been some discussion about the
3 domestic demand in China, and there certainly is an
4 argument that, you know, you've got 1.3 million
5 Chinese, their economic growth is very rapid, they are
6 starting from a fairly low level, and most all of them
7 like to sleep, and so that the potential domestic
8 demand for mattresses in China, it would seem, could
9 be quite large.

10 Could you comment on that? I mean, is China
11 now one of the world's larger consumers of mattresses,
12 and do you expect things to move in that direction?

13 MR. WOOD: Well, we are certain betting on
14 that. We are also betting that we can convince the
15 Chinese people that a more plusher, softer mattress is
16 more comfortable for you, you will sleep better, and
17 is better for your back. That will definitely be an
18 uphill battle.

19 The current mattresses sold in China are
20 about as hard as this table, including the ones in the
21 hotels.

22 We hope to see China evolve into a more
23 affluent society and see people spend more naturally,
24 but how do we know?

25 We have fairly accurate data on the total

1 mattresses that are sold throughout the world if you
2 would like that information, current data.

3 COMMISSIONER PEARSON: If it's not hard to
4 provide it, it would be interesting --

5 MR. WOOD: Not at all.

6 COMMISSIONER PEARSON: -- just to put it
7 into context.

8 MR. WOOD: Okay, I understand.

9 COMMISSIONER PEARSON: Yes, I'm a user of
10 mattresses, and what do I really know about it?

11 MR. WOOD: And it includes the percentages
12 of mattresses purchased a year according to the
13 populations, et cetera, so we can provide you with
14 that in a post-hearing brief.

15 COMMISSIONER PEARSON: Right. Is it correct
16 that one or more U.S. manufacturing companies also
17 manufacture mattresses -- innersprings in China or
18 maybe complete mattresses in China? Do we have U.S.
19 firms who know about the Chinese market because of
20 doing business there, I guess, is what I'm asking?

21 MR. WOOD: I do not know if any U.S. name
22 brands that are currently manufacturing in China or
23 have definite plans to do so, and to promote their
24 name brand, although some of them have some franchises
25 in China, I believe, but they are not major to date.

1 COMMISSIONER PEARSON: Okay, but in terms of
2 the U.S. industry getting some exposure to the Chinese
3 market to understand the practices of doing business
4 there, the cost of doing business, and the potential
5 size of the domestic market?

6 MR. WOOD: That is one of the reasons we are
7 there, to be prepared for whatever the future may
8 bring. But as far as the manufacturers, like I say,
9 three of the four majors have visited China in the
10 last six months, and I'm going back with one of them
11 next month to spend a week, and they are looking to
12 resource all types of products naturally.

13 COMMISSIONER PEARSON: Okay.

14 MR. BUSH: These majors that he's talking
15 about have franchise owners that are Chinese-based.
16 They do not own any facilities producing name brand
17 bedding in China for China.

18 COMMISSIONER PEARSON: Okay.

19 MR. BUSH: As far as we know.

20 COMMISSIONER PEARSON: Okay. I wanted to
21 shift gears just a bit. There have been references to
22 possible misclassification of items imported into the
23 United States, and I'm wondering, have you had
24 conversations with the U.S. Customs Service about
25 that? Because if there is some misclassification,

1 clearly that is something that could be looked into.
2 Potentially it could even have some influence on
3 whether there is a threat from those products.

4 MR. WOOD: Representatives from our company
5 have written to our congressman. We have written to
6 the U.S. Customs department in Washington, D.C. We
7 have also written to U.S. Customs departments in the
8 Los Angeles, Long Beach ports, and also to Houston
9 ports.

10 I have personally visited U.S. Customs
11 there, and told them that we felt that these products
12 were coming in misclassified.

13 I happened to go down to the Long Beach port
14 around early October of this year. According to
15 WebData, the dollar value of goods into the Los
16 Angeles port for March, April, May, June, July,
17 August, and September, October were all zero. In
18 November, they jumped to \$224,511.

19 Unfortunately, in December, they backed off
20 to 157,020. We feel there is about \$754,000 a month
21 going through that port, so there is still a lot of it
22 that's being misclassified, in our opinion.

23 COMMISSIONER PEARSON: And have you been
24 able to find where it is being classified?

25 MR. WOOD: Yes. Most of it's being

1 classified under mattress supports, which is HTS No.
2 9404.10; at least that's our feeling. It's very
3 difficult to discern.

4 You know, we have worked with Intelligent
5 Report, is that the name of it? Intelligence Data in
6 Washington, D.C., where they can't -- they are only
7 provided with descriptions by the customs department.
8 The customs department will not divulge the codes that
9 it comes in under. So then they try to extrapolate a
10 code based on that description. So that's one of the
11 sources we use.

12 COMMISSIONER PEARSON: Do you have any
13 response yet from customs? I mean, is this an issue
14 that they are wanting to look into?

15 MR. WOOD: Yes, the customs department has
16 very strict policy of no response. They will not
17 respond to a complaint or to anyone else. They will
18 simply investigate the matter, and not respond to you,
19 so no, I do not.

20 COMMISSIONER PEARSON: That's got to be an
21 interesting way to interface with government.

22 Go ahead.

23 MR. GILLON: Commissioner Pearson, if you
24 would like a little more information on that, I know
25 Mr. Miller --

1 MR. MILLER: Yes, I just want to add that we
2 also wrote letters and made phone calls to customs in
3 Long Beach, California, which is a port where most of
4 it comes in, and had some conversation with an
5 investigator there who said basically that it wasn't
6 something he was going to get aggressive about in any
7 shot period of time.

8 But we didn't get any response to the
9 correspondence that we have sent, and so it's a tough
10 issue and a frustrating one certainly from our
11 standpoint.

12 COMMISSIONER PEARSON: Okay. Thank you.
13 The light has changed color, so let me pass. Thank
14 you very much.

15 CHAIRMAN OKUN: Thank you, and I just have
16 one data question and one question for you, Mr.
17 Gillon.

18 In terms of the foreign producers'
19 questionnaires, respondents have argued that all
20 Chinese firms that produce innerspring for exports are
21 covered by those, and I want to make sure I
22 understood, Mr. Gillon, where you all stood in terms
23 of our questionnaire coverage and your view of it.

24 MR. GILLON: It seems pretty clear to us
25 that they are not all covered. All foreign producers

1 are not covered by that questionnaire, because the
2 numbers aren't there in the first place. So we think
3 there must be more manufacturers in China sending more
4 product in because we believe there is more product
5 coming in.

6 CHAIRMAN OKUN: Okay. And you're clear when
7 you're saying that you believe is innerspring
8 manufacturers, not what Mr. Wood was talking about,
9 the ability of mattress manufacturers to switch?

10 MR. GILLON: No, I'm not necessarily
11 distinguishing between those two things. As I
12 understand what Mr. Wood -- we've been discussing this
13 over the last couple of days. As I understand what he
14 is talking about is, you know, a vertically integrated
15 mattress manufacturer taking some of its innerspring
16 production and beginning to export that product.

17 So, no, I would expect there are some of
18 those included in the data that we're seeing in terms
19 of imports coming in.

20 CHAIRMAN OKUN: Okay. And then just -- you
21 mentioned vertically integrated producer. I just
22 wanted to make sure for post-hearing that I better
23 understand your argument about the domestic producer
24 that you would have the Commission remove not as a
25 related party, but by virtue of it being vertically

1 integrated and the legal relevance of that for our
2 purposes.

3 MR. GILLON: I will be happy to discuss some
4 of that in detail. I alluded to that in the
5 prehearing brief without really going into it in great
6 detail because I, quite frankly, was under the
7 understanding that there were some data that was kind
8 of outstanding and some questions that still was
9 raised in the staff's mind to some extent.

10 When that is clarified with me, then it may
11 very well impact what I would say on that point.

12 CHAIRMAN OKUN: Okay. Well, I appreciate
13 you saying that. I have no other substantive
14 questions.

15 I always want to thank the industry
16 representatives because it's always interesting to
17 learn about your industry and how you do business. My
18 only curiosity question which I occasionally get
19 raised, what kind of innersprings are in those
20 heavenly beds that Weston has?

21 MR. WOOD: That product is manufactured by
22 Simmons. It is a pocketed coil unit. It is quite
23 comfortable, but there is a caveat. There is \$1,000
24 in bedding on top of that mattress that helps make you
25 so comfortable.

1 CHAIRMAN OKUN: Is that right?

2 MR. WOOD: At least in my opinion.

3 CHAIRMAN OKUN: Okay, well there you go. I
4 learned something else.

5 Vice Chairman Hillman.

6 VICE CHAIRMAN HILLMAN: Thank you.

7 I guess if I can just follow up on a couple
8 of things, perhaps maybe starting with you, Mr.
9 Gillon, at least trying to understand it, and then I
10 would like to hear a little bit from the industry.

11 As I understand your brief in terms of your
12 arguments about why you think there is material injury
13 or a threat of it, it is looking at a couple of the
14 declining factors in the most recent period in terms
15 of production, capacity utilization, and some of the
16 other numbers as opposed to profitability.

17 And yet when I look at the numbers I also
18 see a decline in consumption, and so I'm trying to
19 understand how much of whatever declines we may see on
20 the production, shipments, employment, how much of
21 that can fairly be attributed to, again, a slight
22 decline in consumption as opposed to how much of it
23 can fairly be attributable to Chinese imports.

24 MR. GILLON: Yes, Commissioner Hillman, and
25 I'll be careful as I go through here because I usually

1 can't remember off the top of my head what is
2 completely confidential and what is not, so I'll be
3 careful as I answer this.

4 We have already talked this morning about
5 maybe different demand numbers for the fully adult
6 size units. Commissioner Pearson talked about that,
7 and then you're referencing slightly declining
8 consumption numbers overall for innerspring units.

9 And yes, we are focusing on the last few
10 years of this period because that is, in fact, when
11 the imported started coming in, in 2001, just pretty
12 much immediately after the accession agreement.
13 Within a year there started to be a change.

14 As you track those consumption numbers going
15 down, and you track the import numbers going up, in
16 one year they are pretty -- they are just about the
17 same. In the next year, there is more of a decline,
18 there is a larger decline in consumption than there is
19 in increase in imports.

20 It would be pretty difficult to argue that
21 all of that declining consumption was truly imports
22 since, you know, they are not that amount. But there
23 is -- we believe, very close correlation, particularly
24 in 2002, and then in 2003, you will see a decline in
25 consumption that does exceed the increase in imports.

1 VICE CHAIRMAN HILLMAN: Okay. Anyone from
2 the industry? I mean, did you feel a decline in
3 consumption in the most recent years that we have
4 looked at, 2002, 2003, even 2001? Did it feel to you
5 has though consumption was going down?

6 I've heard a lot of different comments on
7 this issue. What's going on?

8 MR. MILLER: I would say that just overall
9 consumption possibly decreased slightly, and I mean
10 very nominally in the last couple of years, in the
11 last year, 2002 to 2003, particularly. And we have
12 submitted information that shows, and we would be
13 happy to submit more information that shows an
14 absolute direct relationship between our decreases in
15 sales and sales volume and customer changes in
16 purchasing to the Chinese products.

17 VICE CHAIRMAN HILLMAN: Okay. Mr. Bush?

18 MR. BUSH: We basically had a slight
19 increase in our numbers of units shipped in those
20 years, and I think it's because of whatever -- you
21 mentioned before we are kind of, you know, we're
22 insulated initially being on the east coast and
23 midwest, which our biggest trade areas are. We
24 participate on the west coast very little. We do have
25 some customers out there but not a whole lot. As this

1 as come east, it has been more of a threat and more of
2 lost business.

3 VICE CHAIRMAN HILLMAN: Okay. Mr. Gillon,
4 the other issue that I am also struggling to
5 understand is the correlation between the injury that
6 you're describing, again, and the Chinese imports. I
7 mean, your brief does focus on the number of producers
8 that were operating at a given level of profitability,
9 let's say just to not reveal any confidential numbers,
10 and yet when I look at those particular producers and
11 their performance, you know, I find that a number of
12 them were not operating at a good margin before there
13 were any Chinese imports in the market at all.

14 So I'm having trouble understanding sort of
15 two pieces of this. One, why I should take great
16 comfort in looking at the number of produces, and
17 their level of profitability as opposed to aggregating
18 them and looking at the industry as a whole.

19 And the, secondly, even if I do that, how it
20 is that I should attribute to imports any of the
21 difficulties on the profitability side of these
22 companies given that, again, some of the profitability
23 issues arose before there were any imports in the
24 market at all.

25 MR. GILLON: Yes, Commissioner, I can

1 address that better in a post-hearing because I think
2 when I get into that individual situation I would be a
3 lot more comfortable in talking about it that way, but
4 I do understand your point, and certainly in this
5 market there is a distinction between number of
6 companies and size of companies.

7 VICE CHAIRMAN HILLMAN: Well, again, and it
8 would be helpful, I think, for us to understand to
9 what degree size is related to the issue of the
10 overall profitability. I mean, whether, again whether
11 there is something about this industry that makes it
12 harder for companies of a smaller size to be
13 competitive.

14 MR. GILLON: I understand your question,
15 certainly.

16 VICE CHAIRMAN HILLMAN: All right. No, I
17 would appreciate that.

18 I guess the last thing I'm trying to
19 understand is you have argued this case largely as a
20 threat case; that you think that whatever the level of
21 Chinese imports is now, the concern is really on a
22 going forward basis. I guess I need to understand two
23 things.

24 First of all, from your perspective,
25 obviously, everybody can respond to competition in

1 different way, one is to basically cede market share
2 because you're going to go down on price, and you're
3 just going to lose some volume of sales because you're
4 not prepared to try to meet the Chinese. And
5 obviously the other way to do it is to try to come
6 down on price in order to keep market share.

7 Generally, what would you say has been the
8 response, and do you see that changing?

9 I mean, do you see yourselves more in the
10 trying to fight on price or simply looking at this,
11 you know, whatever, 20 - 30 percent margin of
12 difference between the U.S. price and a Chinese price,
13 and saying you're not going to go there?

14 And do you see that strategy changing on a
15 going forward basis?

16 MR. MILLER: I would definitely see it
17 changing on a going forward basis.

18 VICE CHAIRMAN HILLMAN: You would describe
19 your approach so far as having been what?

20 MR. MILLER: We have tried, I should say
21 somewhat selectively, to meet or come close to meeting
22 price. We have not met price. We cannot go down to
23 those levels. But we have tried where the impact
24 would be the greatest, say in our largest customers,
25 to negotiate somewhere in between the price that they

1 had the ability to buy it for and what we have
2 offered. So that's where we have done so far.

3 As the threat expands and we're faced with
4 either meet these prices or stop doing business, I see
5 the future as being stop doing business, but that
6 doesn't necessarily mean that we will continue to
7 survive as a company, because our business is
8 substantially based on the sales volume that we have
9 at this point. With fixed overhead costs, we can't
10 eliminate the sales volume and still survive.

11 VICE CHAIRMAN HILLMAN: Mr. Bush?

12 MR. BUSH: As far as trying to meet the
13 prices, yeah, we will do exactly what Jeff just
14 described. We will try to negotiate somewhere in
15 between. We will try to sell our service, our less
16 than truck-load deliveries if required, whatever we
17 need to do make up that difference in the customer's
18 mind.

19 As far as trying to produce at the costs
20 that they are selling for, we can't do it. We have
21 automated about to the extent we could automate.
22 Without some sort of revolutionary new machine, we
23 can't go any further, so you cannot take that much
24 more cost out of our product.

25 You know, the only thing there would be to

1 come up with an alternative sleep service, kind of
2 like Mr. Pearson was asking what else is out there,
3 develop something completely new and hope to get away
4 from it, but that takes time and money.

5 VICE CHAIRMAN HILLMAN: Okay. Mr. Wood?

6 MR. WOOD: You know, that's a very tough
7 question. I don't have the answer, quite frankly. If
8 you chased their price, then all of sudden limited
9 capacity erodes all of your profitability, as I
10 explained earlier, because they will just go from one
11 customer to the next.

12 Do you walk away from the business and just
13 let the imports gradually consume you because you have
14 walked away from the business?

15 I don't know the answer, I honestly don't.
16 I don't feel we can reduce our costs much more;
17 naturally we have programs all the time going on. We
18 have engineering studies going on all the time, but
19 we're talking about tenths of a percent savings, not
20 20 - 30 percent. I just don't know.

21 The company asked me a year ago to come up
22 with an answer, and I told them recently if I could do
23 that I could probably become a consultant and become a
24 very wealthy man. But anyway, I hope that answers
25 your question.

1 VICE CHAIRMAN HILLMAN: I would only follow
2 up, Mr. Gillon, with a question for you for the record
3 for the post-hearing because not only will it involved
4 addressing some of the confidential information.

5 I hear this story, and it is to some degree
6 that so far an attempt has been made to meet the
7 competition by lowering prices. And yet when I look
8 at our data in terms of what we're showing in terms of
9 what has happened to prices, I'm not sure I see that
10 as what's actually happened.

11 And on the flip side, if in fact what's
12 really happening is the response is, no, I can't meet
13 that price, I'll cede share to the Chinese, then my
14 question is so why hasn't the shares the Chinese have
15 captured gone up an awful lot more than the fairly to
16 very modest numbers that we have seen so far?

17 So I'm just struggling with trying to square
18 the data before us with what I am hearing the
19 gentlemen say. So you have access to all those
20 number, I would ask you to just in the post-hearing
21 try to help me understand how what I have clearly
22 heard them say square with the numbers that we have
23 before us.

24 MR. GILLON: I'd be happy to do that. In
25 particular, I know that there was at least one, and

1 probably a couple of categories of competition that
2 didn't show up in the staff report, because competing
3 products are maybe specifically named the same thing.

4 I know that in the case of Atlas Springs
5 there are some very, very specific and broader
6 instances of the reaction to that support, and I'll
7 get that over.

8 There has also been product shifts, and in
9 the discussion that we talk about we'll talk about
10 changing products in order to come up with a different
11 product to compete better.

12 VICE CHAIRMAN HILLMAN: Okay, I appreciate
13 those answers. Thank you.

14 CHAIRMAN OKUN: Commissioner Koplan.

15 COMMISSIONER KOPLAN: Thank you, Madam
16 Chairman.

17 I just have one question I wanted to follow
18 up to Commissioner Pearson's question about the
19 misclassification issue if I could.

20 My recollection is that one of the arguments
21 you are making was that perhaps the motivation for
22 Chinese trying to ship in as mattress support, there
23 is a difference in the six percent tariff; that
24 innersprings don't have a tariff and the mattress
25 supports have, I believe, a six percent tariff,

1 correct? The other way around? The innersprings have
2 a six percent tariff, right, I had it backwards. But
3 yes, that's the motivation for trying to bring it
4 under that number.

5 Now, that issue was addressed by -- the
6 issue of misclassification was addressed by
7 respondents, and I just want to ask you this.

8 They state at pages 2 and 3 of their brief
9 that to the best of their knowledge the completed
10 foreign producers and importers questionnaires provide
11 comprehensive coverage of Chinese -- I'm quoting, "of
12 Chinese exports and U.S. import shipment blottings."
13 They go on to say, "Moreover, the differences between
14 the 2002 and 2003 volumes reported by the foreign
15 producers and the importers are well within the bounds
16 of those that would be expected due to shipment and
17 receipt timing differences."

18 That's regardless of whether some imports
19 have been misclassified in customs data. Respondents
20 see no basis on the record for concluding that the
21 questionnaire responses are not complete and accurate.

22 Then they go on to conclude by saying that
23 they have provided in their brief revised tables based
24 on importer questionnaire responses, and that's
25 Exhibit 1, Tables 1 and 8, which are BPI, so I can't

1 get into that.

2 But what I would ask you is, one, if we
3 adjust our numbers, would the way to go be to use
4 completed foreign producers and importers
5 questionnaires? And would you agree with that if we
6 do adjust those numbers as the best evidence that we
7 would have available?

8 And two, could you for purposes of the post-
9 hearing comment on that exhibit and those two tables,
10 Mr. Gillon, that we can't get into in the public
11 session?

12 MR. GILLON: Mr. Commissioner, no and yes.

13 COMMISSIONER KOPLAN: Okay. How would you
14 do it from our standpoint if we don't use the
15 importers and producers questionnaires?

16 MR. GILLON: I reviewed the analysis that
17 was done by the staff here.

18 COMMISSIONER KOPLAN: Okay.

19 MR. GILLON: And in large measure, I really
20 don't know how they could track things any different,
21 in any different fashion. I can't bring much more to
22 that table. There are people at this table who believe
23 the numbers in the staff report are underreported, but
24 that's what they believe.

25 In terms of actually finding data and

1 tracking thing using intelligent methods, I think the
2 staff has reached out and gotten what it could, and
3 you know, I have no concrete information to disagree
4 with the staff report.

5 COMMISSIONER KOPLAN: Okay.

6 MR. GILLON: But again, I think they did a
7 very fine job on that number.

8 COMMISSIONER KOPLAN: Thank you very much.
9 That's helpful.

10 Mr. Wood.

11 MR. WOOD: To expand on that, the surveys
12 you sent out to some of the mattress manufacturers
13 that are using Chinese innersprings frequently come to
14 us and say, what did I buy last year, because they do
15 not have sophisticated systems to track that
16 information. We do have those systems. We know what
17 they bought last year. We know how many pieces a day
18 they are making when they bought that last year. We
19 know how many pieces a day they are making according
20 to what they are buying this year. We know they are
21 not buying them from Atlas, and they are not buying
22 them from Hickory, and there is Chinese tags on all
23 the springs they are bringing in. So that's how we
24 accumulated our data.

25 COMMISSIONER KOPLAN: Yes?

1 MR. GILLON: Yes, sir, just to clarify that
2 that's industry-generated data specially what Leggett
3 & Platt is referring to, and there is, of course data
4 generated by the foreign producers questionnaires, and
5 I then I think there is what the Commission staff did,
6 which is was a combination of those -- well, was the
7 foreign producers and then other information available
8 to the staff.

9 COMMISSIONER KOPLAN: Mr. Bush or Mr.
10 Miller, do you want to add anything to this?

11 MR. MILLER: I don't have access to some of
12 the information that you're referring to so I really
13 can't comment on it.

14 COMMISSIONER KOPLAN: Surely.

15 MR. MILLER: I think that, you know, we just
16 have a sense based on having seen product and know
17 which manufacturers are bringing in product, that the
18 numbers are probably underreported. And with the
19 confusion of the tariff classifications, I think it's
20 inevitable that it's not 100 percent accurate.

21 COMMISSIONER KOPLAN: Thank you.

22 MR. BUSH: I just want to echo Mr. Wood's
23 comment about our customers are not overly
24 sophisticated basically once you get beyond the major
25 players. We also provided the information for these

1 questionnaires for our customers. They don't know how
2 many pieces they bought from us. We have to tell
3 them.

4 COMMISSIONER KOPLAN: I thank you all very
5 much for your responses to these questions, and it's
6 been very helpful. Thank you.

7 CHAIRMAN OKUN: Vice Chairman Hillman.

8 VICE CHAIRMAN HILLMAN: Just one quick
9 follow up, Mr. Miller, to you. Again, I'm just trying
10 to make sure I understand the relationship between
11 your testimony and the record.

12 You commented in your direct testimony that
13 the key product that you saw used in competition with
14 the Chinese products is what you described as a 336
15 queen, and you commented that the price in the markets
16 has gone significantly down, and that that was even
17 more significant given that the product was already
18 undersold.

19 MR. MILLER: Undervalued.

20 VICE CHAIRMAN HILLMAN: I just want to make
21 sure I understand that because we priced as one of the
22 products that we asked everyone, both on the domestic
23 side and the foreign side to price something that, you
24 know, in our data would be product 4, which is
25 described as queen size, 336 coil count, 6-gauge

1 border, 13-gauge coil, measuring 58 by 5 by 78.5
2 inches.

3 Is that the same thing that you're
4 describing?

5 MR. MILLER: That is the same product, yes.

6 Now, my understanding is that from what I
7 could gather from reading this -- either the staff
8 report, I don't remember exactly which one it was, but
9 that there wasn't a response from the Chinese
10 importers.

11 The reason is, is that the product that they
12 are bringing in they call it 338 versus the 336. It's
13 virtually the same product. It was brought in to be
14 competitive with this 336 product, and apparently they
15 did not respond to that. But in fact they do bring in
16 a product that is directly competitive with that 336,
17 and it's sold in place of the 336.

18 VICE CHAIRMAN HILLMAN: Okay. No, that's
19 exactly what I was trying to understand, because as
20 you are noting one of the few pieces of public
21 information in the report does say that we didn't
22 report a price comparison because there were no
23 reported imports of this product 4.

24 MR. MILLER: Right.

25 VICE CHAIRMAN HILLMAN: And that the U.S.

1 producer prices were stable, so I was just trying to
2 square, you know, your testimony with the record.

3 MR. MILLER: Right, and I can provide some
4 additional information to you in the form of quotes,
5 price quotes from the Chinese, people who are
6 participating in that business so you can see the
7 differential in the price.

8 VICE CHAIRMAN HILLMAN: Okay.

9 MR. MILLER: If you would like.

10 VICE CHAIRMAN HILLMAN: No, it's obviously
11 always a difficulty for us to on the one hand describe
12 a very specific product in order to feel as though we
13 are getting very accurate, you know, apples to apples
14 comparison, but on the other hand not describing it so
15 specifically that we exclude in fact all of the
16 competitive products, so it may be that this is one
17 that we got -- you know, is that 338 a common product?

18 MR. MILLER: It is not a product that is
19 common in the United States as far as that specific
20 number, but it was produced to be directly competitive
21 with 336. It seems fairly clear to me that they
22 omitted it because they didn't want to divulge the
23 information. But they know specifically that it is
24 purchased in place of the 336.

25 VICE CHAIRMAN HILLMAN: Okay. No, I very

1 much appreciate those responses and all of the answers
2 to my questions. Thank you.

3 CHAIRMAN OKUN: If there are no questions
4 from my colleagues, then I turn to staff to see if
5 staff has questions for this panel.

6 MR. GEARHART: Bill Gearhart in the General
7 Counsel's Office, and I have two questions that are
8 basically clarifying questions.

9 CHAIRMAN OKUN: Mr. Gearhart, can you just
10 pull your microphone closer, or make sure it's on.

11 MR. GEARHART: It is on.

12 I have two clarifying questions: one
13 concerns the domestic industry, and you did address
14 this I know in your prehearing brief, but I will also
15 ask the respondents later on to see if they agree with
16 you. But the first part of the question is, how do
17 you define the domestic like or directly competitive
18 product?

19 MR. GILLON: How do I define?

20 MR. GEARHART: What is the like or directly
21 competitive domestic product, the product that is like
22 or directly competitive with the imported partner?

23 MR. GILLON: An innerspring unit.

24 MR. GEARHART: So that would be the
25 uncovered innerspring unit?

1 MR. GILLON: The uncovered innerspring unit.

2 MR. GEARHART: That would not include pocket
3 coils or anything like that?

4 MR. GILLON: Well, that's correct.

5 MR. GEARHART: Okay. And so the second part
6 of that would be then the domestic industry would be
7 whatever number of domestic producers there are of the
8 uncovered innerspring units; is that correct?

9 MR. GILLON: That's correct.

10 MR. GEARHART: Okay. The second question
11 has to do with material injury or threat. Are you now
12 arguing that the domestic industry is materially
13 injured, only that it is threatened with material
14 injury, or are you arguing material injury or threat
15 in the alternative?

16 MR. GILLON: How about all three of those
17 things would be what I'm saying. Certainly the
18 prehearing brief turn and focus most of its attention
19 on threat of injury as the data comes in and we look
20 at the industry as a whole. But there has been
21 material injury. It has been felt by the industry.

22 But there are certain numbers that when you
23 square those numbers with other cases the Commission
24 has looked at, then, you know, it becomes a weaker
25 case. But when you also look at the potential for

1 increased imports --

2 MR. GEARHART: So you are really arguing the
3 third then, that there is material injury or if the
4 material injury doesn't yet exist --

5 MR. GILLON: Yes.

6 MR. GEARHART: -- then you're arguing threat
7 of material injury?

8 MR. GILLON: Yes.

9 MR. GEARHART: But not just threat alone?

10 MR. GILLON: That's correct.

11 MR. GEARHART: Okay, thank you.

12 MS. MAZUR: The staff has no further
13 questions.

14 CHAIRMAN OKUN: All right, with that I want
15 to again thank these witnesses for your testimony, for
16 your answers to all these questions, and we very much
17 appreciate you being here.

18 In conferring with my colleagues, in light
19 of the fact that there is just one witness, as I
20 understand, that, Mr. House, Mr. Reilly will be the only
21 one testifying for you, we are going to go ahead and
22 continue on. So we will take a couple of minutes for
23 the petitioners to get up from their seats and to seat
24 the next panel, Madam Secretary.

25 (Pause.)

1 CHAIRMAN OKUN: Our second panel has been
2 seated. Have the witnesses been sworn?

3 MS. ABBOTT: Yes, Madam Chairman.

4 (Witnesses sworn.)

5 CHAIRMAN OKUN: You may proceed, Mr. House.

6 MR. HOUSE: Thank you. Good morning, Madam
7 Chairman, Madam Vice Chairman, members of the
8 Commission.

9 My name is Michael House of the law firm of
10 Kaye Scholer. With me today is our economist, John
11 Reilly of Nathan Associates.

12 We are appearing here today on behalf of the
13 small group of producers in China that constitute the
14 Chinese-owned innerspring industry. Now, I say
15 "Chinese owned" for a reason. We are not the only
16 innerspring producers in China. As we will discuss
17 later in our presentation, the dominant U.S. producer,
18 Leggett & Platt, is already a major producer of
19 innersprings in China.

20 It is pursuing the same strategy of
21 aggressive acquisition of competitors and the
22 deverticalization of customers that has helped it
23 achieve undisputed market dominance in the United
24 States.

25 It is the small Chinese-owned producers who

1 are threatened with distinction at the hands of this
2 global giant, not the other way around.

3 Madam Chairman, this case was dead on
4 arrival at the Commission's dockets room. Virtually
5 every element of a credible case under Section 421
6 fails when measured against the facts on the record in
7 this investigation. It is not an overstatement to say
8 that the Commission has rarely, if ever, encountered a
9 healthier domestic industry.

10 The percentage profits earned by the U.S.
11 innerspring industry consistently over the period of
12 this investigation speak for themselves. One needs only
13 to look at Table 3-6 of the Commission's staff report
14 found at page 3-8.

15 And it is not an understatement to say that
16 the Commission has rarely, if ever, heard a case in
17 which the claimed injury was attributed to imports as
18 minuscule as they are in this case, insignificant both
19 in absolute volume and in relative market share.

20 Under no stretch of the imagination could
21 imports this tiny have been a significant cause of any
22 injury, much less the material injury the petitioners
23 claim to exist.

24 And this brings us around again to that
25 question of domestic industry performance. With the

1 U.S. industry operating at these profit levels, with
2 the U.S. producers rolling out price increases, and
3 with no discernable price suppression at any point
4 throughout the entire period according to the
5 Commission's own staff report, how can these minuscule
6 volumes of innerspring imports have had anything to do
7 with what has been an astoundingly successful domestic
8 industry during each of the last five years?

9 We simply do not see any market disruption.
10 These are certainly not the extraordinary
11 circumstances that Congress had in mind when it
12 authorized the extraordinary trade remedy of Section
13 421.

14 The petitioners' view concerning the role of
15 Chinese innerspring imports in this market is
16 obviously sincerely felt, but it must be judged for
17 what it is -- essentially an alternate reality when
18 compared to this record.

19 Their claims there are no relation to the
20 facts develops by the Commission staff and placed
21 before you on the record in this case. This is
22 particularly curious given the petitioners' counsel
23 has specifically advised the Commission that they
24 generally agree with the findings in the staff report.

25 First, the claim of rapidly increasing

1 imports. As Mr. Reilly will demonstrate in detail in
2 a few moments, the volume of imports we are talking
3 about in this case are extraordinarily minuscule, and
4 their trend simply cannot reasonably be characterized
5 as rapidly increasing within the meaning of Section
6 421.

7 In absolute terms, the increase in imports
8 of innersprings from China has been tiny, and the rate
9 of increase has been declining relatively over the
10 most recent two annual periods. These are imports
11 whose U.S. market share has gone from zero to
12 negligible over the last five years.

13 An increase from zero to negligible is not a
14 rapid increase under any reasonable standard. And it
15 is certainly not a rapid increase under the standards
16 of this statute.

17 Section 421 defines market disruption to
18 exist whenever imports are increasing rapidly so as to
19 be a significant cause of material injury. Thus the
20 statute does not ask the Commission to decide whether
21 imports are increasing rapidly in the abstract. It is
22 not an isolated inquiry. Rather, the rapid increase
23 must have a significant casual connection to material
24 injury.

25 Here, the negligible level of volume of

1 imports, while representing an increase over the zero
2 levels of previous years, are simply too small to have
3 had any significant causal connection to any of the
4 domestic industry's performance indicators.

5 The statute further emphasizes the
6 importance of import volume when it explicitly
7 requires the Commission to consider this as one of the
8 three enumerated objective factors in Section 421(d).

9 When the Commission considers the tiny
10 import volumes present in this case, as it must, the
11 only objective conclusion is that there could not have
12 been any significant connection to this domestic
13 industry's health.

14 Second, consider the petitioners' claims of
15 material injury. As noted at the outset, the profit
16 figures for this industry, which are confidential,
17 speak volumes about the health of the U.S. innerspring
18 industry. We would refer the Commission to pages 4 to
19 7 of our prehearing brief, and the staff report at
20 page 3-8, Table 3-6.

21 We're talking about a consistently healthy
22 industry throughout the period of investigation, both
23 before and after the presence of these negligible
24 Chinese imports. And the profit levels are not the
25 only indicator of domestic industry health on this

1 record. Indeed, there is not a single financial
2 performance indicator that suggests anything other
3 than a strong and robust industry throughout the
4 period.

5 We ask the Commission to look at the data
6 compiled in the staff report concerning the U.S.
7 producers operating incomes as a ratio of net sales
8 during the period. Again, this is on Table 3-6 on
9 page 3-8.

10 At the same time in the same table you can
11 see the producers cash flow experience in each year of
12 the investigation period, and over the same period the
13 unit value of the domestic industry's commercial sales
14 rose. This is shown in Table 3-7 on page 3-9.

15 Inventories fell during the period both
16 absolutely and in relation to production and
17 shipments. The staff report documents this at Table
18 3-3 on page 3-5.

19 Capital expenditures increased over the
20 period. This is in Table 3-10 of the staff report at
21 page 3-15. And worker productivity and hourly wages
22 rose throughout the period. See Tables 3-3 and 3-5 in
23 the report at pages 3-5 and 3-6.

24 Frankly, in our 20 plus years of
25 representing parties in trade relief cases before this

1 Commission, we cannot recall a case in which a trade
2 remedy was sought by a domestic industry performing
3 this strongly throughout the entire period of
4 investigation. Certainly we have never seen a
5 Commission find that an industry this healthy is
6 suffering material injury.

7 Third, consider the petitioners' claims that
8 Chinese imports have impacted domestic producer
9 pricing. As Mr. Reilly will discuss shortly, the data
10 compiled in the staff report demonstrate that Chinese
11 imports have had virtually no suppressive or
12 depressive effect on U.S. innerspring prices. In
13 fact, the data show that the unit values of U.S.
14 producer shipments rose over the period of
15 investigation. This is shown at Table 3-2 of the
16 report, page 3-4.

17 The pricing data for the individual products
18 compiled by the Commission staff are consistent with
19 this as Mr. Reilly will explain.

20 These figures are not surprising in a market
21 where one dominant U.S. producer controls pricing and
22 supply to the extent that Leggett & Platt does here.
23 The Commission staff noted that Leggett & Platt
24 initiated price increases in the fourth quarter of
25 2003, and plan an additional price increase across all

1 product lines for an average of four to six percent in
2 the first quarter of 2004. This is in the report at
3 page 3-9, Note 11.

4 This is a dominant producer whose price
5 increases stick, and as might be expected, this steady
6 march of price increases from the industry giant
7 allowed smaller U.S. producers to follow suit. We
8 heard Atlas describe its recent price increase of six
9 percent effective January 15, 2004.

10 And while Saval claims in its written
11 statement that it previously lacked the leverage to
12 raise prices and hold them at a higher level, this is
13 no longer a concern. Saval is now part of Leggett &
14 Platt.

15 The picture of U.S. producer pricing is
16 further borne out in the responses to the Commission's
17 importer and purchaser questionnaires. We would
18 direct the Commission to the detailed discussion in
19 the confidential version of our prehearing brief at
20 pages 15 through 17.

21 The Commission will find particularly
22 noteworthy the comments of one purchaser who did not
23 import from China and his purchases from U.S.
24 producers increased during the period, and who
25 experienced firsthand the market domination strategy

1 of Leggett & Platt.

2 Again, the impact from Chinese product
3 pricing and import volumes the petitioners suspect is
4 happening in the market is simply not reflected in the
5 record before this Commission.

6 We heard this morning the representative
7 from Atlas testify about the price suppression he
8 believes is occurring with regard to the 336 queen
9 product. I'm glad that Vice Chairman Hillman focused
10 in on this question.

11 The Atlas representative claims this is a
12 key product that he used in competition with the
13 Chinese products. Yet the staff report has a starkly
14 different picture of pricing for this product.

15 As was noted, the 336 queen product is
16 product No. 4 in the price data collected by the
17 Commission. And the staff reports that U.S. producer
18 prices are now shown in chart form because there were
19 no importer sales of this product during the period of
20 investigation.

21 And further, and this is important, the
22 staff reports that the U.S. producer price for this
23 product was relatively stable throughout the 1990
24 through 2003 period. You can find this at page 5-14
25 of the staff report, Footnote 10.

1 Atlas now admits that the imported product
2 that it allegedly competes with is a different
3 product, a 338. Of course, if the Commission or the
4 petitioners had wanted pricing data on this different
5 product, the questionnaire respondents would have
6 complied.

7 But this does not answer the question of why
8 the staff's report documents that U.S. producer prices
9 for the Atlas product, for this product 336, remained
10 stable throughout the period.

11 This steady pattern of stable and increasing
12 U.S. prices is completely at odds with the notion that
13 the negligible volumes of Chinese product have had a
14 suppressive or depressive effect on this industry, and
15 it also belies another notion the petitioners have
16 advanced here: the effect of supposedly increasing
17 wire costs.

18 First, it appears that the individual
19 domestic producers don't actually agree on whether raw
20 materials cost increased, declined, or remained stable
21 during the period of investigation.

22 Leggett & Platt reported that it experienced
23 higher raw material costs in both 2002 and 2003.
24 Meanwhile, Atlas stated in its written testimony that
25 its raw material costs declined from 2000 through most

1 of 2003. And Hickory testified in its written
2 statement that its price of wire over the last two
3 years has remained stable.

4 Whatever the truth about raw material costs
5 over the period, what remains clear from this record
6 is that the U.S. producers have been able to pass
7 along significant price increases on a steady basis,
8 and in particular, during those years in which the
9 trivial volume of imports from China began appearing
10 in the market.

11 Finally, consider the petitioners' claims
12 regarding lost sales and lost revenues. As with their
13 view of industry health and pricing effects, the
14 petitioners' notion of lost sales and revenues bears
15 little relationship to the reality of the record
16 evidence.

17 The candid remark in Hickory's written
18 testimony was telling. It believes that it has lost
19 actual sales to the Chinese, but it admits that it
20 cannot verify any specific sale to any specific
21 customer.

22 Without getting into confidential data, we
23 would simply suggest that the Commission staff has
24 encountered similar difficulties with the individual
25 lost sales allegations submitted by the petitioners.

1 We would invite the Commission to pages 17 through 18
2 of our confidential prehearing brief for a detailed
3 discussion of this subject.

4 The Commission staff, moreover, recently
5 released a list -- a table I should say of lost sales
6 allegations dated February 12, which further documents
7 the outcome of the staff's attempts to confirm these
8 allegations.

9 As to imagined lost revenues, we heard the
10 Leggett & Platt representative this morning suggest,
11 if I heard it correctly, some estimated numbers in the
12 range of upwards of tens of millions of dollars. This
13 is sheer fantasy.

14 When one takes a look at the Commission's
15 staff report a very different picture emerges. The
16 petitioners had an opportunity to document the
17 revenues allegedly lost as a result of import price
18 suppression. Yet the results of the staff's attempts
19 to confirm these claims is telling. We invite the
20 Commission to examine the staff's confidential memo of
21 February 12th, and the accompanying table which
22 discusses the dollar volume of the lost revenues
23 during the period of investigation that were actually
24 confirmed.

25 One last point that cannot be overemphasized

1 in this case, the U.S. domestic industry and the U.S.
2 domestic market is dominated by a single giant U.S.
3 producer. Dominated may actually be too weak a term.
4 Leggett & Platt, Incorporated holds the market share
5 and the corresponding control over supply and pricing
6 of a degree the Commission has rarely seen in an
7 import relief investigation.

8 This producer's successful dominance of the
9 market and its steady and healthy profitability come
10 as a result of an aggressive strategy of requiring the
11 competition at every possible turn.

12 Leggett & Platt is the innerspring
13 industry's Microsoft Corporation. It makes no secret
14 of its ambitions to swallow up competitors and reduce
15 the supplier options available to its customers. The
16 Leggett & Platt representative confirmed as much this
17 morning. He described the acquisition of competitors
18 as the way they have built their market. Exhibit 2 of
19 our prehearing brief contains a copy of Leggett &
20 Platt's acquisition strategy in which the company
21 trumpets the 150 companies it has acquired in the last
22 decade; two-thirds of which were competitors.

23 In the innerspring and boxspring industries
24 alone, Leggett & Platt acquired 22 competitors over a
25 period of just the last eight years, and the

1 acquisition of Saval makes 23.

2 This is combined with its concurrent
3 strategy of deverticalization, a somewhat Orwellian
4 sounding term. It means in the words of Leggett &
5 Platt "persuading vertical manufacturers to cease
6 making their own components and instead purchase
7 components from Leggett."

8 The company does not explain how this
9 persuasion is accomplished, but we know this. The
10 strategy works. Leggett & Platt has been an
11 enormously successful and profitable company over many
12 years, and in particular, in the most recent period.
13 The company's earnings in the fourth quarter of 2003
14 increased by 21 percent over the fourth quarter 2002
15 while sales in the residential furnishing segment,
16 which includes innersprings, rose 10.4 percent.

17 And as Mr. Reilly will discuss in more
18 detail, Leggett & Platt has exported a successful
19 strategy of aggressive acquisition to China where it
20 now operates at least four major manufacturing
21 facilities, including the production of innersprings.

22 The point of this discussion is not to
23 disparage Leggett & Platt. Indeed, one is hardpressed
24 to find a more successful and profitable U.S. company
25 reliably so year after year. The point, however, is

1 that this strong dominant producer has a level of
2 market power in the U.S. that is fundamentally
3 inconsistent with the notion that minuscule imports
4 from China could have any discernable impact on this
5 industry, much less be a significant cause of material
6 injury.

7 And as we have discussed, the record before
8 the Commission bears this out as to every relevant
9 factor to be considered under Section 421.

10 I would now like to turn our presentation
11 over to Mr. Reilly.

12 MR. REILLY: Good morning, Madam Chairman
13 and members of the Commission.

14 For the record, I'm John Reilly appearing on
15 behalf of certain Chinese producers. You will not be
16 surprised to know that I'm not testifying on behalf of
17 Leggett & Platt, which is itself is a significant
18 Chinese producer.

19 Today, I'm going to make some rather obvious
20 points. The subject imports are not increasing
21 rapidly, that there is no market disruption, that the
22 domestic industry is neither injured nor threatened
23 with injury, and in any case subject imports have had
24 no significant bearing on any aspect of the domestic
25 industry's performance, and I think I have covered all

1 necessary points here.

2 But please turn to my first handout. And as
3 far as material injury is concerned, this about says
4 it all, and this is a reproduction of the chart that
5 appears in the public staff report at Figure 1-4 on
6 page 1-19.

7 The clear results of displaying the data
8 this way is that the volume of subject imports is
9 minuscule, and the import market share is minuscule in
10 that the increase between 2002 and 2003 has been from
11 minuscule to minuscule.

12 It's also clear that the volume of subject
13 imports are far too small to have any significant
14 effect on U.S. production, shipments, or prices.

15 Now, there is one additional point about
16 this chart that needs, or perhaps can benefit from
17 some explanation, and that is that the chart does show
18 a general decline in apparent consumption of
19 innerspring units over the period of investigation,
20 and this decline has occurred during a period when
21 housing starts, housing market in general and sales of
22 existing houses has remained quite strong.

23 This issue arose, interestingly enough,
24 during the preliminary investigation of the wooden
25 furniture, wooden bedroom furniture from China, and

1 there was significant discussion at the staff
2 conference about this very issue.

3 Interestingly, Felix Wright, the CEO of
4 Leggett & Platt, addressed this very issue a couple of
5 weeks ago at the Credit Suisse First Boston Furniture
6 Symposium. And we don't have a transcript of it. The
7 audio is available at the Leggett & Platt website. We
8 are attempting to get a transcript.

9 And Mr. Wright's take is that certainly the
10 economy has had some effect, but the fact that there
11 seemed to be a discontinuity between the housing
12 market and the volume of innerspring -- actually, he
13 was talking about bedding, the volume of bedding being
14 sold appeared to reflect a situation in which folks
15 were buying their dream house and perhaps spending a
16 little more money on that dream house than might
17 otherwise have done, and were deferring the purchase
18 of new bedding until they perhaps renewed their
19 financial resources a bit.

20 And he did note that the purchase of bedding
21 is a very deferrable purchase, and quite a deferrable
22 purchase I think is the exact term he used.

23 he also indicated that Leggett & Platt views
24 the bedding market presently as being quite good, and
25 he is optimistic about future demand and sales.

1 I'll have more to say about Mr. Wright's
2 remarks at that symposium a little bit later on in my
3 testimony.

4 The next chart shows innerspring production
5 and imports from China, and it shows exactly the same
6 thing, and this is a reproduction of a chart from the
7 public staff report as well.

8 Now, the one point to be made here is that
9 since subject imports have only recently entered the
10 U.S. market, the percentage changes in absolute
11 volumes really don't provide any useful information
12 since movement from one very small number to another
13 very small number can entail a large percentage
14 change. And I apologize for making this obvious
15 point, but I'm attempting to cover all the bases.

16 Please turn to my Chart No. 3 now, and this
17 is a comparison of the import volume estimated by the
18 staff with the exports reported by the Chinese
19 producers for 2002 and 2003. We are not able to show
20 the reported imports because that information is under
21 protective order.

22 But the numbers are quite different. The
23 exports reported by the Chinese are only 223,000 units
24 in 2002, and 265,000 units in 2003, and that's -- in
25 terms of the minuscule volumes a rather level pattern.

1 There is some increase shown in the estimated imports
2 by the staff.

3 However, as we noted in our prehearing
4 brief, we believe that the information that's been
5 reported by the exporters from China is comprehensive,
6 and the information reported by the importers is also
7 comprehensive, and those two data series jibe. And we
8 have no reason to believe that the volumes being
9 reported by those two separate sources are incorrect.

10 We also do not know exactly how the staff
11 went about estimating the volume of subject imports in
12 2002 and 2003. That information was not made
13 available to us. However, we think in this particular
14 case that given the consistency between what's been
15 reported by importers and the consistency between
16 what's been reported by exporters that there is no
17 reason to doubt the information. And the responses by
18 the petitioners to questions this morning, in our
19 view, provided no reason to doubt that.

20 Now, to put these numbers in perspective,
21 it's possible to use some information from the public
22 petition. The public petition indicated that
23 shipments of adult innerspring mattresses in 2002 was
24 approximately 20 million units, and I'll use that 20
25 million unit figure as a metric to assess the

1 significance of the volume of imports.

2 The volume of imports reported for 2003, the
3 estimated imports reported in the staff report would
4 account for roughly two percent of that 20 million
5 figure. The reported exports from China, which are
6 internally consistent with the reported imports, would
7 account for less than 1.5 percent of apparent
8 consumption if you use that 20 million matrix as a
9 proxy for apparent consumption.

10 Now, the other point is that if you look at
11 the foreign producers data their exports to the United
12 States increased by only 42,000 units between 2002 and
13 2003. If you compare that 42,000 units figure to the
14 20 million unit figure, you get the increase as a
15 fraction of one percent of apparent consumption.
16 These data make it plain that imports simply have not
17 increase rapidly.

18 Now, we also took a look, and this is on
19 Chart 4, actually it's a table, at Leggett & Platt's
20 publicly reported financial results, and we focused on
21 the residential furnishing segment, because that's the
22 home where the innerspring operation resides. And
23 what we found was a pattern of consistent very high
24 profitability throughout the period of investigation,
25 and during the period in 2003, a pattern in which

1 residential furnishing segment significantly
2 outperformed the corporate P&L.

3 Now, compared to the company as a whole,
4 which was performing in quite a healthy manner, the
5 segment itself performed in a very healthy manner.
6 And of course, as a basis for comparison I would
7 invite the Commission to compare the published figures
8 with the data on page 8 of the confidential staff
9 report and the top of page 13, and suffice it to say
10 those comparison will speak for themselves.

11 Now, we also took a look at the performance
12 of the residential furnishing segment in the final
13 quarter of 2003, and that's show in my No. 5, and
14 interestingly this segment showed a substantial
15 increase over the same period in 2002 in net sales and
16 in earnings before interest and taxes.

17 The operating income margin went from 9.7
18 percent to 10.3 percent as compared with corporate
19 margins of 8.4 percent and 8.6 percent.

20 So not only has the performance of the
21 segment improved during the latter part of 2004, it is
22 improved again relative to the corporation as a whole,
23 and our thesis is that this kind of significant
24 improvement in both profit and sales, with profits up
25 about 18 percent, could not have occurred if the

1 innerspring segment was performing poorly.

2 I would now like to turn to the issue of
3 pricing, and that's on my No. 6. The pricing product
4 prices, which we believe are generally representative
5 of what's been occurring in the performance of the
6 domestic industry, indicate that prices have been
7 generally stable to up over the period of
8 investigation, and that pattern of pricing shows
9 actually no effect from any subject imports. It's
10 clearly inconsistent with the finding either that the
11 domestic industry is injured or that the subject
12 imports have any suppressing or depressing effect on
13 domestic prices.

14 Now, you heard this morning about sharply
15 increasing scrap prices which have caused wire rod
16 prices to increase sharply which have caused wire
17 price costs to increase.

18 Leggett & Platt has successfully implemented
19 innerspring price increases in October 2003 and in
20 January 2004 to cover increasing costs. Those cost
21 increases are discussed in the fourth quarter and
22 annual earnings conference call, and the audio is also
23 available on the Leggett & Platt website. There is
24 also a general discussion in that conference call of
25 the problem of escalating raw material cost. And I

1 think the consensus among those who are speaking is so
2 far so good. The company has been able to pass on
3 these cost increases so far.

4 I would now like to turn to the capacity of
5 the Chinese industry, their production and capacity
6 utilization. This is on No. 7 of my handout. And it
7 bears directly on the issue of threat of material
8 injury.

9 As a threshold item, we believe that all of
10 the Chinese producers that export to the United States
11 market have completed foreign producers questionnaires
12 and submitted them to the Commission.

13 Now, all Chinese producers of innerspring
14 units have not completed producers questionnaires;
15 Leggett & Platt, for example, has not completed a
16 producer questionnaire.

17 But those are the producers that produce for
18 internal consumption and sale in the Chinese market
19 only and do not export to the United States.

20 Now, the foreign producers reported
21 production of 578,000 units, and capacity utilization
22 of about 77 percent in 2003, and I should note that
23 the line on this chart is capacity utilization, and
24 the column is production.

25 And in 2005, production is projected to

1 increase to 675,000 units, which is a relatively
2 healthy increase over a period of two years, and
3 capacity utilization is expected to rise to more than
4 89 percent.

5 This increase has been due principally to
6 growing home market sales and growing internal
7 consumption, and that's information that our clients
8 have permitted us to put on the table, although the
9 specific figures are under APO.

10 Now, there is one other point, and that is,
11 Chinese capacity is projected to be 755,000 units per
12 year in 2005. If you compare that figure to the 20
13 million unit figure that I cited earlier as a proxy
14 for say current apparent consumption, it works out to
15 about 3.8 percent of apparent consumption.

16 So even if the Chinese producers would ship
17 all of their capacity, their production for the U.S.
18 market and do away entirely with their internal
19 consumption and home market sales, their maximum
20 market share in 2005 would be 3.8 percent or less than
21 3.8 percent if you assume that innerspring demand is
22 going to grow.

23 So even if you make an absurd assumption,
24 you can't get imports from China to a level where in
25 the future they would be injurious.

1 But now let's look at what the actual
2 exports and projected figures area, and that's on No.
3 8.

4 Actual exports in 2004 were 256,000 units.
5 They are projected to increase to 308,000 units by
6 2005. That's a very, very small increase. Three
7 hundred and eight thousand units, the peak for 2005,
8 is about equal to 1.5 percent of 20 million units.

9 In other words, projected exports, very high
10 capacity utilization rate indicate that Chinese
11 imports will remain minuscule through the next two
12 years.

13 Now, need I state the obvious? That is,
14 that he foreign producers data provide not even a hint
15 of a notion of threat of injury.

16 I would now like to go into some detail
17 about Leggett & Platt's business strategy in the
18 United States and in the following item in the
19 handout, its operations in China, because they do have
20 a bearing on this case.

21 First of all, Leggett & Platt aspires to be
22 the clear market leader in everyone of its product and
23 geographic segments. That a fundamental part of the
24 company's business strategy, and the data collected by
25 the Commission make it clear that Leggett & Platt has

1 achieved this goal in spades with respect to the U.S.
2 market.

3 Now, its leadership, I'll call it
4 nomination, comes from a strategy that it describes as
5 acquiring competitors and aggregating fragmented
6 markets. What that means is it buys up its
7 competitors or otherwise runs them out of the market,
8 and in that way turns a market once served by some
9 relatively small firms into a market dominated by one
10 huge firm.

11 It assures long-term domination by
12 deverticalizing its customers; that is, causing them
13 to stop making mattress components themselves and
14 making them become wholly dependent on Leggett & Platt
15 for both components and mattress machinery. Extending
16 the one-stop supplier capability which means its self-
17 manufacturing all of the mattress components and
18 machinery is an essential element of the strategy of
19 deverticalizing its customers.

20 Now, once they become a one-stop supplier to
21 deverticalized customers, they can leverage cross-
22 selling opportunity.

23 What does that mean? It means that L&P can
24 bundle components and even machinery and has the power
25 to make a dependent customer buy component 3 as a

1 condition of getting component -- of component B as
2 getting component A, as a condition of getting
3 component A at a reasonable price.

4 Other U.S. producers that sell to the
5 merchant market have no choice but to follow Leggett &
6 Platt's pricing lead, and in addition, take as much
7 business as Leggett & Platt decides to let them have.

8 Now, Leggett & Platt's dominance of the U.S.
9 market is secure for good or ill because it has been
10 wholly successful in implementing its strategy. And
11 that dominance applies not only to its domestic
12 competitors but to any potential foreign competitors
13 as well.

14 Now let's discuss Leggett & Platt in China.
15 The company operates two innerspring plants in China.
16 It produces the product and sells it to Chinese
17 mattress producers in competition with other Chinese
18 innerspring producers.

19 Thus it's reasonable to conclude that
20 Leggett & Platt in China is at least cost competitive
21 with the other Chinese innerspring producers.

22 Now, since the company is a competent and
23 experienced producer of innersprings in both the
24 United States and China, one can also conclude that
25 the company knows in detail the relative cost of

1 production in both countries.

2 Now, the point of all of this is that
3 Leggett & Platt cannot produce innersprings in China
4 and ship them to the United States as cheaply as they
5 can make the innersprings here in the United States.

6 Felix Wright, a Leggett & Platt CEO, said
7 exactly that on February 4th of this year in a
8 presentation to the Credit Suisse First Boston
9 Furniture Symposium that I mentioned earlier. Again,
10 the audio is available on the Leggett & Platt website.

11 Now, based on Mr. Wright's very blunt
12 statements, one could only conclude that Mr. Wright's
13 assertions about Chinese cost designs on the U.S.
14 market and the ability to make greater profits selling
15 in the United States than in China does not square at
16 all with Leggett & Platt's experience.

17 In this particular case, I'll bet that the
18 CEO is right, and that his west cost betting manager
19 has become lost a bit in wood.

20 Now there is another point, and this has to
21 do with escalating raw material costs. The Chinese
22 are experiencing the same raw material cost escalation
23 that the domestic producers are experiencing. They
24 import their scrap and they have to pay for it in
25 dollars, and they don't get any better price than the

1 domestic producers get. In fact, they have to pay a
2 higher price because they have to transport it to
3 China.

4 In addition, the processing cost in China is
5 relatively less than the processing cost in the United
6 States, plus the raw material cost is a greater
7 component of final production cost. This means that a
8 significant escalation in raw material cost has a
9 disproportionately larger effect on Chinese production
10 costs than it does on U.S. producer costs for
11 production.

12 The clear results of all of this is that the
13 increasing raw material costs have not put U.S.
14 producers at a disadvantage relative to the Chinese
15 producers; that the Chinese producers are not cost
16 competitive with the U.S. producers overall in terms
17 of shipping to the U.S. market, and this absence of
18 cost competitiveness is going to keep their exports to
19 the United States market low because it would be
20 simply irrational for them to shift product from the
21 China market where they can make a profit selling it
22 to sell in the U.S. market against competitors who are
23 at least cost competitive as they are. One does not
24 seek the opportunity to make less money by shifting
25 production.

1 And that completes my presentation, and
2 thank you for your attention.

3 MR. HOUSE: In just brief conclusion, I
4 think that we have established with a fair degree of
5 certainty that there isn't a present material injury
6 case here. It's not quite clear, but it seems from
7 the petitioners' testimony this morning that the
8 thrust of this case, if it has any merit at all, is
9 on the threat side.

10 So in conclusion, I think we would like to
11 just simply review what this threat case looks like.
12 We have, to start with, an extraordinarily healthy
13 U.S. industry, and to start with, we have import
14 volumes from China that are projected to remain tiny
15 over the next several years. We have a dominant U.S.
16 producer that in its public statements is optimistic
17 about future demand and future sales. We have a
18 market in which the domestic producers have been able
19 to make price increases stick, price increases that
20 are recent, and price increases that cover any
21 increases in raw material costs.

22 We heard this morning the U.S. producers
23 admit that they Chinese manufacturers simply do not
24 have any excess capacity. The Leggett & Platt
25 representative said that Chinese capacities are simply

1 not in place, and they should know, they are there.

2 We have a staff report that confirms the
3 same point with regard to Chinese capacity and
4 capacity increases projected over the next couple of
5 years. They are margins. And we have a staff report
6 that concludes that there is "no potential for
7 diverting Chinese shipments from other export markets
8 to the United States." That's at page 5-4.

9 We respectfully submit that there is no
10 threat case here either, and on this record we ask the
11 Commission to issue a negative determination.

12 That concludes our presentation. Thank you.

13 CHAIRMAN OKUN: Thank you, Mr. House and
14 Mr. Reilly, for your presentations today.

15 We'll begin the commissioners' questions
16 this afternoon with Commissioner Lane.

17 COMMISSIONER LANE: Thank you.

18 I have a few questions and I'd like to start
19 with the last part of your testimony relating to scrap
20 metal and the cost of it in China and the argument
21 seemed to be that if the scrap metal costs were going
22 up here, they were certainly going up in China and
23 because of the different in transportation from this
24 market to that market that the costs were going to go
25 up and then it made no sense that there would be an

1 increase in exports from China to the United States
2 because of these increased costs. I think that's what
3 you were saying.

4 And my question is are you saying that the
5 Chinese imports that are being sold in this market are
6 not underselling the U.S. product?

7 MR. REILLY: No, I'm not. My testimony was
8 in the context of a threat of material injury. The
9 increase in raw material costs, basically, the
10 increase in steel scrap costs that has been a matter
11 of discussion today has occurred quite recently. Up
12 until the latter part of 2003, costs had not let's say
13 gone out of control. It was really in the final
14 quarter of the year.

15 Now, everything that's been imported from
16 China and sold by the importers during the final
17 quarter of the year, most of that was ordered and
18 priced prior to the increase of scrap prices, so you
19 don't see the scrap price increases reflected in those
20 prices.

21 What I'm saying is this in terms of threat
22 of injury: the Chinese producers of innersprings are
23 affected as much as U.S. producers are by the increase
24 in the price of scrap because China imports a
25 substantial amount of scrap from the United States.

1 As a matter of fact, one of the reasons why the price
2 has gone up so much is the very strong demand from
3 China for this product.

4 Now, clearly the sellers of the scrap are
5 not going to charge the Chinese less for the product
6 than they're going to charge U.S. producers. The
7 Chinese producers have in addition to the cost of
8 buying the scrap the cost of transporting it rather a
9 long distance to China.

10 Now, the Chinese also buy scrap from other
11 countries, but that scrap is priced in dollars at
12 world prices, so they're not getting any better deal
13 than anybody else for that scrap either.

14 So they're being hit right now with very
15 substantial cost increases. In addition, the
16 structure of costs, basic manufacturing costs, in
17 China is that the processing costs, the cost of
18 putting the mattresses together -- I'm sorry, the cost
19 of putting the innersprings together in China, bending
20 the metal and so forth is lower than in the United
21 States. However, that cost advantage is offset by the
22 cost of moving the product from China to the United
23 States, but what it also means is that raw material
24 costs to begin with would be a greater proportion of
25 total production costs than it would be in the United

1 States.

2 That means a given percentage increase in
3 the raw material costs, say, 10 percent, would have a
4 disproportionately larger effect on Chinese producers'
5 costs than it would on U.S. producers' costs.

6 COMMISSIONER LANE: Okay. Now, having said
7 all of that, have you determined that with all of
8 those increased costs to the Chinese market and if the
9 Chinese take that into effect, is the margin between
10 what the U.S. product is being sold for in this
11 country and the Chinese import wide enough to absorb
12 those costs and still allow the Chinese product to be
13 underselling the U.S. product?

14 MR. REILLY: Well, I'm going to rely on the
15 judgment of Leggett & Platt's top management on this
16 issue. Leggett & Platt is a competitive producer in
17 China. It competes with other Chinese producers
18 selling to mattress makers, so in order for it to be
19 successful it has to be cost competitive with the
20 other Chinese producers.

21 The CEO, Felix Wright, has said that Leggett
22 & Platt cannot make innersprings in China and export
23 them to the United States any cheaper than it can make
24 them here.

25 Now, when he says this he's including in his

1 description of the relative costs the cost of
2 producing the product, the cost of getting it to the
3 port, the cost of preparing it for shipment, the cost
4 of sending it to the United States and so forth.

5 Now, that was true before we had this recent
6 cost escalation and it's true also after the recent
7 cost escalation. What I'm saying is that the cost
8 escalation that's occurred quite recently, because of
9 the different cost structures relative to raw material
10 in China and the United States would magnify the
11 Chinese producers' disadvantages and make it less
12 economically feasible to export to the United States.

13 Now, it may be that some small volume of
14 Chinese product has entered the United States market
15 in the past at prices lower than the domestic
16 producers are selling for, but that doesn't imply that
17 there's a substantial industry or a substantial volume
18 of production that could come in from China at prices
19 lower than the U.S. producers' prices.

20 Basically, Mr. Wright's comments would
21 indicate that on a cost basis it's economically
22 irrational to attempt to export to the United States
23 and underprice the domestic producers to any
24 significant degree with any significant volume of
25 product. Bear in mind that the volume of product

1 coming in from China right now is very, very, very
2 small.

3 COMMISSIONER LANE: Okay. Let me try this
4 question again. First of all, you have to refresh my
5 memory. Do you have available to you the price
6 comparisons between what the U.S. product is sold in
7 this country and what Chinese imports are coming into
8 this country at that price?

9 MR. REILLY: You're talking about the price
10 comparisons for the pricing products?

11 COMMISSIONER LANE: Yes.

12 MR. REILLY: Yes. Of course.

13 COMMISSIONER LANE: Okay. Now, I'm asking
14 you as the expert here for the Chinese industry, part
15 of the Chinese industry, is there room in that margin
16 to reflect the increased scrap metal costs in China so
17 that the Chinese product can still be brought into
18 this country reflecting those higher costs and still
19 undersell the U.S. product?

20 MR. REILLY: There is something you have to
21 consider and that is that the price of the U.S.
22 product has increased because of the increase in the
23 price of scrap. Okay. The price of the Chinese
24 product must increase because of the increase in the
25 price of scrap.

1 Now, I can't tell you whether the price
2 increase for the products that have been pricing
3 products and were imported during the 2003 period,
4 weather those particular products would reflect fully
5 the cost of manufacturing in China across the full
6 range of products that the domestic industry would
7 produce.

8 It may be that there are some Chinese
9 producers producing a limited range of products that
10 have found it during 2002 and 2003 feasible to export
11 some volume to the United States. They will have to
12 increase their prices in order to pass on the
13 increased cost of scrap. They'd have a negative cash
14 flow if they didn't. They'd be paying out more cash
15 money to make the product than they'd be getting by
16 selling it.

17 What I can say is that any advantage they
18 have is going to be significantly narrowed by the fact
19 that there is a disproportionate effect of scrap
20 prices on their manufacturing costs. How it will
21 affect their prices specifically I can't say, but the
22 most important point to me is that in the broad
23 market, it would be irrational for the Chinese
24 producers to significantly export their products to
25 the United States because Leggett & Platt, which is

1 itself a Chinese producer, says it can't. It can't
2 beat its costs exporting to the United States.

3 COMMISSIONER LANE: Okay. My time is up.
4 Okay. Thank you.

5 CHAIRMAN OKUN: Commissioner Pearson?

6 COMMISSIONER PEARSON: Thank you, Madam
7 Chairman, and thank you to the panel.

8 Mr. Reilly, let's continue on with that
9 discussion. What I want to make sure I understand is
10 that isn't it entirely possible -- I, of course, know
11 nothing about Leggett & Platt's costs of producing in
12 China, but isn't it possible that they actually do
13 have a cost advantage in producing there and that it
14 serves the interests of their chairman right now not
15 to put that out in public and that even if they could
16 produce at lower costs and land the product in the
17 United States at lower cost than domestic product that
18 it may not serve their interests to do that?

19 I mean, after all, Leggett & Platt has a
20 very substantial asset base in this country that they
21 might want to keep segmented to the extent global
22 economics allow.

23 I mean, why should they want to import
24 product into the United States and damage their
25 domestic operations?

1 MR. REILLY: Well, I'm going to take the
2 chairman at his word and basically he was very blunt.
3 He said they cannot make innersprings in China and
4 export them to the United States any cheaper than they
5 can do it here.

6 Now, in making that statement, he, I'm sure,
7 is considering the profitability of Leggett & Platt,
8 Inc. and basically what his conclusion would be is
9 that there is no advantage in importing from China
10 because he cannot beat his domestic costs by importing
11 the product.

12 The only basis for importing would be if he
13 could increase his profit margins, his Leggett &
14 Platt, Inc. profit margins, by doing so and he clearly
15 cannot.

16 COMMISSIONER PEARSON: Yes. And
17 I understand that he very likely can't. My guess
18 would be that it might lean more heavily on the
19 potential damage to the domestic asset base than the
20 question of a few dollars cost one way or another in
21 China.

22 MR. REILLY: Well, you should be taking --
23 the domestic asset base would be -- let's say the cost
24 of the domestic asset base would be reflected in the
25 cost of producing in the United States, so obviously

1 depreciation expenses and so forth. And I'm sure he's
2 doing the cost comparisons on the appropriate basis,
3 where he's comparing the cost to his domestic
4 operations of losing the business and including that
5 in his calculus.

6 COMMISSIONER PEARSON: Okay. Well, let's
7 move beyond that point. I have a couple of basic
8 questions.

9 Mr. House, do you agree with excluding the
10 pocket coils that we discussed with the previous
11 panel?

12 MR. HOUSE: Commissioner Pearson, we did not
13 take a position on that in our brief. At this point,
14 we don't have sufficient information to take a
15 position one way or the other. I guess the bottom
16 line is that we don't object to their exclusion from
17 the scope of this case. We think that the record
18 stands and supports a negative determination under the
19 product scope as defined by the Petitioner.

20 COMMISSIONER PEARSON: And then you also are
21 comfortable enough with the Petitioners' definition of
22 like product?

23 MR. HOUSE: Correct. Although I would add
24 that it seems to me that as a matter of logic that if
25 one were to extend the U.S. like product to encompass

1 the pocket type springs that I think we heard this
2 morning that those are generally going into the higher
3 end mattresses and therefore one would expect higher
4 profits and one would expect that the already healthy
5 profit picture we're seeing of just innerspring units
6 would be even more so.

7 COMMISSIONER PEARSON: In your brief, you
8 made reference to U.S. buyers of innersprings seeking
9 to avoid market dominance of Leggett & Platt by
10 turning to other U.S. producers and non-subject
11 importers, mentioning specifically South African. If
12 this is going on, why have we seen the volume of
13 non-subject imports decline over the period of
14 investigation?

15 MR. HOUSE: I think that you have an overall
16 market, as we've talked about, that has a somewhat
17 declining demand over the last few years and I think
18 the explanation with regard to sourcing the product
19 from any particular supplier country has to rest with
20 the particular products that are available from those
21 countries and the particular pricing offered by
22 suppliers in those countries as it compares to the
23 pricing offered here. I don't know whether we can
24 draw any generalizations from that.

25 COMMISSIONER PEARSON: Looking at Chinese

1 production from the standpoint of evaluating threat,
2 your view is that the questionnaire data received by
3 the commission includes all Chinese firms that produce
4 innersprings for export to this country and there has
5 been some reference to firms in China that produce
6 innersprings but don't export.

7 What do we know, if anything, about why they
8 are not exporting?

9 MR. REILLY: I can take a stab at that.
10 There is -- I think the figure was put out this
11 morning that approximately 12 million innerspring
12 mattresses are sold per year in China and the
13 producers of innersprings are principally vertically
14 integrated -- with the exception of Leggett & Platt,
15 are principally vertically integrated mattress
16 manufacturers. So they are making innersprings and
17 other components and finished mattresses to sell into
18 the Chinese market so the basic orientation of the
19 industry is to serve the domestic market, not to serve
20 an export market of innersprings.

21 COMMISSIONER PEARSON: Are you arguing that
22 there is not a merchant market demand for the
23 uncovered innersprings in China?

24 MR. REILLY: No, no. There is a merchant
25 market demand for uncovered innersprings. Leggett &

1 Platt serves that in China and the producers who
2 produce for export also serve it in China and you can
3 see that they do make some external shipments to their
4 home market. That will show up in the exporters' and
5 the foreign producers' data. But if I remember
6 correctly, the substantial share of their home market
7 consumption is internal production, actually
8 vertically integrated internal production.

9 You could say that the mattress
10 manufacturing and innersprings manufacturing segment
11 in China is probably not too dissimilar from what it
12 was in the United States a few years ago, a somewhat
13 fragmented market, relatively small mattress producers
14 making their own innersprings.

15 COMMISSIONER PEARSON: Are the mattresses in
16 China produced to some different standards than in
17 this country? Is it that sort of issue that would
18 make it challenging for some existing Chinese
19 producers to export to the United States?

20 MR. REILLY: I think we were told this
21 morning that the principal product that's sold in
22 China is significantly harder than the mattresses that
23 are sold in the United States. I guess my point in
24 terms of the challenge of shifting production to
25 exports to the United States is that there doesn't

1 seem to be any economic incentive to do so because all
2 the information we've collected is that the producers
3 who are currently manufacturing in China, the
4 integrated mattress manufacturers, would do better
5 selling into the Chinese market than they'd do selling
6 into the U.S. market for a couple of reasons:

7 Number one, because they don't have that
8 much of a cost advantage, at least according to what
9 the CEO of Leggett & Platt has said and, in addition,
10 they have an integrated mattress manufacturing
11 infrastructure that they have to feed and in order to
12 export to the United States they'd have to make a
13 decision to divert product from that integrated
14 manufacturing operation and that decision entails
15 costs.

16 COMMISSIONER PEARSON: Well, given that some
17 Chinese manufacturers obviously are able to sell
18 product into the United States somehow, does that mean
19 that we should not consider the possibility when we
20 analyze threat that other mattress manufacturers also
21 would start to do the same? I mean, are we supposed
22 to just for our threat calculation just ignore the
23 non-exporting part of the Chinese industry?

24 MR. REILLY: No, not at all. I wouldn't
25 suggest that by any means. What I would suggest is

1 that the information that we have in hand suggests
2 that there is no economic incentive, strong economic
3 incentive, for the producers in China to significantly
4 increase their exports to the United States market.
5 In fact, if you look at the data that's been provided
6 by the companies that do produce and export to the
7 United States, you'll see that their growth, they
8 expect their growth to come from the domestic market,
9 not from the U.S. market.

10 COMMISSIONER PEARSON: Okay. I see the
11 light has changed, so I'll pass the baton.

12 CHAIRMAN OKUN: Thank you. And let me just
13 follow-up, Mr. Reilly, on the information you were
14 giving Commissioner Pearson about the rest of the
15 Chinese industry.

16 For the Chinese innerspring manufacturers
17 that you represent, all of them are in a situation
18 where they both produce for the home market and
19 produce for export?

20 MR. REILLY: I think we can address that in
21 our post-hearing. I think that if you look at the
22 individual questionnaire responses, those that are
23 reporting internal consumption -- I'm sorry. Let me
24 back up for a moment. Yes. I believe that all of the
25 companies do produce both for export to the United

1 States and for internal consumption. We can double
2 check that by looking at the questionnaire responses,
3 which will tell that tale.

4 CHAIRMAN OKUN: Okay. And then do they
5 produce something different for what they're selling
6 in the Chinese market versus what they're selling for
7 export, either different sizes, different hardness?

8 MR. REILLY: Well, the product that they
9 would be reporting in their foreign producer
10 questionnaire responses would be the type of products
11 that they would ship to the U.S. market. They didn't
12 report what other types of mattresses they might be
13 making that wouldn't be subject products, at least I
14 don't believe they did, but that's something we can
15 double check with them and address in the post-hearing
16 brief.

17 CHAIRMAN OKUN: Okay. And then does the
18 CCCLA, the Chinese Chamber of Commerce for Import and
19 Export of Light Industrial Products and Art Crafts and
20 its members, do they have any other data on just the
21 Chinese industry as a whole that is producing
22 innersprings?

23 MR. REILLY: That's something we'll take up
24 with them and what data they do have available we'll
25 include in our post-hearing brief.

1 CHAIRMAN OKUN: Okay. If you could provide
2 that data, I think that would be helpful and if there
3 are any distinctions in those companies and their
4 ability to -- those companies who are not currently
5 exporting to turn to exporting, I think that would be
6 helpful for you to address as well.

7 Let me turn, then, to the first part of your
8 presentation, although I think my question is both for
9 you, Mr. Reilly, and for you, Mr. House, and that has
10 to do with the rapidly increasing standard.

11 Mr. Reilly, in your presentation, I don't
12 want to put words in your mouth, but I think you took
13 the position that if you look at the percentage
14 changes here in isolation it doesn't tell you much and
15 that we shouldn't hang our rapidly increasing on
16 a percentage increase from nothing. Is that an
17 accurate way of portraying your position?

18 MR. REILLY: Yes. I would call it
19 a percentage increase from a very low number to
20 another very low number and, obviously, when you have
21 initial market entry the first percentage increase
22 you've got going from zero to something is going to be
23 infinite and there's going to be some large percentage
24 increases thereafter, but the numbers in relation to
25 the domestic industry's output in the market remain

1 very, very small.

2 CHAIRMAN OKUN: Okay. Then I would ask you
3 to address in post-hearing a similar question that
4 I put to Mr. Gillon and that is if you would look at
5 the 406 cases where at least some of the information
6 is public and comment on how that relates to the
7 import volume in the current case and what I forgot to
8 mention to Mr. Gillon but I assume he is aware is that
9 in the legislative history of the 1988 amendments to
10 406 there was some language about rapidly where it
11 said that the ITC should examine whether imports have
12 recently surged over historical levels and that we
13 should balance the amount of increases in the period
14 of time involved, if the ITC finds that an increase is
15 concentrated in a single year it should look for a
16 relatively sharp increase and it goes on.

17 So what I'd be interested in is you
18 addressing that as a legal matter in this particular
19 case since the statute is written in the disjunctive
20 of relative production or whether absolutely really
21 means absolutely a percentage increase can be sharp,
22 forget how small it is in the rest of the market, and
23 to the extent that you can provide information from
24 prior cases, that would be particularly helpful.

25 If there's anything further you wanted to

1 comment on, Mr. House, you're welcome to, but I do
2 look forward to seeing that in the paragraph.

3 MR. HOUSE: We'll be glad to do that.

4 CHAIRMAN OKUN: Okay. Then if I could, let
5 me turn to a little bit more of a data related
6 question, which is Mr. Bush's written testimony had
7 referenced additional domestic innerspring producers
8 that are not yet reflected in the commission staff
9 report and while I don't believe these numbers are
10 going to be large, we'd hope to have them in the final
11 staff report when we get complete information.

12 Are you aware of any additional U.S.
13 producers or any other data that is incomplete in our
14 staff report with regard to the domestic industry now?

15 MR. REILLY: We're not aware of any
16 significant data that would be incomplete. I guess
17 the answer would be no.

18 CHAIRMAN OKUN: Okay. And then in response
19 to questions this morning, Mr. Miller had referenced
20 competition from Chinese product for the 338 product
21 and I know that staff is attempting to collect this
22 information and I wanted to ask weather your clients
23 are willing to assist us in obtaining that particular
24 information.

25 MR. HOUSE: Sure. We'd be glad to do that.

1 CHAIRMAN OKUN: Okay. And then, Mr. Reilly,
2 you referenced a lot this afternoon in your testimony
3 the comments by Leggett & Platt and I think we need to
4 make sure with staff in terms of they haven't had a
5 chance to respond to any of those, you're referencing
6 an audio on the web and I would ask you to work with
7 staff so that whatever information you've said today
8 can be responded to by Petitioners who have not yet
9 seen that.

10 He may be aware of it, but I think it's only
11 in fairness --

12 MR. REILLY: Well, certainly. I should
13 mention that we're attempting to get a transcript of
14 that conference, of that symposium, from Credit Suisse
15 First Boston, but I would note that the Petitioners
16 already have the information. We got the information
17 off the Leggett & Platt website, so they certainly
18 have more information on it than we would.

19 CHAIRMAN OKUN: Right. But you're
20 presenting it, clearly, in this --

21 MR. REILLY: We will attempt to get it.
22 We'll do our best to get a transcript of the entire
23 conference and provide that with our post-hearing
24 brief.

25 CHAIRMAN OKUN: Okay. That may be all the

1 questions I have right now. I may have a couple I'll
2 come back to, but let me turn to Vice Chairman
3 Hillman.

4 VICE CHAIRMAN HILLMAN: Thank you.

5 I would join my colleagues in thanking you
6 for your testimony.

7 Let me start first with the issue of trying
8 to discuss the level of coverage of the Chinese
9 production and exports to the U.S. market. Obviously,
10 in your brief, you've indicated that you think we have
11 in essence 100 percent coverage and, Mr. Reilly, you
12 presented this chart that compares our data from
13 exporters as opposed to U.S. import data and I
14 understand the purpose for which you presented it,
15 which is to sort of link in the confidential
16 information, but I have to say in looking at it from
17 my perspective, it is clearly showing that our import
18 data is fairly much in excess of what the Chinese
19 reported export data is, which suggests to me that we
20 may be missing some Chinese exporters.

21 So it's not clear to me that if what we're
22 saying is reported exports in 2003 were 265,000 units
23 and yet our estimated imports is 438, to me that
24 suggests we're missing some exporter data, that there
25 are exporters out there that are not necessarily

1 captured in what we've got.

2 Do you want to comment on that?

3 MR. REILLY: Yes, I will comment on that.

4 The 458,000 unit figure we understand is not a
5 reported figure. It's not data, it's an estimate, and
6 it's an estimate that's been prepared by the staff.
7 We do not know how the staff prepared that estimate.

8 VICE CHAIRMAN HILLMAN: Okay. I mean,
9 obviously, some of it -- obviously, we can determine
10 how it was determined. All I'm suggesting is I have a
11 good deal of faith in that number in that it is trying
12 to capture -- you heard the discussion about the
13 misclassified items, the items that have been
14 classified as mattress supports, so it's trying to
15 figure out what portion of those should have been
16 classified as innersprings subject to this
17 investigation and to come up with the best numbers
18 that can be obtained, so let's just assume for
19 purposes of this question that that's a good number.
20 Again, that suggests to me that there is some
21 disparity between 100 percent coverage because there
22 is this gap between what Chinese exporters are
23 reporting was exported and what we are showing was in
24 fact imported.

25 MR. REILLY: Well, actually, there's two

1 discrepancies. If we make the assumption that the
2 438,000 unit number is a good number -- and, by the
3 way, we do not agree with that assumption, but for the
4 purpose of argument I'll make it -- then there's a
5 discrepancy between what the importers have reported
6 and what the exporters have reported.

7 Now, that to me is a curious set of
8 circumstances because there's great internal
9 consistency between what the exporters have reported
10 and what the importers have reported.

11 In addition, I should --

12 VICE CHAIRMAN HILLMAN: I understand, but
13 that doesn't necessarily get to this issue of whether
14 things were properly classified.

15 MR. REILLY: Well, I think maybe the best
16 way to resolve this, at least in terms of Respondents'
17 view, would be for the staff to make available to us
18 the methods that they used to make the adjustment and
19 then we can comment on it.

20 VICE CHAIRMAN HILLMAN: All right.

21 MR. REILLY: By the way, I should mention
22 that we did ask for that information but it was
23 refused.

24 VICE CHAIRMAN HILLMAN: All right.

25 Let me then go specifically to in the petition, in

1 Appendix M, there were five additional Chinese
2 companies that were listed.

3 Do you have any information about those
4 companies that could be put on the record, wither now
5 or in a post-hearing brief?

6 MR. HOUSE: We'd be glad to provide that,
7 Madam Vice Chairman. I think what we are saying,
8 though, is that we do believe that any companies on
9 that list that did not report a foreign exporter
10 questionnaire did not export to the United States
11 during this period of investigation.

12 We will respond in detail on each one of
13 those companies.

14 VICE CHAIRMAN HILLMAN: Okay. And then the
15 third question, one of the producers that did give us
16 a questionnaire response estimated what its percentage
17 of total production was. Again, if you just take
18 their percentage and multiply it by their production
19 to try to get a general ballpark figure of total
20 production, it would suggest a much higher figure than
21 what is suggested in Mr. Reilly's data or in the other
22 data that we have on the record, so I would ask you to
23 also comment on, again, it's a confidential number,
24 but on this particular producer, a Chinese producer's
25 estimate. Again, if you just take their estimate

1 times their production, you would end up with a much
2 bigger number than what the data would suggest, so I'm
3 simply asking you to comment on it.

4 MR. REILLY: We will check that out and
5 comment on it in the post-hearing brief.

6 VICE CHAIRMAN HILLMAN: Okay. Then I guess
7 if I can go a little bit to the issues of material
8 injury. I understand the gist of your testimony in
9 terms of what the numbers are showing; on the other
10 hand, I have to say if I look at just a comparison
11 between 2002 and 2003, which I understand is not
12 necessarily the entirety of any comparison, but
13 obviously 2003 is the year in which we have the
14 highest level of Chinese imports, so there is some
15 validity in looking at what happened between 2002 and
16 2003, you do see unit values of net sales down, net
17 sales down, units down, number of workers down, hours
18 worked down, COGS up, shipments down, exports down,
19 I mean, there are some indicators here that you seem
20 to be sort of suggesting are not somehow something
21 that we should be looking at in terms of trying to
22 sort out this question of material injury.

23 MR. REILLY: I think in terms of the
24 economics, I'll simply say this: yes, there were some
25 declines in some indicators during the 2003 period.

1 There was also a decline in consumption during the
2 2003 period. But setting that aside, it would be our
3 position that those declines relative to the very,
4 very high levels of performance, both before the
5 decline and after the decline, do not approach what
6 one would consider to be material injury.

7 VICE CHAIRMAN HILLMAN: I was trying to
8 understand whether you basically were saying that
9 they're attributable entirely to the change in
10 consumption or whether they're simply not, they don't
11 rise to the level of significance.

12 MR. REILLY: Well, we believe both. We
13 believe that they don't rise to the level of
14 significance of material injury and we also believe
15 that the preponderance of those declines are
16 attributable to things other than subject imports and
17 we've provided a fairly detailed analysis of that in
18 our pre-hearing brief.

19 VICE CHAIRMAN HILLMAN: I understand.
20 I guess I then want to go to an issue that I think
21 Commissioner Lane was exploring with you, which is
22 again to understand this issue of relative sort of
23 costs and prices.

24 I heard your testimony that Leggett & Platt
25 is saying that they cannot effectively produce product

1 in China and then export it back into the U.S. market,
2 but at some level to me that begs the question of then
3 so why are the Chinese goods that are coming in here
4 coming in at these large levels of underselling?

5 Why are the Chinese prices so low in the
6 U.S. market if there isn't something going on in the
7 Chinese production side that would give them something
8 resembling a significant cost advantage?

9 Why come into this market at these low
10 prices?

11 MR. REILLY: Well, I guess my view of it
12 would be that there may be some small volume, and
13 we're talking really in the overall scheme of things a
14 very small volume, weather you take the staff's
15 estimate or the data from the questionnaires, of
16 product that has come into the United States market
17 and the pricing product data indicates that it sells
18 at a price somewhat below what the domestic producers
19 are getting. That does not necessarily imply that the
20 Chinese have a cost advantage.

21 Now, I say that because we don't know what
22 the profit margins are that the domestic producers are
23 making at their prices, but if you look at the average
24 level of profit they're making across all of their
25 innerspring shipments, they may be selling some of

1 these products at extremely high profit margins so
2 that the Chinese even having somewhat comparable costs
3 could undersell them and make a decent profit, at
4 least enough to export to the United States.

5 VICE CHAIRMAN HILLMAN: Okay. All right.

6 MR. REILLY: I mean, the profit margins that
7 this industry has been making during the period of
8 investigation are truly extraordinary. And I'm now
9 talking about the innerspring components. And those
10 profit margins are going to be a mix of very high
11 margins on some units, some product lines, and not so
12 high margins on others, but at the level they're
13 averaging, the underpricing that you see is not
14 necessarily related to a production cost advantage.

15 VICE CHAIRMAN HILLMAN: Okay. I talked
16 somewhat with the Petitioners this morning on this
17 issue of where they see the competition from China.
18 From your perspective, are there certain market
19 segments in terms of either sizes, quality ranges,
20 coil ranges, or regions of the country in which you
21 think the Chinese are competing the most?

22 MR. REILLY: Well, our experience in talking
23 to the importers is that the importers who are
24 reselling are very small companies and they're dealing
25 principally with very small mattress manufacturers who

1 produce -- and I'll call it the middle to really the
2 lower end of the mattress price range.

3 As far as the companies that are producing
4 mattresses that are importing direct, they also appear
5 to be producing. They're relatively small, some of
6 them quite small, and they produce in the lower end of
7 the price range.

8 These companies would be considered not to
9 be the core customers for major suppliers like Leggett
10 & Platt who would supply the larger mattress
11 manufacturers as well.

12 VICE CHAIRMAN HILLMAN: Okay. Thank you.

13 CHAIRMAN OKUN: Commissioner Koplan?

14 COMMISSIONER KOPLAN: Thank you, Madam
15 Chairman.

16 I want to thank you both for your responses
17 to the questions, but I'm not satisfied with the
18 response to the issue of underselling and let me tell
19 you why, okay?

20 I'm looking at the chapter of our staff
21 report, Chapter 5, that deals with the causal
22 relationship between the alleged injury and imports
23 and I'm looking at price comparisons, not an isolated
24 thing. We're looking at six separate product lines.
25 We're looking at 35 quarterly comparisons and in all

1 35 quarterly comparisons for those six lines, there is
2 underselling and the margins of underselling range
3 from 11.3 percent to 32.3 percent.

4 I went through them in detail this morning,
5 okay?

6 And I hear what you're saying, but I still
7 do not understand this pattern that I'm looking at and
8 it's significant to me because I'm looking forward to
9 a threat analysis here for myself and I'm not there
10 yet in terms of listening to your explanation of this
11 and maybe there isn't a better explanation for this,
12 but I would appreciate anything you can add now and
13 any detail you can give in the post-hearing because
14 this is a pattern that cuts across all of these
15 product lines and it's not occasional, it's in every
16 instance that we have been able to make comparisons.

17 MR. REILLY: I think there's two points.
18 Number one, we obviously don't have the cost data from
19 each of the foreign producers that would permit us to
20 calculate what the cost advantage or disadvantage is.
21 All we really have is the statements by Leggett &
22 Platt's CEO on that basis and I doubt we could get
23 that kind of cost information between now and when the
24 post-hearing brief is due.

25 You're right, the data are what the data

1 are, but the point I think I would emphasize is
2 that --

3 COMMISSIONER KOPLAN: I mean, can you give
4 me any instances of overselling in any quarter?

5 MR. REILLY: Well, I'd have to look at the
6 individual questionnaire responses rather than the
7 aggregated questionnaire responses to see if there was
8 on average underselling but some overselling perhaps
9 by some importers. I haven't done that kind of
10 analysis.

11 COMMISSIONER KOPLAN: I appreciate that, but
12 otherwise I'm going to rely on the data that I have in
13 front of me.

14 MR. REILLY: Okay. That's fair. And I
15 guess our response to that would be if you then look
16 at the pattern or the volumes we're talking about --
17 now, remember that the underselling that you're seeing
18 is underselling that was reported by the importers
19 that reported their volume of imports and their volume
20 of shipments.

21 COMMISSIONER KOPLAN: I understand that.

22 MR. REILLY: Okay. The point is that those
23 haven't increased.

24 COMMISSIONER KOPLAN: No, I understand what
25 you're saying, but I'm saying if I've got this pattern

1 and I'm going forward now trying to figure out what's
2 going to happen in the imminent future, this is having
3 an effect on my analysis, obviously.

4 MR. REILLY: Well, there's two pieces of
5 information that the price comparisons provide you.
6 They provide you with relative prices, but they also
7 provide you with volumes.

8 COMMISSIONER KOPLAN: Sure.

9 MR. REILLY: And if one is going to conclude
10 that in the imminent future the underpricing is going
11 to lead to material injury, one would have to conclude
12 that that underpricing is going to lead to
13 significantly increased volumes of imports and I don't
14 think you can go from the data that the importers have
15 provided to that conclusion because while the
16 importers' prices are lower than the domestic
17 producers' prices on average, you don't see a pattern
18 of increasing volume that would suggest that this
19 underpricing is a harbinger of a substantial increase
20 in the volume of imports and a substantial increase in
21 the volume of import shipments into the U.S. market.

22 COMMISSIONER KOPLAN: I was not suggesting
23 that I'm making that kind of an immediate leap,
24 obviously, but I appreciate what you're saying, but
25 I'm still trying to wrestle with this.

1 MR. REILLY: Right. One thing I did
2 emphasize and I think it bears repeating is that if
3 you look at the performance of the domestic industry
4 and the pattern of domestic prices, it's clear that
5 any underpricing that exists has not had a significant
6 effect on the domestic industry.

7 COMMISSIONER KOPLAN: Thank you.
8 I appreciate it. As I say, anything else that you all
9 might add, I would appreciate.

10 Let me come back to -- we've all talked
11 about the profitability of the industry and you've
12 indicated you've never seen a healthier industry with
13 margins like you're looking at.

14 I want to ask you about a particular case
15 that I participated in, it was a sunset review, back
16 in October of 2000. Your firm was not a participant
17 in that case, but the case I'm referring to is Gray
18 Portland Cement and Cement Clinker from Japan, Mexico
19 and Venezuela. It was a sunset review and the
20 commission went affirmative, found that there was a
21 likelihood that the problem would resume with regard
22 to Japan and Mexico in that case and I voted in the
23 affirmative on that.

24 The operating margins there were actually
25 higher than what I'm looking at now when we examined

1 that case. We looked at operating margins as a ratio
2 to net sales in two ways. We looked at the operations
3 of seven tier producers in the production of Gray
4 Portland Cement and Cement Clinker for fiscal years
5 '97, 8 and 9 and the margins were 29 percent in '97,
6 30.5 percent in '98 and 32.4 percent in '99. These
7 are public. I'm looking at the public version of the
8 report.

9 We also looked at it from the standpoint of
10 the U.S. national producers, okay? And the operating
11 income margins as a percent, as a ratio to net sales
12 were 27.8 percent, 28.5 percent and 28.4 percent.
13 These are all higher than what I'm looking at today,
14 okay?

15 Just for your reference, the cite on that is
16 Publication 3361 of the ITC and those are
17 Investigation Nos. 303-TA-21, 731-TA-451, 461 and 519
18 review. We did not find in the affirmative with
19 regard to Venezuela.

20 I'd like you to look at that and if you
21 would, I'd like both sides to look at that case, and
22 if you would distinguish it for me on the basis of the
23 argument that you're making on profitability here.
24 I think that would close the loop for me if you would
25 do that for purpose of the post-hearing.

1 MR. HOUSE: We'd be happy to do that.

2 COMMISSIONER KOPLAN: And I see that
3 Petitioners are also nodding in the affirmative, that
4 they will do the same.

5 Thank you for that.

6 Now, you have seen the section in
7 Petitioners' pre-hearing brief recommending imposition
8 of a 39 percent tariff in addition to the MFN tariff
9 rate of 6 percent on innersprings. I'd like you to
10 comment on that level, as I asked Petitioners to do
11 this morning. I would like you to tell me for
12 purposes of the post-hearing what would be the impact
13 on imports of innersprings from China if the
14 recommended relief were granted and what would be the
15 impact on domestic consumption of innersprings? If
16 you could do that for me for purposes of post-hearing
17 I would appreciate it.

18 MR. HOUSE: We will.

19 COMMISSIONER KOPLAN: Lastly, in assessing
20 threat, what standard should the commission apply in
21 your opinion?

22 You've heard the answer that I got this
23 morning from Petitioner, you know that I apply
24 imminent when I look at this. Do you agree with that?

25 I noticed in your brief you used a number of

1 terms in describing threat. I believe you used
2 probable, likely, merely possible in various places
3 and imminent and I'm not asking you to go through each
4 of those definitions now, but I would like to know
5 from a legal standpoint where do you come out on that?

6 Mr. House?

7 MR. HOUSE: Yes. Commissioner Koplan,
8 I think that putting aside the different adjectives we
9 used in our pre-hearing brief, I think that it's fair
10 and appropriate under this statute to employ the same
11 formulation that we see in Title 7 cases where we talk
12 about the threat being real and imminent and that's
13 what we would ask the commission to do here.

14 We don't see any substantive distinction
15 between the statutes in terms of their purpose of
16 other framework of analysis that would call for a
17 different formulation than that. Of course, under
18 this statute, the causal connection threshold is quite
19 different.

20 We have a significant cause standard so in
21 looking at the threat analysis, not only would we say
22 that it must be real and imminent, but the threat must
23 be one of a significant cause of material injury being
24 threatened that is real and imminent, that is, the
25 threat must be real and imminent but what is it that

1 is being threatened? What is being threatened is a
2 significant cause, a material injury being
3 significantly caused, I should say, by imports.

4 COMMISSIONER KOPLAN: There's a footnote, a
5 famous footnote 6, that Petitioners had that
6 I referred to this morning. On the basis of what you
7 just said, if you could comment on the Petitioners'
8 argument in that footnote, I'd appreciate it, for
9 purpose of the post-hearing.

10 MR. HOUSE: We will do that.

11 COMMISSIONER KOPLAN: Thank you.

12 I have nothing further.

13 CHAIRMAN OKUN: Commissioner Lane?

14 COMMISSIONER LANE: Nothing further.

15 CHAIRMAN OKUN: Commissioner Pearson?

16 COMMISSIONER PEARSON: I have found the
17 average unit values to be of some interest. If you
18 look at the average unit values for non-subject
19 imports, you see that generally they have trended up.
20 The same is true for U.S. domestic production. Not at
21 all true for Chinese imports.

22 I'm wondering whether you can discuss at all
23 what might be going on there.

24 MR. REILLY: One point on average unit
25 values is that one must take into consideration

1 product mix and product mix changes and in this
2 particular market, where you have a variety of
3 products that sell at a relatively wide variety of
4 prices, average unit values have somewhat limited
5 probative value. That's particularly true because the
6 import data for non-subject imports, for example,
7 won't differentiate between queen, full and so forth,
8 so there could be substantial differences in product
9 mix between what's being imported from third
10 countries, what's being imported from China.

11 There is a basis for comparing like to like
12 on an average unit value by comparing domestic output
13 with what the importers have been selling. That may
14 have some value, but in terms of the significance of
15 those average unit values, I'd like to reserve
16 comments on those for the post-hearing brief.

17 COMMISSIONER PEARSON: That would be fine
18 because I thought you might have available some
19 information from your clients that would shed some
20 light on what's going on with average unit values.

21 MR. REILLY: We'll do our best to shed some
22 light on it.

23 COMMISSIONER PEARSON: Okay. Thank you.

24 My last question, Mr. House, what would you
25 suggest if we find in the affirmative? You haven't

1 talked much about remedy. I mean, do you have
2 thoughts in mind of what would be an appropriate
3 remedy or a workable remedy or a justifiable remedy in
4 this case if we vote in the affirmative?

5 MR. HOUSE: We do have thoughts about
6 remedy, but under the scenario that no remedy is
7 really justified here, of course, we don't think the
8 record supports a remedy.

9 Going beyond that, I think that some of the
10 underpinnings we see of this petition and it's been
11 discussed at various times is this concern on the part
12 of the U.S. industry about apparent misclassification
13 and apparent entry of product under the other tariff
14 category that has a zero rate rather than a properly
15 applied 6 percent rate. And, indeed, I think I recall
16 hearing, I'll have to check the transcript, one of the
17 domestic representatives say this morning that if only
18 these imports had been properly classified under the
19 6 percent tariff number that would take care of the
20 market disruption that they believe is occurring.

21 So it seems to me that as a threshold matter
22 the assessment of what's already on the books as a
23 corrected duty for the subject product is exactly what
24 is called for. That doesn't require action by this
25 commission or action by the President, rather, it

1 requires action by the U.S. Customs Service.

2 And it's also very telling to me that we
3 heard the Petitioners say that when they brought these
4 concerns to the attention of the U.S. Customs Service
5 that the Customs Service told them they really didn't
6 feel they needed to do anything about it.

7 Now, that's very surprising to me because
8 I don't really equate that kind of reaction with the
9 U.S. Customs Service. I think that my experience with
10 the agency is that if they believe that their tariffs
11 are being circumvented or underreported or in some way
12 not being correctly classified they are vigilant about
13 ensuring that that gets corrected, so it tells me that
14 either that's already being taken care of or the
15 volume of imports involved here is so minuscule that
16 the U.S. Customs officials just don't think it's worth
17 lifting a finger about.

18 So either way, it seems to me that that's
19 the background of the problem that the domestic
20 industry seems to be complaining about here. We
21 certainly don't see any justification for a tariff in
22 addition to the properly applied 6 percent and
23 certainly not a tariff of 39 percent or anything at
24 all. Those would be our views as to remedy.

25 COMMISSIONER PEARSON: Does the statute

1 allow the commission to in essence encourage the
2 Customs Service to apply the appropriate tariff?
3 I mean, is that something that the law allows us to do
4 as a remedy?

5 MR. HOUSE: Well, I'd like the chance to
6 expand perhaps in our post-hearing submission, but it
7 seems to me that the statute gives the commissioners
8 fairly broad latitude in what they recommend to the
9 President be the appropriate remedy and therefore
10 I think as just a general matter my response would be
11 yes, that it does give the commission that authority.

12 At the same time I would say that I think if
13 you were to come to that conclusion with regard to
14 what the right remedy is, it really means that you've
15 come to the conclusion that there isn't a significant
16 causal connection between the volume of imports here
17 and any material injury here.

18 It seems that that's the right point in the
19 analysis where that plays out and so ultimately it
20 seems to us the right conclusion for the commission is
21 that a determination that no, there is no significant
22 causal connection between this volume of imports and
23 any material injury but -- and I think you would be
24 within your rights to do this -- admonish or recommend
25 or suggest to the U.S. Customs Service that the

1 current tariff rate be correctly implemented.

2 COMMISSIONER PEARSON: Thank you very much.

3 I have no further questions.

4 CHAIRMAN OKUN: Thank you.

5 I have no further questions. The other
6 issues that I had wanted to hear discussed have been
7 raised by my colleagues and I will look forward to
8 seeing those additional answers in your post-hearing
9 briefs.

10 Vice Chairman Hillman?

11 VICE CHAIRMAN HILLMAN: No further
12 questions.

13 CHAIRMAN OKUN: If there are no other
14 questions from my colleagues, let me turn to staff to
15 see if staff has questions of this panel.

16 MS. MAZUR: Staff has no questions at this
17 time.

18 CHAIRMAN OKUN: Mr. Gillon, do you have
19 question for this panel?

20 MR. GILLON: Madam Chairman, I only have one
21 question, if I may ask it. It just goes to slide
22 number 10, the Leggett in China slide, and only
23 because there are five bullets on that slide and
24 there's a source from, I think, three different
25 sources and I just was wondering which bullets were

1 sourced from which set of comments. That's all.

2 MR. REILLY: I'll be happy to answer that.
3 Bullet 1, the two innerspring plants, is sourced from
4 the 10(k).

5 The second bullet point is sourced from the
6 Credit Suisse First Boston Symposium.

7 The third, the same.

8 The fourth is sourced from comments we've
9 received from our clients and we will add to that in
10 our post-hearing.

11 The same for five.

12 CHAIRMAN OKUN: Is that all your questions,
13 Mr. Gillon?

14 MR. GILLON: That's all, Madam Chairman.

15 CHAIRMAN OKUN: Okay. Thank you very much.

16 And, again, thank you, Mr. House and
17 Mr. Reilly, for your testimony and for the answers
18 you've given.

19 Let me just review the time remaining before
20 we go to closing and rebuttal.

21 Those in support of relief have a total of
22 43 minutes left, which includes five minutes for
23 closing.

24 Those in opposition to relief have a total
25 of 20 minutes, which includes five minutes for

1 closing.

2 With that, we will proceed to closing
3 rebuttal.

4 Mr. Gillon?

5 MR. GILLON: Madam Chairman, I don't know if
6 I'm supposed to speak from here or not.

7 CHAIRMAN OKUN: It's up to you. We'll give
8 these guys a couple of moments to move back and you
9 can either speak up here or you can speak at the
10 podium, whichever you're more comfortable with. Or
11 stay there, whichever you're more comfortable with.

12 MR. GILLON: The clear issue you will be
13 faced with in this case is how much is enough, how
14 high must imports grow before the damage justifies
15 relief under Section 421 and whether the record
16 supports a finding of significant threat of material
17 injury.

18 We don't believe there's any reasonable
19 dispute that imports have grown. All the data points
20 to increased imports. There should be no question
21 that imports will continue to grow. Past experience
22 in other industries, past experience in this industry
23 demonstrates the Chinese companies face a very low
24 capital investment hurdle to become an innerspring
25 manufacturer.

1 While in his statements Mr. Reilly didn't
2 seem to believe that a 25 to 30 percent price
3 differential would encourage exports and he discounted
4 the impact of refunds of VAT taxes on export
5 incentives, we believe that these facts do in fact
6 point to an encouragement of exports into this market.

7 The data also demonstrates that should the
8 U.S. manufacturer attempt to meet the price offered
9 for all of these imported products the U.S. company
10 will be operating at a loss.

11 I note that one of the reasons the President
12 may cite for not providing a remedy under Section 421
13 upon receipt of affirmative recommendations is that
14 the remedy would provide greater market disruption
15 than would be alleviated. This situation occurs when
16 imported products have become so ingrained in the
17 domestic market that a significant percentage of U.S.
18 downstream users purchase the imported components and
19 rely on it as a part of their marketing strategy.
20 They develop their cost structures and their margins
21 in a way that relies on the imported product.

22 Section 421 is designed to provide U.S.
23 manufacturers with a remedy before they lose
24 huge percentages of their markets to imports from
25 China. I urge the commission to use its authority in

1 a way that will allow the necessary adjustments in
2 trade to occur without risking further disruption to
3 U.S. innerspring manufacturers.

4 I appreciate the opportunity to come here
5 today and after I got over Mr. Koplan's initials
6 questions it was, I thought, a very good hearing.
7 Thank you very much.

8 CHAIRMAN OKUN: Thank you, Mr. Gillon.

9 Mr. House?

10 MR. HOUSE: Thank you, Madam Chairman.

11 Just very briefly, I think that we've seen a
12 presentation here and we have a record before us that
13 clearly does not support a finding that imports have
14 significantly caused material injury to this industry.
15 That is, in our view, there's simply no case for an
16 affirmative determination of current material injury.
17 Again, equally, we think that this record does not
18 support an affirmative finding of threat of material
19 injury.

20 It seems to us that in looking at a threat
21 case here you have to start with what this record
22 shows about this U.S. industry. In looking at whether
23 there is a real and imminent threat that the projected
24 volumes of imports here will be a significant cause of
25 injury, you have to start with the performance of this

1 industry as it exists today, as it exists in the last
2 two quarters even, where we see significant price
3 increases and where we see analysts reporting very
4 substantial increases in earnings and profits.

5 These are not the indicators that are
6 consistent with a U.S. industry that is on the verge
7 of being threatened with material injury.

8 At the same time, we see a record that shows
9 import volumes that not only have been minuscule
10 throughout the period but are projected to remain tiny
11 over the next several years and this is true whether
12 or not you use the aggregate data in the importer and
13 foreign exporter questionnaires as we believe you
14 should or whether you use the estimates that the staff
15 has come up with. Any way you look at it, you have a
16 volume of imports that are minuscule now and are
17 projected to remain so in the imminent future.

18 At the same time, you simply don't have
19 capacity in the Chinese market. We've heard the
20 Petitioners themselves say that today. They don't
21 believe, they said, that capacity is in place.

22 What they have said is it's possible. Well,
23 possibility is not sufficient for a finding of threat.
24 Threat must be real, not just possible.

25 We have a staff report that bears out those

1 same conclusions about capacity. The projected
2 increases in these Chinese producers' capacity is very
3 marginal and certainly does not give you any basis to
4 conclude that there is excess capacity that can
5 suddenly be diverted to the United States and,
6 likewise, the staff has concluded that there is no
7 potential for these companies' shipments to other
8 export markets to be diverted to the United States.

9 In these circumstances, there is simply no
10 case for threat of injury here and we ask the
11 commission to issue a negative determination.

12 CHAIRMAN OKUN: Thank you.

13 Mr. Reilly?

14 MR. REILLY: I'd just like to note for the
15 record that the 17 percent VAT tax rebate that the
16 Petitioners have made rather a substantial thing of
17 would be available to Leggett & Platt's exports to the
18 United States. And apparently Leggett & Platt finds
19 it uneconomical to export to the United States even
20 after considering that rebate.

21 Thank you.

22 MR. HOUSE: Thank you. That concludes our
23 presentation.

24 CHAIRMAN OKUN: Thank you.

25 Post-hearing briefs, statements responsive

1 to questions and requests of the commission, and
2 corrections to the transcript must be filed by
3 February 24, 2004. Final comments on market
4 disruption are due March 4, 2004.

5 With no other business to come before the
6 commission, this hearing is adjourned.

7 (Whereupon, at 1:36 p.m., the proceedings in
8 the above-captioned matter were concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Uncovered Innerspring Units from China
INVESTIGATION NO.: TA-421-5
HEARING DATE: February 19, 2004
LOCATION: Washington, D.C
NATURE OF HEARING: Hearing

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: 2/19/04

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

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

SIGNED: Carlos Gamez
Signature of Proofreader

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

SIGNED: Donna J. Kraus
Signature of Court Reporter