

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
POLYVINYL ALCOHOL FROM) Investigation No.:
CHINA, GERMANY, JAPAN, AND) 731-TA-1014-1017 (Final)
KOREA)

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Thursday,
 May 8, 2003

Room 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.

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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 the Investigation Nos.
6 731-TA-1014-1007(Final), involving polyvinyl alcohol
7 from China, Germany, Japan, and Korea.

8 The purpose of this investigation is to
9 determine whether an industry in the United States is
10 materially injured or threatened with material injury
11 by reason of less than fair value imports of subject
12 merchandise.

13 Schedules setting forth the presentation of
14 this hearing and testimony of witnesses are available
15 at the secretary's desk. I understand that parties
16 are aware of the time allocations. Any questions
17 regarding the time allocations should be directed to
18 the secretary. As all written material will be
19 entered in full into the record, it need not be read
20 to us at this time.

21 All witnesses must be sworn in by the
22 secretary before presenting testimony. Copies of the
23 notice of institution, the tentative calendar, and
24 transcript order forms are available at the
25 secretary's desk. Transcript order forms also are

1 located in the wall rack outside the secretary's
2 office.

3 Finally, if you will be submitting documents
4 that contain information you wish classified as
5 business confidential, your request should comply with
6 Commission Rule 201.6.

7 Madam Secretary, are there any preliminary
8 matters?

9 MS. ABBOTT: Yes, Madam Chairman.

10 With your permission, we will add Paul
11 Zoeller, Chief Litigation Counsel; William Mandrona,
12 Marketing Manager, Celanese.

13 CHAIRMAN OKUN: Without objection.

14 We will then proceed to opening remarks.

15 MS. ABBOTT: Opening remarks on behalf of
16 the petitioners will be made by John D. Greenwald,
17 Wilmer, Cutler & Pickering.

18 CHAIRMAN OKUN: Good morning, Mr. Greenwald.

19 MR. GREENWALD: Good morning, Madam
20 Chairman, members of the Commission, Commission staff.

21 Some eight years ago this Commission found a
22 threat of material injury by reason of dumped PVA
23 imports on the basis of facts that are far less
24 supportive of an affirmative determination than is the
25 case today.

1 One of the things I would ask you to do is
2 to compare then and now data on industry
3 profitability, the rate of increase of imports over
4 the period of investigation, trends in U.S. demand,
5 trends in the average unit value of U.S. producer
6 shipments and imports, and trends in U.S. producers'
7 costs.

8 The case for relief that we will be
9 presenting today is strong on present injury, and I
10 believe compelling on threat on injury. Let me
11 summarize the key points that our witnesses will be
12 making.

13 First, that global supply far exceeds global
14 demand, and the imbalance will get worse, not better,
15 as new offshore capacity comes on stream. This
16 creates a very powerful incentive to export.

17 Second, that for various reasons, including
18 the effect of value in use pricing and the existence
19 of an antidumping order in the United States for a
20 number of years, U.S. market prices have traditionally
21 been higher than in most other markets. This creates
22 a powerful incentive among foreign producers to export
23 to the United States.

24 Because of these incentives, every major
25 offshore producer has targeted the U.S. market for

1 expansion. To illustrate, when Kuraray recently
2 purchased Clariant's production facilities in Germany,
3 it announced its intention to increase its exports to
4 the United States, and I quote, "ten-fold."

5 Kuraray, in particular, has made a
6 calculated decision to shift from being a supplier of
7 small volume specialty graded polyvinyl to the United
8 States to become a large volume supplier of commodity
9 grade PVA. The record confirms each of these points.

10 Fourth, China is part of the mix. Chinese
11 imports are very low priced, have begun to increase
12 again after a 2002-2001 drop, and as a result are a
13 major problem imposed and even greater threat.

14 Now, we all know that China's major
15 producer, Sichuan Vinyon, received a de minimis
16 preliminary margin from the Department of Commerce.
17 That margin is based entirely on an allocation cost
18 away from -- or factors of production away from PVA to
19 another product.

20 We know full well that you cannot by statute
21 cumulate China with the other subject imports until
22 Commerce reverses its finding, which I hope it will do
23 in short order.

24 But nevertheless, the point I want to make
25 here is twofold. First, that China is a problem; and

1 second, that with China's presence you have a
2 condition of competition that makes the imports from
3 Japan, from Germany, and from Korea that much more of
4 a problem.

5 The testimony you will hear from witnesses
6 for DuPont, Celanese and Perry Chemicals will detail
7 the impact that these imports have had on the U.S.
8 market and on their own operation. The testimony you
9 will hear from respondents will no doubt take issue
10 with what our witnesses will be saying. And all that
11 I ask of you is that you listen very carefully to what
12 is said and made a judgment on both substance and
13 credibility.

14 Let me illustrate some of the things I
15 expect to come up in this proceeding.

16 When respondents argue, as I expect they
17 will, that the U.S. industry's profitability suffers
18 from their low-priced export sales, aren't they really
19 confirming what we are saying about the likelihood
20 that without the discipline of an antidumping order
21 the very low prices we see in overseas markets will
22 spread to the U.S. market? If so, aren't they making
23 our threat of injury case?

24 And if a company like Solutia contradicts
25 sworn testimony by witnesses for DuPont and Celanese,

1 by executives that were personally involved in the
2 negotiation of pricing at the Solutia account, and the
3 contradiction involved the way in which Solutia has
4 used the threat of switching to lower priced imports
5 to force reduction in domestic producer prices, the
6 question I would like you to ask is, is that testimony
7 really credible given the fact that Solutia is up here
8 spending time, spending energy, and spending money
9 arguing for a no injury finding?

10 After all, why would a company like Solutia
11 invest in this proceeding if, as it suggests, imports
12 are not at issue in its business relationships?

13 There will be many other points that you
14 will want to ask us about and ask others about as the
15 proceeding continues. But what I hope to leave you
16 with is a notion that there will be issues of
17 substance and issues of credibility that need to be
18 tested.

19 Thank you.

20 CHAIRMAN OKUN: Thank you.

21 MS. ABBOTT: Opening remarks on behalf of
22 the respondents will be made by Lawrence R. Walders,
23 Sidley Austin Brown & Wood.

24 CHAIRMAN OKUN: Good morning, Mr. Walders.

25 MR. WALDERS: Good morning. Good morning,

1 Madam Chairman.

2 For the record, I am Lawrence Walders of the
3 law firm of Sidley Austin Brown & Wood. I am
4 appearing today on behalf of Kuraray Company Limited
5 of Japan, Kuraray Specialties of Europe, and Kuraray
6 America, Inc., and with me are Maria DiGiulian of
7 Sidley Austin, and Bruce Malashevich, of Economic
8 Consulting Services.

9 The Commission will hear from several groups
10 of counsel and witnesses appearing in opposition to
11 the petition. The presentation by the opponents will
12 begin with Solutia, a domestic producer that opposes
13 the petition for good and sufficient reasons which you
14 will hear today.

15 The testimony will be followed by witnesses
16 for Kuraray and Clariant. The Chinese producer,
17 Sichuan Vinylon Works, has also entered an appearance
18 in this hearing, but I understand that company
19 representatives will not testify, although they will
20 be available to answer questions from the Commission
21 and the staff.

22 Now, the witness list in this hearing is
23 much shorter than it was in the conference in the
24 preliminary investigation. That reflects a dramatic
25 change in the posture of this case. Now that imports

1 from China are no longer subject to the investigation,
2 the remaining imports are far too small in quantity
3 and insignificant in market share to have caused or
4 threaten to cause material injury to the domestic
5 industry.

6 The petitioners have tried to muddy the
7 waters in their prehearings by lumping together
8 imports from China with the remaining subject imports
9 from Germany, Japan, and Korea. But the staff's
10 prehearing report properly focuses on the imports that
11 are actually subject to this investigation.

12 As we have shown in our prehearing brief,
13 and as we will show in the hearing today, the
14 elimination of China undercuts whatever legal and
15 economic basis this petition may have had because it
16 removes a major source of low-priced import
17 competition.

18 As in most cases, the primary issue here is
19 causation. The requisite degree of causation is
20 lacking in this case given the extremely small market
21 share of subject imports and the absence of
22 significant price or volume effects from subject
23 imports.

24 Furthermore, after adjusting for factors
25 affecting the industry's profitability that are

1 totally unrelated to imports, the petitioners'
2 financial data itself will demonstrate that the
3 industry is not injured or threatened with injury.

4 Thank you.

5 CHAIRMAN OKUN: Thank you.

6 MS. ABBOTT: The first panel, those in
7 support of the imposition of antidumping duties, is
8 seated and has been sworn.

9 (Witnesses sworn.)

10 CHAIRMAN OKUN: You may proceed when you are
11 ready, Mr. Greenwald.

12 MR. GREENWALD: What we would like to do, if
13 it's alright with the Commission, is dispense with
14 lawyer statements and begin right with the business
15 representatives.

16 Mr. Fred Chanslor, Vice President, Polyvinyl
17 Alcohol, Celanese, will be our first witness.

18 MR. CHANSLOR: Good morning. I would like
19 to thank the Commission for this opportunity to speak
20 on behalf of my company, Celanese, and on behalf of
21 the polyvinyl alcohol producers.

22 I have been with my company now for almost
23 29 years. I was involved in the acquisition of the
24 polyvinyl alcohol business in 2000, and I have been
25 running the business since that acquisition.

1 There will be a great deal of discussion
2 today regarding polyvinyl alcohol markets and
3 applications. I would like to begin with a brief
4 background of the PVA industry that I believe is
5 applicable.

6 PVA, as you are probably aware, is sold into
7 a multiplicity of markets: textiles, adhesives,
8 paper, building products polyvinyl alcohol, to name a
9 few. The critical fact to bear in mind is that the
10 molecule that goes into these different applications
11 is fundamentally the same.

12 The key to the successful application of
13 polyvinyl alcohol to anyone of these markets is the
14 physical properties of the product, depending on the
15 viscosity or the hydrolysis of the product is what
16 determines whether the product is applicable for say
17 the textile industry or for the paper industry. All
18 those products are made off the same production
19 equipment in the manufacturing facilities.

20 PVA technology has been around for a long
21 time, and all of these products and the applications
22 that they are suited for are available from a number
23 of different producers.

24 For example, Celanese and Kuraray both have
25 over 20 different production grades. Most of those

1 grades overlap and have equal applicability to a
2 number of markets. A similar overlap exists between
3 Kuraray Japan and Kuraray Germany. Many of their
4 grades overlap, and this is typical of all the subject
5 importers in this petition.

6 The viscosity and the hydrology properties
7 range from the various producers, but they all will
8 fundamentally meet the application needs of the
9 customer, and typically the qualification going from
10 one supplier to the next is merely a factor of fine
11 tuning their manufacturing facilities to adjust for
12 those modest differences in viscosity and hydrolysis
13 range.

14 As a result of that, the costs of switching
15 from one supplier to the next is relatively
16 insignificant and the primary and dominant basis that
17 purchasers use for deciding whether to purchase from
18 one supplier or another is merely price.

19 Let me give you an example of this
20 overlapping and multiple sourcing. We sell a 325
21 grade to the polyvinyl butyryl business. We sell that
22 same grade to adhesive customers and to building
23 products customers as well, and the 325 grade that we
24 sell has an equivalent that's provided by DuPont, by
25 Nippon Gossi, and by Kuraray, and one of the largest

1 polyvinyl butyryl producers, Solutia, buys product
2 from all of those suppliers across their global
3 polyvinyl butyryl business.

4 So let me move now from that background to
5 the specific Celanese experience. We purchased this
6 business in October of 2000, and almost immediately
7 after the purchase of this business it was subject to
8 global recession, an extraordinarily high raw material
9 costs, principally natural gas and ethylene.

10 We immediately raised prices as is typical
11 in the petrochemical industry to offset those very
12 high raw material price increases. However, we were
13 unable to move those price increases through due to
14 the competitive positioning of the subject importers.

15 PVA business is a very capital-intensive,
16 high fixed-cost business, and the variable margin that
17 you generate in that business and the high capacity
18 utilization of your facilities are essential to strong
19 financial performance.

20 In our attempt to raise prices and reclaim
21 the variable margin that we had lost and maintain the
22 capacity utilization of our facilities, we saw a
23 dramatic reduction in our prices in multiple segments
24 and multiple customers within those segments.

25 A few examples: Adhesive paper in the

1 textile business we lost to the Chinese. We lost
2 building products and adhesive business to the
3 Koreans. We lost paper and building products business
4 to the Germans.

5 So as I said, faced with this variable
6 margin loss we had to take action, and the action was
7 we began to pull back our variable margin by going
8 back after volume, and the result of that was we saw a
9 five to 35 percent decrease in pricing in over 20 of
10 our accounts in virtually a matter of weeks.

11 This pricing erosion and responding negative
12 financial performance has stuck with us up to and
13 including the first quarter of 2003. Our position has
14 been extremely impacted by current natural gas and
15 ethylene costs that are extraordinarily high again
16 this year.

17 We have announced, as I am sure you are
18 aware, over 25 cents per pound of polyvinyl alcohol
19 price increases to try to compensate for this raw
20 material cost. But as of this date we have had very
21 limited success in getting those costs passed through
22 and pricing.

23 Virtually every week we have a customer,
24 one of the petitioner's offshore suppliers are
25 offering not to raise their prices in order to acquire

1 our market share with those customers.

2 Just recently, in fact, we have had two
3 paper accounts and one film account where we were told
4 that an offshore supplier in our petition offered to
5 hold pricing below that of the duty, and all of the
6 costs associated with transporting that product from
7 overseas to the U.S. in exchange for our market share
8 at all three of those accounts.

9 So what are the market dynamics that are
10 causing this to happen? One of the biggest ones is
11 supply and demand. The industry is operating at 80
12 percent capacity utilization, and yet the Asians
13 continue to announce expansion of facilities. Over
14 90,000 tons of expansion has been announced today.
15 It's the equivalent of a world-scale polyvinyl alcohol
16 unit that if you built from the ground up would cost
17 you over 200 to 300 million dollars.

18 Another key factor is that the U.S. pricing
19 tends to be higher than the other regions in the
20 world, Europe and Asia, and the reason for that his
21 historically the domestic producers tried to capture
22 the value that polyvinyl alcohol brings to the markets
23 it serves, and let me give you an example.

24 If you look at the paper industry, it's a
25 very capital-intensive process. You have got high-

1 speed paper moving and long extended lines. An
2 interruption is extremely costly to the paper
3 manufacturers. Polyvinyl alcohol is a very small part
4 of their total cost, but a very key factor in their
5 ability to main on-stream time production in that
6 facility, so we try to capture some of the value that
7 that product brings in that particular segment, and
8 it's basically true across all segments.

9 This is in dramatic contrast to that, in
10 Europe and Asia you see pricing is very similar in
11 various applications, and the reason for that is that
12 Europe and Asia tend to be much more commodity-minded
13 markets, and there is a great deal of competitive
14 activity in exchanging depressed pricing for market
15 share.

16 And as a result of that when the Europeans
17 and Asians look at the U.S. market, our pricing
18 position is very attractive.

19 As a result of the attractiveness that I
20 speak of, not too long ago one of the offshore
21 suppliers in our petition announced that they wanted
22 to increase their share of the U.S market by ten
23 percent was over a factor of 10 of their car imports
24 to the U.S and they named Sony specifically as their
25 target. Today, we continue to get customers that

1 threaten to switch to subject offshore suppliers
2 because they have offered to hold their price in the
3 wake of our priced increases if they give in exchange
4 for our market share and they prevailed the proposed
5 duties as not have seen to have any major impact on
6 that situation. And just looking from the fourth
7 quarter of 2002 to the first quarter of 2003, our more
8 material costs have gone up over 20 percent and yet we
9 have not been able to pass any of that cost forward in
10 our pricing so far. Without a positive finding in this
11 petition, we expect to see this financial
12 deterioration and price deterioration continue
13 especially in light of the fact that gulf coast
14 pricing of natural gas is not expected to ever return
15 to historical rates, and in fact if you look at the
16 industry experts, they basically say that the
17 probability that natural gas is going to remain at
18 today's level in the four-to-five dollar per million
19 btu range is very high, and that in fact that we will
20 frequently have periods of time where we will have
21 supply relative to demand, and we can again see
22 natural gas prices peak as high as \$10 a million btus.

23 So in light of this expectation of the
24 future on raw material costs, unless the domestic
25 producers are allowed to pass some of that cost on to

1 the customers the financial viability of this industry
2 is very much in question.

3 I mentioned a number of examples in my
4 presentation this morning, and we will provide the
5 details of those examples in our post-hearing brief.

6 This concludes my remarks, and I want to
7 thank you for the opportunity to present them.

8 CHAIRMAN OKUN: Thank you.

9 MR. GREENWALD: Now Ms. Kathryn McCord from
10 DuPont to give DuPont's perspective.

11 MS. MCCORD: My name is Cathy McCord, and I
12 am the global business director for polyvinyl alcohol
13 and vinyl acetate myelomere for DuPont.

14 I have held this position for about six and
15 a half years, and I have seen tremendous shifts in the
16 profitability of this business over that time period.
17 As you can imagine with this much time invested in the
18 business, this business is very near and dear to my
19 heart, so I really appreciate the opportunity to come
20 here and talk with you about what I have seen in the
21 market.

22 As Fred told you, the major market segments
23 for PVA include textiles, paper, adhesive and PVB,
24 polyvinyl butyryl. I would like to describe to you
25 what DuPont's perspective critical issues in the PVA

1 market that impact the viability of the U.S. PVA
2 industry.

3 They include, first, rising subject imports;
4 second, rapidly declining prices; third, price as a
5 single key determinant in the sourcing decision.

6 Over the last several years we have seen
7 subject imports from Japan, from Korea, from China and
8 Germany increases. The market as become more price
9 competitive, and these lower prices have spread
10 throughout all the different market segments.

11 Fewer and fewer customers are willing to pay
12 for non-price factors like tech service, or on-time
13 delivery, et cetera. Our customers expect us to meet
14 the lowest price, the low prices of foreign imports
15 first and foremost. Then we are expected to continue
16 to supply the tech service, and the delivery that we
17 have always provided.

18 Many of these customers have been long-term
19 DuPont customers. We have worked closely with them to
20 help them develop and customize their formulations and
21 their processes. However, when they are offered PVA
22 at such low prices from subject importers they feel
23 compelled to qualify that product, and qualification
24 can be very rapid. It can be as short as an afternoon
25 trial to several months. But due to the big incentive

1 the delta in these prices our customers feel they have
2 to run these qualifications, and we are then forced to
3 meet these lower prices in order to retain our
4 business and keep our plant running to minimize our
5 unit costs.

6 As Fred told you, PVA is an extremely
7 capital-intensive, high fixed-cost manufacturing
8 operation, and keeping the plant running is critical
9 to an economically viable business. Meeting these
10 very low prices has had a very negative impact on our
11 profitability.

12 For many years price was only one of a
13 number of factors involved in a customer sourcing
14 decision. DuPont's tech service, on-time delivery and
15 other non-price factor were very important, but this
16 really isn't the case anymore. By far the most
17 important factor today is price, and then price, and
18 then price again.

19 Once we meet the subject import price these
20 other non-price factors may become the tie breaker in
21 a buying decision, but if we don't meet the price we
22 lose the business.

23 DuPont has pursued a strategy of meeting
24 foreign producers' prices in order to maintain our
25 business. As a result the prices and our margins have

1 deteriorated significantly. For example, within the
2 span of one month after revocation of the previous
3 dumping order we were forced to reduce our prices at
4 three different paper accounts by over 30 percent, 30
5 percent just to maintain our business due to
6 competitive price offers by subject importers,
7 including Kuraray and Nippon Gossi.

8 Neither gained any volume from us because we
9 met the price, but the impact of their actions were
10 enormous on us.

11 As recently as April of this year, less than
12 one month ago, a paper customer of ours told us that
13 they had an offer from Kuraray Germany at 18 cents
14 below our price. Our customer asked us how we intend
15 to respond if we want to keep our business.

16 As you know, in 1996, a previous dumping
17 order was imposed on several of these subject
18 importers. Since the order was sunsetted several
19 things have changed.

20 First, the dramatic rise in raw material
21 prices that Fred described to you; secondly, Kuraray's
22 global presence in the PVA market; third, the
23 resumption and even lower price subject imports; and
24 fourth, our declining NME.

25 Costs of both natural gas and ethane, which

1 are major raw materials in the production of OVA,
2 began to increase in 2000. As Fred told you, by early
3 2001 natural gas was about \$10 per billion btu, which
4 is about four times the historical average. Although
5 these costs did decline in late 2001, and early into
6 2002, by the fourth quarter of 2002 costs were again
7 on the rise.

8 In February of this year natural gas prices
9 reached about \$10 a million btu. They have since
10 declined and they are hovering in the \$5.50 a pound
11 per million btu range, and they are expected to remain
12 in that range over in the four to five dollar range
13 for the next several years.

14 Over this time we have attempted to
15 implement multiple price increases simply to recover
16 these costs, but they have been mostly unsuccessful
17 because of price undercutting by subject importers.
18 It's truly a classic cost/price squeeze.

19 Kuraray has become a global force in the PVA
20 market. They have added significant capacity through
21 their joint venture in Singapore and have recently put
22 a Clariant facility in Europe. They have a publicly
23 announced strategy to gain 10 percent of the U.S.
24 market. A copy of this announcement is included in
25 your prehearing brief.

1 Kuraray moved away from being a high-priced
2 specialty producer to becoming an aggressive marketer
3 who uses low price to gain share in the U.S.
4 Continued expansion by Kuraray, by NiPpon Gossi, and
5 by Sichuan have resulted in overcapacity in Asia,
6 which has prompted them to seek other market such as
7 ours here in the U.S. to unload their excess capacity.

8 Only the declining economy has put
9 tremendous pressure on price as the single determining
10 factor in a PVA buying decision in every single market
11 segment into which we sell. Let me just give you a
12 few specific examples.

13 The U.S. textile market, I think as we all
14 know, is declining as production continues to shift
15 overseas to Asia. However, it's still one of the
16 largest segment for PVI, so it's a very important one.
17 The textile industry is served both directly by
18 producers and also through what's called a textile
19 blender, blenders PVA, and they mix that PVA with
20 other materials like starch, and then they sell that
21 blend to a textile account, sometimes directly against
22 us with straight PVA, or sometimes those blenders will
23 just simply resell the PVA itself, no blending.

24 The subject importers initially served only
25 the blenders, but recently they have begun calling

1 directly on the textile mills. Within the last
2 several months, one of our textile customers began
3 trial in Sichuan material to thwart our recent
4 attempts to raise price and recover our cost
5 increases.

6 In addition, within the last month we just
7 lost about a million pounds of business at a single
8 textile mill due to aggressive underpricing with
9 Sichuan material from China.

10 And last summer, one blender who was simply
11 reselling Kuraray material caused us to lower our
12 price by about 10 percent at a long-term DuPont
13 textile account in order for us to retain our
14 business.

15 The PVB market segment is also a very large
16 PVA segment in the U.S. We supply significant volumes
17 to that segment to our sister business in DuPont, and
18 also to Solutia. In September of 2001, at a contract
19 negotiation meeting with Solutia, we were informed by
20 them that they had lower priced offers from foreign
21 producers, which included Kuraray German, included
22 Nippon Gossi and Kuraray Japan.

23 Since both Kuraray Germany and Nippon Gossi
24 were fully qualified and supplied Solutia at their
25 European facility, this represented a significant

1 threat to our business. We felt forced to reduce our
2 price in order to retain our business.

3 This type of behavior has occurred in every
4 segment of the business. Let me give you one last
5 example before I close.

6 In order to retain about 750,000 pounds of
7 business at an adhesive customer we were forced to
8 reduce our price 13 percent to meet the Korean PVA
9 offer. Our customer continues to work with the Korean
10 materials to keep us from increasing our prices right
11 now and letting us pass through some of these high
12 costs we have experienced. Our projected sales at
13 this account are down as a result of a loss of some of
14 our business to the Korean material.

15 This significant price cost squeeze has
16 resulted in such low margins for us that we cannot
17 continue to invest in the PVA business. Our capital
18 investment now is focused only on basic safety, health
19 and environmental standards, or on maintaining plant
20 equipment. It's certainly not to reinvest in the
21 capacity or to create new manufacturing jobs for the
22 domestic industry.

23 In multi-business companies such as our, we
24 must compete internally for capital resources. Our
25 PVA business does not come close to meeting corporate

1 financial requirements for new investments. However,
2 by any standards the domestic PVA business in its
3 current state would not warrant reinvestment.

4 I greatly appreciate the opportunity to
5 review our case with you, and I hope I have been able
6 to convey the critical situation our industry now
7 faces. This situation has been caused by unfair
8 dumping of subject imports into the U.S., resulting in
9 significant deterioration of our financial results.
10 This activity has not been confined to just one or two
11 market segments. It has been pervasive throughout all
12 the market segments.

13 We have had very limited success to raise
14 prices despite dramatically rising costs. Of even
15 greater concern is what will happen in the future if
16 this case is unsuccessful. Even with the imposition
17 of preliminary markets, we continue to see aggressive,
18 unfair pricing by subject importers. If this
19 continues, it could result in business failure for the
20 U.S. industry and a resultant loss of U.S.
21 manufacturing jobs. I just don't want to see this
22 happen.

23 Thank you again for letting me share my
24 views of this industry with you.

25 CHAIRMAN OKUN: Thank you.

1 MR. GREENWALD: Our last witness, Mr. Irving
2 Laub from Perry Chemicals.

3 MR. LAUB: First of all, I would like to
4 thank the commissioners for giving me the opportunity
5 to say a few words on behalf of this case.

6 I am really here to echo the sentiments of
7 Celanese and DuPont, but from really a totally
8 different perspective.

9 Perry Chemical is not a manufacturer of
10 polyvinyl alcohol. Perry Chemical is a distributor of
11 polyvinyl alcohol. The business is a relatively small
12 family business started by my father in the late
13 fifties. I got involved in 1974, and have been
14 dealing with polyvinyl alcohol ever since then to the
15 present. That makes it, I think, almost about 29
16 years now.

17 And I have been through the experiences, the
18 ups and downs of the market more than once, shortages,
19 outages, when the supply is long, when supply is
20 short, and through an antidumping proceeding back in
21 1995. And we have seen over the past two years since
22 a dramatic shift in the way polyvinyl alcohol is sold
23 here in the United States that it really is compelling
24 for us to step forward to try to say a few words in
25 support of the petitioners.

1 For so many years, particularly during the
2 time of the antidumping petition when it was in effect
3 back in 1995, a certain discipline was in the
4 marketplace. When the petition was removed in May, I
5 think, 2001, at that time the market was open to
6 anybody to come in and sell materials to the states,
7 and we saw a dramatic shift on the part of the subject
8 imports to try and penetrate the market here in the
9 United States. It didn't only affect Celanese, it
10 didn't affect only affect DuPont, but it very much
11 materially hurt our business that we were currently
12 supplying our customers here in the United States.

13 Polyvinyl alcohol historically is a fairly
14 stable commodity, but we have seen over the past two
15 years, I guess, prices have dropped dramatically. Our
16 volumes of polyvinyl chemical are down very, very
17 significantly, and we are scrambling almost on a daily
18 basis, just trying to hold onto our existing customer
19 base, trying to deal with the reality of subject
20 imports coming into the states, subject imports that
21 are offering products across the product lines. We
22 see the Japanese courting materials to textile
23 compounders. We see the Koreans offering product in
24 the construction industry. We see all the subject
25 imports pretty much all across the board in all the

1 segments of the industry that we currently service.

2 We are very much at risk at Perry Chemical
3 if there is no protection in this particular case. We
4 are trying our best to hold onto what we have got.
5 We're trying to maintain the business that's been in
6 place for the past, oh, almost 50 years already. But
7 we are facing a very, very difficult time now, and all
8 we ask is for the Commission to establish a level
9 playing field so that all of us can participate fairly
10 in this particular market.

11 I thank you very much for your time.

12 CHAIRMAN OKUN: Thank you.

13 MR. GREENWALD: Before we close our direct
14 testimony, I'm going to ask Mr. Laub to elaborate for
15 you on something that he told me by phone, and it was
16 one of the reasons we wanted him to testify today, and
17 that was the shift in the marketing and business
18 strategy of Kuraray in particular.

19 MR. LAUB: Well, in the past when we were
20 competing against Kuraray, we normally found them to
21 be in segments in the industry that were I would say
22 on the higher end. We came into competition with what
23 you would say is a very, very low price in the
24 industry, which is that the textile compound. We did
25 not run into the subject import competition at that

1 segment of the industry, oh, for many, many years.

2 And all of a sudden after the sunset review
3 came into place we found that Kuraray had contacted
4 one of our customers who we considered to be, oh, we
5 were servicing that customer since 19 -- I'm not sure
6 if it's '81, '82, '83, but it's almost 20 years
7 already, a loyal customer of ours, and we were faced
8 with a very competitive situation that we were unable
9 to match, and subsequently lost the volume of business
10 because of the intervention and the aggressive
11 policies on the part of Kuraray to assume that
12 position in that segment of the industry.

13 MR. GREENWALD: Thank you. That concludes
14 the direct testimony.

15 Can the secretary tell us how much time we
16 have left?

17 MS. ABBOTT: You used 27 minutes.

18 MR. GREENWALD: We'll reserve the rest for a
19 lengthy rebuttal.

20 CHAIRMAN OKUN: For the lawyers' comments,
21 right?

22 Thank you. Before we begin the questioning,
23 I want to thank all the witnesses for being here today
24 and particularly the industry witnesses. We
25 appreciate you taking the time from your business to

1 come here and help us better understand your business
2 and your operations.

3 And with that Commissioner Miller will begin
4 our questioning.

5 COMMISSIONER MILLER: Thank you, Madam
6 Chairman, and thank you as well to all of the
7 witnesses for your participation this morning, and Mr.
8 Greenwald, that was admirable restraints on your part
9 in terms of the direct testimony. I'm sure you will
10 have plenty of opportunity on some of the challenging
11 legal questions we have in this case.

12 But let me start with making sure I fully
13 understand the product if I could, and several of you
14 sort of commented, Mr. Chanslor in particular, on some
15 of the product issues.

16 What I want to make sure is that I
17 understand the nature of the product for purposes of
18 both the way we gather the pricing information and
19 some of the issues that are coming up in terms of
20 overlap of competition.

21 When I first looked at the pricing
22 information and saw that, you know, we gather the
23 pricing information by application. So one of my
24 questions to you is, is this product different
25 depending on the applications it's going to?

1 I'm trying to understand just the nature of
2 the product. You talked a lot about the viscosity and
3 the hydrolysis, and that being basically what
4 determines the application. But you also talked about
5 the same product. I think you used the example of
6 365; is that right, what you referred to as the --
7 325, great.

8 Just tell me, to what degree from a supply
9 perspective is the product different depending on the
10 applications that it's going to? And how, when you're
11 talking about a process, at least as I understand it
12 is a fairly continuous process, you end up producing
13 the different grades.

14 MR. CHANSLOR: Sure. Polyvinyl alcohol is
15 basic polymer chemistry, and we basically polymerize
16 vinyl acetate and then do a transistor verification to
17 get the hydroxyl berbs onto the polymer. And
18 depending on the length of the polymer chain, which
19 determines the molecular weigh and the viscosity and
20 the number of OH groups that you put on the polymer
21 will determine whether it's a good product for the
22 textile industry or a good product for the paper
23 industry, depending on the typical properties that
24 that particular industry needs.

25 It's the same equipment that produces all

1 the different grades of the product. We have
2 basically 26 base grades that we produce, but the
3 conditions under which you produce the polymer will
4 determine those various physical properties, and we
5 direct those depending on what grade we're trying to
6 make and which industry it goes into.

7 The only exception to those are what we call
8 the copolymers or specialty products, and those DuPont
9 and Celanese have not included in this petition.

10 All other products, basically it's the same
11 fundamental polymer and you just vary the physical
12 properties depending on what the end user needs

13 COMMISSIONER MILLER: So you make
14 essentially adjustments in the manufacturing process
15 to -- depending on what you need in terms of the
16 demand for the production and the application?

17 MR. CHANSLOR: That's right. How long you
18 produce the polymer.

19 COMMISSIONER MILLER: Right.

20 MR. CHANSLOR: What kind of temperature you
21 operate at, what kind of additives you make, those are
22 basically the things that help determine the
23 particular physical properties that you're after

24 COMMISSIONER MILLER: But do you ever have
25 the same product, exactly the same product going to

1 different end uses?

2 MR. CHANSLOR: Yes. Yes, we do

3 COMMISSIONER MILLER: Okay.

4 MR. CHANSLOR: You take a specific grade and
5 that product can go into the textile market, the
6 textile market, it can go into the adhesives market,
7 it can go into the paper market

8 COMMISSIONER MILLER: So when you say
9 "grade," there aren't variations within the grade in
10 terms of the viscosity or hydrolysis. I mean, a grade
11 is a uniform product.

12 MR. CHANSLOR: We talked about -- I
13 mentioned earlier that you typically produce sort of a
14 range of properties. Well, a grade will have a range
15 of properties but in a relatively narrow scope

16 COMMISSIONER MILLER: Okay.

17 MR. CHANSLOR: And so for those different
18 applications that require those particular properties
19 you can use that same grade in those different
20 applications.

21 COMMISSIONER MILLER: Okay.

22 MR. CHANSLOR: Just to refer back to my
23 presentation, I mentioned that we produce over 20
24 grades ourselves. If you take Kuraray Japan, Germany
25 and Singapore, they produce actually more grades than

1 we do, and many of those grades overlap, and are
2 acceptable for the same application. And what may
3 vary slightly is this range of viscosity or this range
4 of hydrolysis that we talked about, but the core
5 properties of that product are applicable in the same
6 application and for the same customers

7 COMMISSIONER MILLER: Okay.

8 MR. CHANSLOR: And if you look at Kuraray
9 Japan for example, and Kuraray Germany, also called
10 KSE, many of the grades that they produce they produce
11 in both of those facilities

12 COMMISSIONER MILLER: Okay. Ms. McCord, you
13 looked like you wanted to add something?

14 MS. MCCORD: Yes. Well, for example, just
15 to add to what Fred was saying. One particular grade
16 that we make is called 7130, and we use that internally
17 within DuPont for our PVB operations. We sell that
18 grade to external PVB customers. We sell that grade
19 in paper, and we sell that same grade in film

20 COMMISSIONER MILLER: So the same grade that
21 you would use for your PVB production you also sell,
22 and there is no difference in the physical product
23 between what you use for PVB production and what you
24 sell into these other markets?

25 MS. MCCORD: No. As a matter of fact, I

1 mean, if we are putting it in hopper car, and shipping
2 it to our sister business in West Virginia, or we
3 might take that hopper car and just package it up for
4 paper, and sometimes you may do a little tweak here or
5 there, add something or not, but when it comes off the
6 unit for the most part it's the same grade, and you're
7 just packaging it differently, or putting it in hopper
8 car or not and shipping it to any of several different
9 applications.

10 COMMISSIONER MILLER: And Mr. Chanslor said
11 Celanese is producing 20 some different grades.
12 DuPont, can you say? I can't remember if it's in our
13 report, if it's a public number or not, so I don't
14 know if this is something -- how many grades does
15 DuPont produce?

16 MS. McCORD: We don't produce as many grades
17 as Celanese, but we could -- I will put that in a --

18 COMMISSIONER MILLER: Great. Okay. Okay.

19 Mr. Chanslor, you alluded a few moments ago
20 to the products that were excluded from the scope of
21 this investigation.

22 Are those products made by the producers in
23 the United States at all? Is there any U.S.
24 production?

25 MR. GREENWALD: Let me answer that

1 COMMISSIONER MILLER: Okay.

2 MR. GREENWALD: Because that's a preliminary
3 conferences. I had stated publicly that we had no
4 intention of doing what I think others domestic
5 petitioners do, which is including products that are
6 nothing more than a gleam in their eye. We stated
7 publicly that we would exclude products that were not
8 made here. We have done so. We have been very
9 responsive to the respondents' counsel on that, and it
10 has taken a measurable quantity of imports,
11 particularly from one of the Japanese producers, out
12 of this case.

13 On the other hand, what is means is that the
14 residual is material by definition, which there is a
15 direct head to head competition

16 COMMISSIONER MILLER: Okay. And I want to
17 make sure I understand how -- again, the nature of the
18 product given the sort of you're telling me grades go
19 to lots of different applications. The products
20 excluded are specialty polymers? They have some other
21 process that goes on with them that changes the
22 product?

23 MR. CHANSLOR: They are what are called
24 copolymers. So in addition to the polyvinyl alcohol
25 polymer, there are other polymers that are other

1 polymers that are bound to the main structure of the
2 molecule, and they go into a number of specialty
3 applications.

4 Celanese is making those products, but we
5 have relatively small volumes of them, and they are
6 specialty applications, and they are limited in
7 supply, and as John mentioned, we did not include,
8 DuPont and ourselves did not include them in the
9 petition as a result.

10 COMMISSIONER MILLER: Mr. Meltzer?

11 CHAIRMAN OKUN: Would you ask him to pull
12 the microphone there a little bit closer.

13 MR. MELTZER: There is one more realm of
14 exclusion and that had to do with products that were
15 below a certain hydrolysis level, and again the intent
16 was to make sure that whatever was covered in this
17 case was products where there was direct competition
18 between the U.S. producers and the subject imports.
19 We spent quite a bit of time doing the exclusion

20 COMMISSIONER MILLER: Okay. I'll tell you
21 what, with the yellow light on I don't think I'll try
22 to go down another line of questioning because all the
23 other lines will take as long as this one did, so I'll
24 come back to them to the extent my colleagues don't,
25 and I appreciate your help in understanding the

1 product. Thank you.

2 CHAIRMAN OKUN: Commissioner Koplan.

3 COMMISSIONER KOPLAN: Thank you, Madam
4 Chairman.

5 Ms. McCord, if I could start with you. In
6 your testimony you described a meeting with Solutia in
7 which they informed you that they had price offers
8 from foreign sources.

9 I checked back and I don't think that was
10 covered in your direct testimony at the staff
11 conference last September. So let me just ask you
12 some questions on that.

13 First of all, when did that meeting take
14 place?

15 MS. MCCORD: September 21st or 20th, I not
16 sure which, of 2001.

17 COMMISSIONER KOPLAN: And who was present at
18 the meeting?

19 MS. MCCORD: It was held in Wilmington,
20 Delaware, and from Solutia's side it was Vickie Holt,
21 who was then head of their films business, and a
22 person names James Steele, I think his last name was,
23 and he was their -- I referred to him as their
24 financial person.

25 From DuPont, it was Jack Welch, our vice

1 president of the Vinyls Enterprise. It was Steve
2 Kluff who was our business manager for our butycite
3 business; and myself, and I think John Grenk, who was
4 our operations director was also there.

5 COMMISSIONER KOPLAN: Thank you.

6 MS. McCORD: Oh, and legal counsel.

7 COMMISSIONER KOPLAN: And who was that?

8 MS. McCORD: I think Van Lichlietter. I
9 would have to go and check my notes.

10 COMMISSIONER KOPLAN: Okay. I am asking you
11 this because I want to get as much detail as I can
12 from you so that if they care to respond to this this
13 afternoon, of course, they can.

14 Did those sources that they indicated they
15 had lower price offers from, did those include non-
16 subject producers as well or was it just subject
17 producers?

18 MS. McCORD: No. No. I don't remember any
19 non-subject importers, and I believes that I -- no,
20 they did not list them --

21 COMMISSIONER KOPLAN: Excuse me, I did not
22 hear what Mr. --

23 MS. McCORD: He had asked me, yes, Chang-
24 Chung's Petrochemical was one of the ones they listed,
25 and it was not.

1 COMMISSIONER KOPLAN: It was not.

2 MS. McCORD: Nor was Sichuan, to my
3 knowledge. It was Kuraray Japan, Kuraray Germany or
4 Clariant, and Nippon Gossi were the three foreign
5 importers that they listed specifically.

6 COMMISSIONER KOPLAN: Okay. Did the lower
7 price offers they mention include price offers from
8 any U.S. source?

9 MS. McCORD: Yes, they did mention they also
10 had offers from the other domestic supplier.

11 COMMISSIONER KOPLAN: Would be?

12 MS. McCORD: Celanese.

13 COMMISSIONER KOPLAN: Thank you. I'm asking
14 you just for the record.

15 MS. McCORD: Sure.

16 COMMISSIONER KOPLAN: Thank you very much.
17 If you think of anything else that I have missed as I
18 have asked you about this, you can cover that in the
19 post-hearing, but I appreciate your detailing that for
20 me.

21 This is for the domestic producers
22 generally. The staff report indicates that overall
23 demand for PVA has fallen over the period of our
24 investigation, and it states that the reduction is
25 reported to be the result of declines in the U.S.

1 textile market as well as declines in the general
2 economy over this period.

3 In your prehearing brief you state that
4 trends in demand for PVA vary among market segments,
5 and you mentioned declines in demand resulting from
6 declines in U.S. textile and paper production, but
7 increases in demand for PVA resulting from the
8 increased use of PVB in automotive windows, and you
9 have touched on this as well in your direct
10 presentation this morning.

11 I would like the industry witnesses to
12 discuss the demand trends over the period of
13 investigation for me, and in doing that I would like
14 you to focus on these four aspects that I'm
15 particularly interested in, and they are as follows:

16 Has demand declined overall for PVA? How
17 has demand for PVA by the textile industry changed
18 over the period of the investigation? Are there other
19 segments where you have seen either increases or
20 decreases in demand? And finally, what are your
21 forecasts for demand for the next 12 to 24 months both
22 overall and in particular sectors such as for PVB and
23 textiles?

24 Okay. Now, I know that some of that's been
25 touched on, but I would appreciate it if you could

1 cover it in the fashion I just asked.

2 Mr. Chanslor?

3 MR. CHANSLOR: I'll start the respond from
4 the domestic suppliers.

5 COMMISSIONER KOPLAN: Thank you.

6 MR. CHANSLOR: We have been in this
7 business, as I have said, since October of 2000, and
8 sometimes the saying is I'd rather be lucky than good,
9 and our luck was pretty much all bad.

10 Basically, we saw, you know, a fairly
11 significant global recession, so basically we saw
12 demand go down in virtually all three, really for us
13 four, including Latin America, major regions. So from
14 the very beginning we had seen an overall decline in
15 demand on PVA, and that as long as we continue in our
16 recession we expect that to continue as a lot of the
17 PVA goes into products such as the PVB sheet that goes
18 into windshields that goes into automobiles.

19 But in addition to that, I think we have
20 seen an even more significant decline in the textile
21 industry. They are under a great deal of pressure
22 from external sources of supply, and I think it's a
23 matter of public record that a number of the textile
24 industries have gone bankrupt over the last couple of
25 years. And we do not see or anticipate a recovery of

1 any kind in the textile industry.

2 As far as the segments are concerned, I
3 don't see anything similar to what's going on in the
4 textile industry taking place. What we tend to
5 believe is just an overall reduction in demand due to
6 the economy across the globe.

7 MS. McCORD: U.S., overall has demand
8 declined over the period of review?

9 Yes, and I think that was driven most
10 significantly by the textile industry. The textile
11 industry in 2001 declined about 30 percent.

12 COMMISSIONER KOPLAN: I think at the staff
13 conference you indicated 100 mills had closed?

14 MS. McCORD: Yes, 100 mills had closed,
15 right. It's very, very significant.

16 But I have to say since that time it appears
17 to have leveled off. Last year's demand appeared
18 about flat with 2001, and this year's appears about
19 flat. Our forecast for that segment is certainly not
20 to grow. What's questionable is what happens with the
21 WTO in 2005, but I don't know what will happen there.
22 But other than that we're basically seeing that to be
23 a flat industry.

24 Paper did decline as there has been some
25 consolidation in those mills during 2001. It appears

1 it has also somewhat stabilized now. Building
2 products, some of our materials are used in like fire
3 doors, hotel fire doors, things like that. That after
4 9/11 did decline substantially. It appears to be
5 coming back now.

6 PVB has been driven -- it's basically driven
7 by the automotive car builds for the most part, and
8 that has been -- that has stayed fairly strong. Our
9 forecast for PVB is basically linked to auto car
10 builds. The only things that would really impact PVB
11 growth would be growth in legislation around
12 architectural applications because PVB is also used in
13 security windows and hurricane glass, and things like
14 that.

15 And so if there is more legislation and more
16 demand for PVB in those applications, we would see a
17 growth there. And also if PVB is legislated into side
18 windows in automotive, because right now it's just in
19 the windshield in front, if it goes to side windows,
20 there will be a substantial increase in growth in PVB.

21 COMMISSIONER KOPLAN: Thank you.

22 Before I go to the next domestic witness on
23 this, I wanted to come back to you on my first
24 question, and just ask you something I forgot to ask,
25 and that is; these lower prices in the Solutia

1 meeting, the lower prices that you mentioned, what
2 were they? I mean, what was the price differential
3 between what you all were offering and what Solutia
4 brought up at that meeting from the foreign sources?

5 MS. McCORD: Could I respond to that?

6 MR. GREENWALD: If you feel comfortable.

7 MS. McCORD: I would like to respond in a
8 post-hearing brief on that if I might.

9 COMMISSIONER KOPLAN: Okay.

10 MS. McCORD: It is in the brief.

11 COMMISSIONER KOPLAN: Okay, thank you.

12 MR. GREENWALD: Commissioner Koplan, what we
13 did was attach, I believe we attached Ms. McCord's
14 notes taken at the meeting, and put them in the
15 prehearing brief.

16 COMMISSIONER KOPLAN: I know that. I
17 couldn't refer to it though because it's all BPI. So
18 as long as she had raised it, and put it on the
19 record, it opened the door to these questions. I am
20 well aware of it. Thank you.

21 I see my time is up so I won't start with
22 another question. Thank you very much.

23 CHAIRMAN OKUN: Well, there are a number of
24 interesting issues raised by the case, but I think I
25 want to follow up on the one that Commissioner Miller,

1 some more product questions just so that I understand
2 again the nature of the competition and where you see
3 the subject imports competing. And so maybe, Mr.
4 Chanslor, I want to go back to you.

5 When you were talking about the same grades
6 being sold into the different applications, and you
7 cited some standard grades. Do you get different
8 prices selling them into different applications?

9 I mean, textiles, I have it referred to as
10 kind of low end. I think you said the same grade
11 could be sold into paper, and some other applications.
12 Do you get the same prices?

13 And if I ask anything -- you know, I know
14 there is a lot of confidential information on the
15 record. So if there is anything you can't discuss,
16 just let me know and we can do it post-hearing, but
17 I'm just interested in this issue about what's being
18 sold where and what kind of prices you get.

19 MR. CHANSLOR: Thank you. We do try to get
20 different prices based on the value that the polyvinyl
21 alcohol brings to that market, and what kind of
22 contribution the polyvinyl alcohol is to the
23 customers' overall cost position.

24 And so in some applications it's a very
25 critical part of the process. Maybe another

1 application it's not such a critical part of the
2 process, and I think that distinction is really a
3 large part of what's driving what we see today,
4 because we have tried to capture some of the value
5 that the product does bring to our customers here in
6 the U.S, and it's been historically the case with
7 their products in DuPont before Celanese got involved
8 in the business. You don't see as much of that, if
9 any of that, in the other regions of the world.

10 CHAIRMAN OKUN: You don't see that in any
11 other regions of the world?

12 MR. CHANSLOR: You do not see that as much
13 in the other regions of the world, that's right.

14 CHAIRMAN OKUN: Okay. Ms. McCord, are you
15 in agreement with that, I mean in terms of where
16 DuPont sells is that the strategy?

17 MS. MCCORD: Yes, that's correct.

18 CHAIRMAN OKUN: Okay. And then in your -- I
19 think it was in both Ms. McCord's and Mr. Chanslor's
20 direct testimony you talked about where you see
21 subject product, and also in the briefs. I mean,
22 there was kind of the general reference to where the
23 Korean product is, where the German product is, where
24 the Japanese product is, and Korean's construction.
25 And I have heard these kind of references to the end

1 use, and yet we're talking now about them being sold
2 into different applications.

3 I am just trying to understand if you can
4 give me more specific examples of where you see the
5 same subject products in different applications. In
6 other words, I'm trying to figure out if they compete,
7 if what you are saying is the same grade can be sold
8 into textiles, it can be sold into paper.

9 Is it the Koreans selling into textile,
10 paper and something else? Because the information in
11 the record I'm not sure would support that, and I'm
12 just trying to understand if we really understand kind
13 of how these applications are defined, so if you could
14 comment on that for me.

15 MR. CHANSLOR: Well, the example that I
16 used, for instance, was our 325 grade which we sell
17 into the polyvinyl butyryl business. We also sell
18 into other applications, adhesives and building
19 products. And you know, we typically use application
20 and end use sort of interchangeably. It's basically
21 the same thing. Depending on the particular range of
22 physical properties that an application needs, it
23 really determines which grade that we sell.

24 And a number of applications basically have
25 the same requirements on those physical properties, so

1 basically we may send a grade to an adhesive customer
2 or a building products customer, or the same grade to
3 a PVB supplier, for example.

4 If I understand your second question, I
5 think because there is so many overlapping of grades
6 among the major suppliers that in virtually all these
7 applications our competitors have products that are
8 basically in the same range of physical property
9 requirements that our product is.

10 So when you look at a particular adhesive
11 application for example, DuPont and the subject
12 importers all will have a product that meets those
13 same basic requirements, and we will compete with them
14 then at that account.

15 CHAIRMAN OKUN: And it would be your
16 experience in the market that you have seen the
17 subject imports selling into all those applications
18 versus, in other words, it may be the same product.

19 What I am trying to establish, is the U.S.
20 marketing the same product to different things but not
21 the subject imports in terms of where the competition
22 is?

23 MR. CHANSLOR: Depending on the specific
24 application. You may not run into all the subject
25 importers, but you will run into a number of the

1 subject importers in multiple end uses and multiple
2 applications.

3 MR. MELTZER: May I just make a couple of
4 points --

5 CHAIRMAN OKUN: Sure.

6 MR. MELTZER: -- on the line of questions
7 here?

8 One is that I don't think it makes sense to
9 limit the analysis to commercial quantities of sales
10 that were made at particular accounts, but it's also
11 important to take into account offers for sales, and
12 the activities of the representatives of the subject
13 imports going around from account to account offering
14 the products for sale, and that increases the extent
15 of overlap.

16 The other point I would like to make is that
17 you mentioned Korean imports, and there are a number
18 of issues that come up with respect to the pricing
19 data in some of the products. But I urge you to take
20 a look at with respect to the Korean imports. The
21 questionnaire response by a major Korean importer that
22 were provided in the preliminary, and compare that to
23 what was provided in the final investigation, and you
24 will see more sales in more product categories once
25 you take a look at both questionnaire responses

1 together.

2 For some reason there was a disconnect
3 between the data that were reported in the preliminary
4 and the data reported in the final.

5 CHAIRMAN OKUN: Okay, I appreciate those
6 requests. I have some questions about that when I get
7 to price. Let me just, if I can, stay with this to
8 try and understand where the U.S. competes with the
9 subject product.

10 This report indicates on page 29, now, Ms.
11 McCord, this is for Dupont, it says that DuPont has
12 reported they only produce PVA with the hydrolysis
13 between 95 and 100 percent.

14 Is that an accurate description?

15 MS. McCORD: Yes, that's correct. It's what
16 is called fully hydrolyzed PVA. That's what our plant
17 makes.

18 CHAIRMAN OKUN: Okay. And then in terms of
19 again what that means for where DuPont competes, does
20 the product line, the product line you carry compete
21 with PVA with a hydrolysis below those numbers? And
22 if so, on what occasions?

23 MS. McCORD: We make a particular product
24 called -- it's also referred to as a copolymer. It's
25 different from the specialty copolymers that were

1 being talked about earlier, but we make what's called
2 a copolymer that we sell into the textile mills. For
3 the most part that competes with what's called a
4 partially hydrolyzed PVA that may be produced by some
5 of the other producers of PVA, and that would be PVA
6 in the range of say 85 to 88 percent hydrolysis, so in
7 that case that would compete with it,

8 But our fully hydrolyzed at 97 to 100
9 percent, you will see that in PVB applications. You
10 will see that in paper applications, and you will see
11 that in a small amount of the adhesive applications,
12 and then again you will see our copolymers in textile
13 applications.

14 CHAIRMAN OKUN: Okay, appreciate that just
15 again to help me better understand the products here.

16 Let me also ask you, Ms. McCord, you talked
17 in your testimony about the qualification process, and
18 the staff report also goes through the qualification
19 process, but I want to understand what you were
20 saying, because you had noted that you can have very
21 rapid qualification. I think you noted in an
22 afternoon, or it could take several months, and just
23 for both the companies if you could tell me is that --
24 does that depend on like the textile application you
25 qualify quickly versus, you know, PVB, or does it

1 depend on the applications? And if so, tell me how
2 that works, what is different.

3 MS. McCORD: I think it does depend on the
4 application, and for example, I would say that PVB
5 might be more in the range of three months whereas
6 perhaps some adhesive formulations, if you are just
7 simply changing the PVA, and you would have what we
8 would call a direct drop-in replacement, so that's our
9 product match or the specifications of someone else's
10 product they are just dropping it in. They are going
11 to mix up a batch of adhesive and see if it works or
12 not, and then they will say yes, this is good. It's
13 basically an afternoon or a day or a few day. It's a
14 very limited trial.

15 Some of the more critical applications may
16 take longer. They may want to run it all the way
17 through the end product to make sure that things are
18 well.

19 But again, I think you're talking in terms
20 of months. You're not talking years of qualification
21 here.

22 CHAIRMAN OKUN: Did you mention textile?

23 MS. McCORD: Textiles would take -- it
24 depends on -- they make different -- you know, if it's
25 a sheet or a towel or something like that. But for

1 the most part you can qualify in textiles -- I am
2 going to put a number on this -- a couple of weeks.

3 CHAIRMAN OKUN: Mr. Chanslor, any other
4 information on that?

5 MR. CHANSLOR: I think just generally in
6 response to your earlier question just to make sure
7 that we don't confuse matters here. We make a wide
8 variety of products, and we run into the subject
9 importers in virtually every segment of the industry.

10 And in terms of the qualification, we used
11 to think that qualification was -- you know, was a
12 significant issue with a number of the customers that
13 we have, particularly in some of the higher end uses.
14 But I think what we have found today is that basically
15 price is the ultimate decider, and qualifications can
16 take place pretty much very quickly if there is enough
17 driving force to do it.

18 CHAIRMAN OKUN: Okay, I appreciate that. My
19 red light is on. I'll turn to Vice Chairman Hillman.

20 VICE CHAIRMAN HILLMAN: Thank you, and I
21 would join my colleagues in thanking this panel. We
22 very much appreciate your time and all of the
23 information both in the prehearing briefs and what we
24 are getting this morning.

25 I guess I want to follow up a little bit in

1 between the questions of Commissioner Miller and
2 Chairman Okun, and understand a little bit more about
3 this product. But I am also wanting to understand
4 that from the production sort of cost side of it.

5 Mr. Chanslor, as I heard you describe it to
6 Commissioner Miller, this is sort of a continuous
7 process, but I am just trying to understand if you are
8 producing whatever this is, Grade 325. You run the
9 equipment for so long, and kind of a batch of 325, and
10 then you make these adjustments in the process and run
11 something else? I'm trying to understand how you
12 distinguish from one product from another in terms of
13 grade.

14 MR. CHANSLOR: For the base grades of the
15 products, it's really just the conditions at which you
16 run the equipment. You don't necessarily do anything
17 before or after that's different from one base grade
18 to the next. It's just the conditions under which you
19 run that product. And depending on what kind of
20 properties that you're after, a product may run a
21 little faster or a little slower through the
22 production line, but the fundamental unit processes
23 are the same.

24 VICE CHAIRMAN HILLMAN: Okay, but you don't
25 stop and then start another product?

1 MR. CHANSLOR: No. Our systems are all
2 continuous, and so basically just transition from one
3 grade to the next.

4 VICE CHAIRMAN HILLMAN: Okay, then tell me
5 on the cost side are there certain grades that are
6 more costly for you to produce?

7 MR. CHANSLOR: The fundamental science and
8 the fundamental usages is pretty much the same. Where
9 you see a cost differential is if you're producing a
10 product that, for example, is virtually fully
11 hydrolyzed. You may have to run that product longer
12 through your facility.

13 So if you look at, you know, profitability
14 for production time on a piece of equipment, depending
15 on the nature of the properties you may get more
16 product through your equipment over a course of a
17 period of time in one case than you do the other.

18 But as far as the amount of energy or other
19 kinds of things that you use, there is not that much
20 difference.

21 VICE CHAIRMAN HILLMAN: Okay. Now, would
22 those slightly higher costs for some of the products
23 that takes longer to run through your equipment
24 translate into higher prices for that product?

25 MR. CHANSLOR: We would like to, but no,

1 they do not. So basically --

2 VICE CHAIRMAN HILLMAN: So the prices differ
3 depending on the market segment that it's sold it;
4 it's not depending on the cost of production to you?

5 MR. CHANSLOR: That's correct. The price is
6 driven by market dynamics and not by the cost of the
7 product today.

8 VICE CHAIRMAN HILLMAN: Okay. Mr. Laub, if
9 I can go back to you on the distribution end of it.

10 First, can you tell me the source of the
11 products that you distribute?

12 MR. LAUB: Predominantly we get our product
13 from Chang Chung Petrochemical in Taiwan.

14 VICE CHAIRMAN HILLMAN: Okay. You get all
15 of it from there or that's --

16 MR. LAUB: No, no, there are occasions where
17 we have to go out and source the product from a
18 multiple range of suppliers.

19 VICE CHAIRMAN HILLMAN: Okay. Okay, and
20 that has always been the case, you have always been
21 sourcing from Taiwan?

22 MR. LAUB: We started with them in 1978.

23 VICE CHAIRMAN HILLMAN: Okay. And can you
24 describe for me the various -- from your perspective,
25 the various market segments for PVA in terms of the

1 hierarchy of value added?

2 MR. LAUB: Okay.

3 VICE CHAIRMAN HILLMAN: I mean, I'm just
4 trying to understand this.

5 MR. LAUB: I understand.

6 VICE CHAIRMAN HILLMAN: I heard Mr.
7 Chanslor's response to Chairman Okun in terms of, you
8 know, it sort of depends on the relative value of the
9 product to their end use.

10 But from your perspective what is the --

11 MR. LAUB: Okay.

12 VICE CHAIRMAN HILLMAN: -- highest and then
13 sort of rank them for me in terms of market segment
14 value added.

15 MR. LAUB: Okay. We don't have very much
16 experience with the PVB industry. We do not have any
17 relations. With, of course, DuPont, they produce
18 their own. With Solutia, we have not contacted them
19 for many, many years already. So I can only comment
20 on those industries that we do participate in.

21 I would say probably the paper industry is
22 the one that you would say pays top dollar, I mean if
23 that's the best way to characterize it. And then
24 working down the ladder you would have the adhesive
25 and emulsion people, then you would have the textile

1 mills, and at the very bottom you would have the
2 textile compounds.

3 Let's see, the construction industry would
4 be also in the higher range of products because they
5 require extra handling in order to get them the
6 product that they need. In the construction industry
7 they require what's called an S-type material, which
8 is a finely ground product, so it has to go through an
9 extra process in order to get them the material that
10 they need.

11 VICE CHAIRMAN HILLMAN: Okay. And from your
12 perspective then as a purchaser, when you are
13 purchasing product you are purchasing it by grade. In
14 other words, your supplier doesn't necessarily know
15 the end use to which you're selling it?

16 MR. LAUB: No, that's inaccurate. What we
17 try to do is be fair with the manufacturer. And based
18 on the segment that the material goes to, we advise
19 them accordingly, and our price is affected that way.

20 VICE CHAIRMAN HILLMAN: Okay. So in other
21 words, you're not just saying I need so much of X
22 grade product.

23 MR. LAUB: No.

24 VICE CHAIRMAN HILLMAN: And then you make
25 your own decision about who you are selling it to.

1 MR. LAUB: That's correct. Usually when we
2 order product we will give the manufacturer some sort
3 of indication as to the industry it's going to. Then
4 that price for that particular grade will then be
5 affected. So it's very possible we can have what we
6 call our let's say BPO-5. When we buy it from the
7 manufacturer we could be buying it at two different
8 prices.

9 VICE CHAIRMAN HILLMAN: Okay.

10 MR. LAUB: He relies on our credibility to
11 give him accurate information.

12 VICE CHAIRMAN HILLMAN: What is to stop you
13 from telling everybody I'm buying it for textile
14 compound since that's the lowest value added --

15 MR. LAUB: Right, it's a very good question.

16 VICE CHAIRMAN HILLMAN: -- and then turning
17 around and selling it to the paper industry?

18 MR. LAUB: Right, that's a very good
19 question. But we realize that our business is based
20 on our relationship with our suppliers. And if we do
21 not treat them fairly, we will not have a supplier.

22 VICE CHAIRMAN HILLMAN: Okay, now would you
23 say that's typical of distributors?

24 MR. LAUB: Yes.

25 VICE CHAIRMAN HILLMAN: It strikes me as

1 sort of an odd arrangement when you have to tell them
2 ahead of time who you're going to sell it to and
3 they're going to charge you more for the same product
4 depending on who you're selling it to.

5 MR. LAUB: I can't explain the reality of
6 what it is. That's just the way the market has
7 evolved.

8 VICE CHAIRMAN HILLMAN: And you would say
9 all distributors do it the way that you do it?

10 MR. LAUB: I can't answer for other
11 distributors.

12 VICE CHAIRMAN HILLMAN: Maybe I can come
13 forward to the industry folks.

14 First of all, would you agree with this
15 hierarchy in terms of: Is there a paper and to some
16 extent building being kind of near the top of the heap
17 going down through adhesives, emulsion, textile mills,
18 textile compounders? Is that the kind of hierarchy?
19 Would you agree with that, or would you change that
20 hierarchy from your perspective in terms of the
21 relative value of those segments?

22 MS. McCORD: I would agree with that as a
23 basic hierarchy. PVB, in terms of value added to that
24 final product, should be at the top or close to the
25 top. It is not.

1 VICE CHAIRMAN HILLMAN: Had it been
2 historically? Mr. Welch, go ahead.

3 MR. WELCH: I'm Jack Welch and I'm the Vice
4 President in DuPont that's responsible for Kathy's
5 business, PVA and VAMM, as well as the PVB business in
6 DuPont.

7 Historically, that PVA for PVB has been
8 somewhere between the textile and adhesives
9 application in terms of pricing. Right now, it's
10 right down against the textile pricing. So it has
11 fallen in its value relative to the other segments
12 over the last several years.

13 VICE CHAIRMAN HILLMAN: That's helpful.

14 Mr. Chanslor, would you agree with this?
15 Would you have any other comments to make on it?

16 MR. CHANSLOR: I think the hierarchy that's
17 been described is pretty consistent with the value
18 that you would look at bringing to those industries.
19 I think what we would all say today is that what we're
20 seeing in the market today is that whole spread is
21 collapsing and it's becoming very difficult to tell
22 any difference between one segment versus another.

23 VICE CHAIRMAN HILLMAN: Do you all sell
24 through distributors to some degree?

25 MS. McCORD: DuPont uses basically one

1 distributor and it's a very, very small amount of
2 material.

3 VICE CHAIRMAN HILLMAN: Mr. Chanslor, do you
4 sell through distributors at all?

5 MR. CHANSLOR: We have one distributor that
6 we use here in the U.S. for a very small amount of
7 product.

8 VICE CHAIRMAN HILLMAN: Does it work the way
9 Mr. Laub described? Your distributor tells you: I
10 need whatever, Grade 325, whatever it might be, and I
11 am going to sell it to X customer? I'm going to sell
12 it into the textile segment or -- do your distributors
13 tell you that?

14 MR. CHANSLOR: We work very closely with the
15 distributor in terms of the markets and the customers
16 that they are selling to. We are very much aware of
17 where it's going and what's needed by the customer.

18 At least I can speak on behalf of Celanese.
19 Because, as you look at a different type of customer,
20 you need to understand what those range of properties
21 that we talked about that they have. And because we
22 like happy customers, we want to make sure that we
23 stay involved in the technical support and other
24 activities associated with meeting that customer's
25 needs. So it's almost a requirement for us to have

1 that basic knowledge in order to be sure that the
2 customer gets what they need.

3 VICE CHAIRMAN HILLMAN: Ms. McCord, just
4 because I've heard a few comments from the others.
5 From your perspective, what makes some PVB higher
6 value than others? I mean: If it's physically the
7 same product, I'm just trying to understand what makes
8 it higher value to the paper folks than -- if it's
9 physically the same product, why is it a higher value
10 to the paper folks than --

11 MS. McCORD: The PVA? What makes the PVA
12 more valuable?

13 VICE CHAIRMAN HILLMAN: Yes.

14 MS. McCORD: It's really I think the nature
15 of the application. For example, in textiles, what
16 happens is it's mixed in, the PVA is mixed in with
17 starch and other things. It's basically used as a
18 sizing, so that you can weave the threads more
19 rapidly.

20 VICE CHAIRMAN HILLMAN: Textiles -- Is it
21 applied at the yard stage or applied after the fabric
22 is woven?

23 MS. McCORD: It is applied as it is --
24 before it's being woven; and, as it's being woven,
25 it's what they call slashed. So, then, it improves

1 the weaving efficiency so you can weave it more
2 frequently. Then it's washed off. So, in the end, it
3 ends up coming off the product.

4 What it gives the textile manufacturer is
5 weaving efficiency. That's what it provides him. So
6 how many stops he can avoid, et cetera, is what your
7 textile manufacturer wants to do.

8 But in paper, and there are multiple
9 locations for paper, you may be applying it to help
10 lay down fibers on a cardboard box or something so
11 that you can print on it and make it look nicer. We
12 really look at it and say: What percentage of the cost
13 is that to the final operation at your customer and
14 what can they afford to pay? What is the value of
15 that?

16 If it's very important that the fibers are
17 laid down properly, so they can get a nice print and
18 get a good package, I think that has higher value than
19 perhaps making sure that the weaving without X number
20 of stops. So that's really what's happened. I'll
21 tell you that the prices in the textile industry and
22 in all of the markets, as Fred as said, are basically
23 coming down here in the U.S. to almost a single price.

24 VICE CHAIRMAN HILLMAN: I see that the red
25 light is on, so I thank my colleagues for their

1 indulgence. Thank you.

2 CHAIRMAN OKUN: Commissioner Miller?

3 COMMISSIONER MILLER: Thank you, Madame
4 Chairman.

5 I have questions on our pricing record but I
6 think I actually should do the China question before I
7 get to that. Because we all know that this case is in
8 a unique posture, I think, in terms of the way it
9 looks at this point because of the split investigation
10 and the nature of the different kinds of imports.

11 So, Mr. Greenwald, this is your opportunity,
12 if you would like to take it, to elaborate on how we
13 view, and I understand obviously all parties agree
14 imports from Sinopec Sichuan Vinylon are not eligible
15 for cumulation. We understand that.

16 We do have some other inputs. We do have an
17 "other" category in here so that raises some legal
18 questions as well, but even with respect to the
19 Sinopec Sichuan Vinylon -- what's the short name for
20 this company? What do you call it? Sichuan. Okay.
21 You have taken the position that we should consider
22 them as a condition of competition which, okay, but,
23 first of all, are they subject or non-subject?

24 MR. GREENWALD: They are subject. The staff
25 report, I think, is in error when it say sit is non-

1 subject. I assume it did that because of the rule on
2 cumulation, but the case is proceeding. In fact, I
3 can't guarantee you but I am very confident that the
4 Commerce Department's decision is going to be
5 affirmative and actually by a fairly healthy margin.

6 You have dealt with this. I think there's
7 one case in fact where there was something similar,
8 where there was a Chinese exporter that was excluded,
9 couldn't be cumulated for purposes of a truncated
10 injury determination. Then the margin for that
11 producer, I believe went from negative preliminary to
12 positive final. That's what I fully expect to happen
13 here.

14 The question you face is: Given the fact
15 that you can't cumulate, how do you treat these
16 things? They are subject to investigation. I can't
17 see how you can conclude otherwise. I believe that
18 you have to take them into account as a condition of
19 competition just as you would any other economic
20 factor and, to me, the answer is very clear. If you
21 look at Kuraray, both Japan and Germany now, and the
22 Koreans, you see a rise in imports. And the fact of
23 the matter is that the imports from those sources,
24 that additional competition, has aggravated a
25 situation that is done independently by the Chinese.

1 So you're going to have to look at two sets of
2 causation. But the context in which you look at each
3 is informed by what's happening with the other.

4 COMMISSIONER MILLER: That is perhaps the
5 answer. I wanted to understand how you felt we should
6 consider them for purposes of our causation analysis,
7 and I guess that's what you just put forward.

8 MR. GREENWALD: Unless you want me to change
9 them. (Laughter)

10 COMMISSIONER MILLER: No, that sounded like
11 the answer. I struggle a little bit with it sounding
12 a lot like cumulation.

13 MR. GREENWALD: That's right. I understand
14 that, but it's not. It's clear, unless I can do what
15 I really want to do, and we'll see whether it actually
16 will accommodate. The problem goes away, if we can
17 persuade Commerce to actually speed up the
18 bureaucracy. The record is clear. They're going to
19 know after the hearing exactly where they stand. The
20 issues are not issues of fact. They are issues of:
21 How you apply the law and how you assess allocation
22 methodologies. So it's a simple thing for them to do.

23 What I will urge them to do is to remove
24 this problem by speeding up their decisionmaking
25 process. Now that's sort of like shouting into the

1 wind. I recognize that there are some bureaucratic
2 imperatives that have a dynamic of their own, but that
3 to me would be the easiest solution.

4 Short of that, it's clear you can't cumulate
5 it, but I think it's equally clear you can't just say:
6 Well, therefore, we have to treat Chinese as non-
7 subject. If that were right, then, if Commerce came
8 out with an affirmative final, the basis for your
9 determination would be invalid.

10 COMMISSIONER MILLER: Mr. Meltzer? Turn the
11 microphone on. I don't think it's on.

12 MR. MELTZER: I'm sorry.

13 I think there's one area where the
14 cumulation is different. You're saying it's just like
15 cumulation. It's not quite in that, if you cumulate
16 the Japanese, the Korean and the German product and
17 then look at the pricing of those cumulated products,
18 you can do that separate from the pricing of the
19 Chinese product. But you can also look at the impact
20 of the Chinese product that is subject to this
21 investigation, in some basic sense, as a separate
22 causation factor; and look at the grouped imports as
23 another causation factor; and look at the pricing of
24 each group. So you get the effect of what's going on
25 in the market without going through the full

1 cumulation that you would otherwise be able to do.

2 COMMISSIONER MILLER: That's why I was going
3 to do pricing second.

4 MR. GREENWALD: Let me add something else.
5 I've been involved in some recent cases where it was
6 clear imports from one group were coming at the
7 expense of imports from another group and weren't
8 really competing with the domestic industry. That's
9 not the case here.

10 With China, you see -- the import data are
11 public. You see a drop in imports between 2000 and
12 2001 but then a rise in 2002. The other subject
13 imports are rising. It's very difficult to make an
14 argument that somehow the other imports are rising at
15 the expense of China and the competition is just
16 between China and the other imports. In fact, that's
17 almost certainly not the case. So that you don't
18 have, I don't think, quite as difficult a problem as
19 you think you have.

20 COMMISSIONER MILLER: The data is public but
21 if I look at -- I'll let you address this in your
22 post-hearing submission. The U.S. market share is
23 confidential and I'm not sure what I see in the U.S.
24 market share just in the numbers is consistent with
25 what you just said.

1 I don't know -- when you can use the
2 numbers, make the same argument.

3 On the pricing information, I know, Mr.
4 Meltzer, you referred earlier to, and in your brief
5 you reference a particular importer, making sure that
6 data is included in our pricing record. That mostly
7 has -- I don't know what I can say publicly. I know
8 you made that point.

9 But let me say, and maybe this is something
10 to say to the companies: Our current pricing in the
11 record is not exactly a record that I take great
12 confidence from for this part of the investigation.
13 You know we have very low coverage in terms of some of
14 the countries. So because of how low that coverage
15 is, frankly, it's not clear to me that I can see that
16 it backs up what I hear from the producers in terms of
17 what they're saying about price competition.

18 I guess I'm really saying the record to me
19 does not really substantiate what I'm hearing about
20 price competition with the Japanese or the Germans or
21 with Kuraray, does it? Tell me I'm wrong. Does our
22 record substantiate it?

23 MR. MELTZER: There's one further issue in
24 the product cover: the pricing data in particular
25 products.

1 If you look at product one, the textile
2 product, that's a very important product and there are
3 data in, I'm not sure how much I can say publicly.
4 One of the subject producers that fit the
5 characteristics of that product but that were
6 characterized as the product being used for a
7 different type of application. We can go into more
8 detail, but that I think will go to one of your
9 concerns about product coverage that will show pricing
10 effect.

11 MR. GREENWALD: In the post-conference
12 brief, I guess we will elaborate if we haven't done so
13 already on this one, what to us was a pretty startling
14 omission from the pricing data, and it strikes us as
15 it was both deliberate and misleading on the part of
16 the Respondent on that particular issue; and there are
17 other pricing data that in fact confirm exactly what
18 we're saying.

19 Now it is true that the pricing data are
20 sparse and it is true that there are some instances of
21 overselling. But, for example, when you look at
22 product four, we think that's instructive. We think
23 product one properly analyzed is instructive.

24 COMMISSIONER MILLER: I appreciate your
25 answers. The red light's on, so thank you very much.

1 CHAIRMAN OKUN: Commissioner Koplan?

2 COMMISSIONER KOPLAN: Thank you, Madame
3 Chairman.

4 Let me ask this of the industry witnesses
5 and what I'm going to get into at this point is your
6 exports. I'm doing that in part because Kuraray's
7 pre-hearing brief at pages 26 to 28 and Solutia's at
8 pages 20 to 24 get into the issue of U.S. exports in
9 some detail.

10 The staff report shows that the domestic
11 industry exported a large quantity of PVA in each year
12 of the period of investigation and that it increased
13 significantly over the period of investigation.

14 I'd like you to provide some detail for me
15 if you would now about these exports.

16 For example, I'm interested in more detail
17 concerning what countries you export PVA to, what
18 products you export, and how the product mix of your
19 exports compares to the product mix of your domestic-
20 merchant-market sales. Let's start with that.

21 Mr. Chanslor or Ms. McCord

22 MS. MCCORD: We do export material. In
23 general, it goes into textile applications, for the
24 most part in Asia. We sell a very small amount of
25 material in Europe and a relatively small amount of

1 material in Latin America. The bulk of the material
2 that we sell for export is textile, what we would
3 refer to as textile-grade material.

4 MR. GREENWALD: Some second grade, isn't
5 there?

6 MS. McCORD: Yes. And some second quality.

7 COMMISSIONER KOPLAN: Some what?

8 MS. McCORD: What we call second quality,
9 out of spec.

10 COMMISSIONER KOPLAN: Mr. Chanslor?

11 MR. CHANSLOR: I'd prefer to provide
12 specific details in the post-hearing brief but I can
13 give you some general perspective.

14 The grades that we export are basically the
15 same grades that we sell in the Americas. We'll
16 export for a variety of reasons. Kathy alluded to one.
17 The textile industry is obviously moving out of the
18 U.S. into other regions of the world. Our supply to
19 those businesses move with it.

20 We have a number of global customers in a
21 number of the different segments. They want to buy
22 our product not only in the U.S., but they want to buy
23 it in Europe or Asia or Latin America or all of the
24 above depending on who they are.

25 So I think there are a number of different

1 reasons why we export to the different regions. But
2 the primary point of note I think is that they're
3 basically the same grades in all cases.

4 COMMISSIONER KOPLAN: If I could pursue it
5 with the domestic producers first, Mr. Greenwald.

6 Thank you, and I would appreciate Mr.
7 Chanslor as much detail in the post-hearing as you
8 can, and Ms. McCord.

9 Let me ask some follow-ups here first. I'll
10 come back to you, Mr. Greenwald.

11 Mr, Chanslor, Ms. McCord?

12 MS. MCCORD: I'd say in Asia over the last -
13 - In 2001 it appeared to be about flat and 2002 pick
14 up a little bit. This year seems to be about as
15 strong as it was last year, perhaps increasing a
16 little bit. Again, our business in Europe is
17 relatively small and flat for us.

18 COMMISSIONER KOPLAN: Mr. Chanslor?

19 MR. CHANSLOR: I think in the initial stages
20 of ownership our exports probably increased as we
21 began to take a stronger position with some of our
22 global customers and move into markets like textiles,
23 for example, that are moving outside the country.

24 But I think if you look over the last year
25 our export rates have been fairly stable.

1 COMMISSIONER KOPLAN: Have prices in your
2 export markets been increasing, stable, or decreasing?
3 Ms. McCord?

4 MS. MCCORD: Prices in Asia change a lot.
5 We've seen prices in Europe of course fluctuate with
6 the exchange rate, but they had been going down in
7 Europe over the last few years. They have just
8 started to increase. I think a lot of that is exchange
9 rate.

10 In Asia they have been up and down, and they
11 are now coming up slightly. Prices in Asia tend to be
12 lower than in the U.S., and prices in Europe are
13 definitely lower than in the U.S.

14 COMMISSIONER KOPLAN: Mr. Chanslor?

15 MR. CHANSLOR: I think in general our prices
16 have basically declined in all the regions of the
17 world over the years that we have owned this business.
18 You'll see slight changes due to mix or occasional
19 success in getting some relief on raw material costs
20 although it's modest. But in general I think if you
21 look at our data and you look at our average pricing
22 over the ownership of this business you'll see a
23 steady decline.

24 COMMISSIONER KOPLAN: Thank you.

25 How are prices set in your export markets?

1 Ms. McCord?

2 MS. McCORD: We're a relatively small player
3 in both of those markets in Europe and Asia so they're
4 basically set by other producers and what the market
5 will bear. We are not a price leader in any sense of
6 the word over there.

7 COMMISSIONER KOPLAN: Mr. Chanslor?

8 MR. CHANSLOR: The situation's the same with
9 us. We're basically responding to the dynamics in
10 place in those various markets and Kuraray would be
11 typically the price leader in Europe. It's difficult
12 to find a price leader in China. A number of the
13 Asian producers tend to be the price leader in
14 Southeast Asia. So we basically respond to the market
15 dynamic in those regions.

16 COMMISSIONER KOPLAN: Thank you.

17 Lastly, are the sales made under short or
18 long term contracts or are they spot sales?

19 MS. McCORD: For the most part in Asia the
20 sales are made on a quarterly basis, so you agree to a
21 certain amount of pounds for a quarter.

22 COMMISSIONER KOPLAN: Mr. Chanslor?

23 MR. CHANSLOR: In large part my answer is
24 the same as Kathy's. They're typically short term
25 periods for specific volumes with the singular

1 difference for us that if it's a global customer, one
2 of our larger customers, we may have contracts in
3 place for those but they are very much in the
4 minority.

5 COMMISSIONER KOPLAN: Thank you.

6 Now, Mr. Greenwald, I have one for you along
7 the same line of questioning, so maybe this will cover
8 it for you.

9 Footnotes 1 and 2 to Table VI-2, in Chapter
10 6 and page 9 of the staff report contains some
11 information concerning export shipments.

12 In your post-hearing submission, please
13 discuss the impact this information has on the
14 Commission's analysis of the financial condition of
15 the domestic industry. I can't get into it now
16 because it's BPI but you know what I'm referring to.

17 MR. GREENWALD: I do, and we will address it
18 in detail in the post-hearing brief.

19 COMMISSIONER KOPLAN: If I could keep going
20 with my line, I will come back to you, I promise.
21 Thank you.

22 This again is for the industry witnesses.

23 When I look at the average unit value data
24 for imports reported in the staff report there's a
25 large range in the average units values with the

1 average unit values of imports from Japan and Germany
2 at the high end of the range, the AUVs of the imports
3 from Korea and Taiwan in the middle of the range, and
4 the AUVs of the imports from China at the bottom of
5 the range.

6 I'd like to hear from you as to how imports
7 from these countries compete in the U.S. market. Are
8 imports from Japan and Germany, for example, competing
9 in different segments than the imports from China?
10 Where do you compete with imports from each of these
11 countries?

12 Ms. McCord?

13 MS. MCCORD: When we see imports from China
14 we compete with them head to head in the textile
15 industry. We have certainly seen imports from Japan,
16 from Kuraray and have had to compete with them, as I
17 mentioned in my earlier testimony. At Solutia we've
18 also had to compete with imports from Japan,
19 specifically in the textile industry.

20 Imports from Korea we have seen also in the
21 textile industry. Imports from Germany we have seen
22 very actively in the paper industry. And imports from
23 Japan in the paper industry as well.

24 COMMISSIONER KOPLAN: Mr. Chanslor?

25 MR. CHANSLOR: We typically run into the

1 Chinese in the dezu segment, the paper segment, and
2 the textile blender segment, and recently also at the
3 textile mills. The Koreans we typically see in the
4 building products segment and the adhesives segment.
5 The Kuraray Japan we typically see in adhesives and
6 the PVBC business. And Kuraray Germany we typically
7 see in the paper and building products business.

8 COMMISSIONER KOPLAN: Thank you.

9 My time is up, but I'm going to ask the
10 question of you, Mr. Greenwald, because I don't want
11 to leave you out again. And then you can respond in
12 my next round because it's a follow-up here.

13 The import data in the staff report shows
14 that imports from German, Japan and Korea increased by
15 about 4.5 million pounds between 2000 and 2002, and
16 imports from China and non-subject countries decreased
17 by about 11 million pounds. Respondent Kuraray would
18 have us conclude that the increase in the quantity of
19 imports from Germany, Japan and Korea came at the
20 expense of non-subject imports and not the domestic
21 like product.

22 On my next round I'd like you to respond to
23 that.

24 Thank you very much, and I thank you Madame
25 Chairman for indulging me.

1 CHAIRMAN OKUN: I guess I would follow up
2 both with Commissioner Miller's request for the post-
3 hearing, to look at the pricing data and give us a
4 good analysis of what it does or doesn't support, and
5 I think Commissioner Koplan's questions go to that as
6 well. The questions I had earlier about where do you
7 compete with the countries and do the countries
8 compete in the same markets with each other, which
9 again, I'm not sure the record indicates that and I'm
10 trying to get whatever information from you to better
11 understand where the competition is and with who.

12 I guess I would follow up on that line, and
13 we've heard a little bit from you, Mr. Laub, in terms
14 of your distribution. But one of the things that
15 struck me in looking at this particular product is
16 that we had a situation where almost all the reporting
17 of U.S. importers indicated that they imported from
18 only one country. Which again, different for the
19 different hearing, wouldn't be the case.

20 I wanted to get the industry -- or maybe,
21 Mr. Greenwald, you're the better person to comment on
22 this. What does that mean for the nature of this
23 case? In other words, I think the Respondents have
24 argued that it's indicative of this kind of
25 specialized nature, the non-commodity nature, where

1 one country is selling to a particular end use. And
2 some of things I've heard, I would say maybe support
3 that.

4 MR. GREENWALD: I think when you look very
5 carefully at the record, it doesn't support it. I was
6 listening, you find in textiles, for example, Kuraray
7 is active, the Chinese are active, I think the Koreans
8 are active. Germany may not be but, in building
9 materials, you have an overlap; in adhesives you have.
10 Is that right, Germany, Japan, China? So there is
11 not this segmentation that the Respondents are trying
12 to say exists.

13 In addition, you have part of the sort of
14 evidence on activity at accounts. For example, in
15 terms of the Solutia account. Both Japan and Germany
16 supply their PVA for PFB, I hope this is right, in
17 Europe. I don't know, I think what Solutia may or may
18 not be doing is confidential, but none of it supports
19 the notion that the markets are segmented as the way
20 they may have been in other hearings.

21 Finally, you do have activity at accounts
22 that don't result in sales. In other words, what you
23 are seeing a lot of is: Where, for example, does Korea
24 sell? That is half of the question. The other half
25 of the question, which we have testimony that has not

1 been contradicted by anything, is: Where does Korea
2 try to sell?

3 The Korean product, the range of grades they
4 produce, is no different or not much different from
5 the range of grades that are produced in Japan or in
6 Germany or in the United States. It was true that
7 before the old antidumping order expired, Kuraray
8 Japan was very much in specialized markets. That is
9 no longer true.

10 Don't forget that what you're looking at, in
11 the data that now excludes all the specialized grades,
12 are imports of much more commodity-grade products, and
13 you see a rise in the import data from Japan. Then,
14 when you go down to the specific pricing data or some
15 other questionnaire- response data that I can't go
16 into in a public forum, you will see that the record
17 supports the testimony of Mr. Laub, that beginning in
18 May of I think 2001, Kuraray made a major switch in
19 its tactics and that more than anything else I think
20 was one of the factors that led to the decision to
21 take action.

22 MR. LAUB: Can I comment something?

23 CHAIRMAN OKUN: Yes, Mr. Laub.

24 MR. LAUB: You're viewing in the market
25 polyvinyl alcohol that I would say at least from

1 Perry's perspective, we are in what you would call a
2 protective mode. We're very,very sensitive to
3 competition. We're very, very aware of when we are
4 under attack from the subject imports, and what the
5 data may be showing are the areas of success where the
6 subject imports have been able to penetrate the
7 market. But that should not be taken as a total to
8 mean that the influence is not pervasive throughout
9 the industry.

10 We have to fight almost on a daily basis to
11 try to hold onto our accounts, and our success is the
12 reason why they're unable to show an increase in the
13 numbers that are actually coming into the country. So
14 it's not just limited to the physical data of what is
15 entering through the ports, but also the impact their
16 sales are having on our ability to maintain our
17 customers.

18 CHAIRMAN OKUN: Mr. Meltzer, you wanted to
19 add something?

20 MR. MELTZER: Yes, I'd like to follow up on
21 that.

22 You've heard both Celanese and DuPont talk
23 about the strategies that they have adopted in the
24 U.S. market, and both now have a strategy of because
25 of their high fixed costs and the economics of PVA

1 production, need to hold onto whatever business they
2 can. That means significant price erosion.

3 And with respect to, you mentioned Madame
4 Chairman, Korea and wondering about the effect of
5 Korea. As I'm sure you see from the record, Korea is
6 one of the fastest-growing elements of the U.S.
7 marketplace in terms of the growth of their sales.
8 But sales, imports are not just the whole story here.

9 I think Kathy talked about a particular
10 instance which I think is fairly common, and maybe it
11 makes sense to go into that particular case again
12 because it shows the dynamic in the marketplace.
13 Again, it's not simply commercial quantities being
14 sold at particular accounts, but it is the
15 availability of and the offers of low-priced material
16 which supplements the fast-growing rise of these
17 imports and has a further impact, particularly on a
18 U.S. industry which because of its production
19 economics feels compelled to try to hold onto every
20 pound they can possibly hold on to.

21 Maybe, Kathy, you can go into that,
22 examples.

23 MS. McCORD: Yes, as I mentioned earlier,
24 just less than a month ago at one of our paper
25 accounts we were told by the purchasing director that

1 he had an offer from Kuraray Germany at about 18 cents
2 a pound below ours, and it's a relatively small amount
3 of volume that we have there. He said: What do you
4 intend to do? We were trying to raise price because
5 of the significant cost increases we've seen and he's
6 looking for us now to reduce our price.

7 That was from Kuraray Germany. But as I
8 mentioned earlier when the initial dumping order came
9 off several years ago, Kuraray Japan and Nipon Gosai,
10 it really appeared like they were driving down I-95 on
11 the east coast and they just decided to go into every
12 paper account on the east coast and ended up reducing
13 our price by 30 percent at three different accounts in
14 order to retain our business. We didn't lose a pound
15 of business. But we lost 30 percent of our price.

16 CHAIRMAN OKUN: Hearing about the attempted
17 price increase, it reminded me I wanted to go back
18 both to you and Mr. Chanslor to the extent that you
19 have mentioned the attempt to raise prices in the most
20 recent time period. If you could, I don't believe we
21 have that information on the record on specifics of
22 whether a price did or did not stick; and, if you
23 could, whatever you could give us on that I believe
24 would be helpful, Mr. Greenwald, for post-hearing.

25 CHAIRMAN OKUN: I'm going to be out of time

1 and I haven't gotten to captive production. Just
2 quick things then.

3 Mr. Greenwald, I just want to be sure that I
4 understand. Your argument now is that you would have
5 Solutia excluded from the domestic industry as a
6 related party. That that's --

7 Use your microphone please, Mr. Meltzer.

8 MR. MELTZER: Yes. I think we stated in the
9 brief that that is a basis for exclusion as well as
10 the fact that the captive consumption provision should
11 apply in this case. I think there was some question
12 during the preliminary stage about one of the factors
13 that go into captive production and I think the record
14 now has clarified that point and it's pretty clear as
15 to the application of that provision.

16 So our --

17 CHAIRMAN OKUN: I personally still have some
18 questions about the applicability, but the red light's
19 on, so, if my colleagues don't go charging into that
20 one, I will.

21 Let me turn to Vice Chairman Hillman.

22 VICE CHAIRMAN HILLMAN: I am always tempted
23 but you know what: I will wait and hear the responses
24 I guess because I would like to go back to a couple of
25 these things and again get to this competition, et

1 cetera.

2 I guess I first want to start -- again this
3 is this issue of I'm trying to square, to some extent,
4 the story that I'm hearing; and, then, trying to make
5 sure I feel like it's supported in the record that we
6 have in front of us.

7 Maybe I want to start first with -- again,
8 the question is going to some extent to the volume and
9 the impact of the imports.

10 In your brief, you indicate that the decline
11 in the domestic industry's commercial shipments
12 between 2000 and 2001 was, as you put it in the brief,
13 directly attributable to low-price subject imports.
14 Yet I have to say I'm looking at a fairly-to-very-
15 large decline in domestic shipments between 2000 and
16 2001; and a relatively modest, quite a bit less than
17 this decline in shipments.

18 I just trying to understand how I square
19 your statement that the big decline in shipments is
20 due to imports, but the decline in shipments is here
21 and the increase in imports is quite a bit smaller.

22 MR. GREENWALD: There is a decline in
23 marketing. One of the dangers you face in appearing
24 before you all is not to overstate things. I don't
25 think you can say that everything that is sort of

1 adverse to the U.S. industry is related to subject
2 imports.

3 When you talk about decline in U.S. industry
4 shipments, and which years were you using? 2000,
5 2001?

6 VICE CHAIRMAN HILLMAN: Again, I'm taking it
7 from your brief. You said between 2000 and 2001.

8 MR. GREENWALD: Right. What you find there
9 is that there were different, I think Celanese was
10 direct and they said that they pursued the strategy of
11 trying to maintain price and that this had a very
12 sharp impact on operations. Part of that impact is
13 directly attributable as we say, and I believe
14 Celanese will confirm, to subject imports which rise.

15 Again, I don't want to overstate it. I
16 think it would be a mistake to say everything is.

17 VICE CHAIRMAN HILLMAN: All right.

18 Then Mr. Laub, if I can come back to you to
19 try to understand again this issue of sort of what's
20 going on in the volume of the market. Because you
21 said that you source from Taiwan. If I look at
22 imports from Taiwan, they've come down pretty
23 substantially between 2000 and 2002.

24 MR. LAUB: That's correct.

25 VICE CHAIRMAN HILLMAN: A fairly significant

1 decline.

2 I'm trying to understand again what in your
3 view caused this decline in imports from Taiwan. What
4 impact do you think imports, and again specifically
5 from China, from Germany, from Japan and Korea have
6 kind of on your sales on imports from Taiwan?

7 MR. LAUB: We service our customers with, I
8 guess I'll say within the specification range of what
9 they require. We primarily get our material from
10 Taiwan but there are opportunities, or I should say
11 reasons for us why we sometimes have to source the
12 product outside of what we would consider our primary
13 channel.

14 The fact that we multiple source gives us a
15 greater flexibility to service our customers. It
16 gives us the ability to make sure that our inventory
17 levels are appropriate in order to handle their
18 requests. But as a whole when we take our business
19 and how we sell to our customers and then we look at
20 the competition that we have to face, it makes a
21 difference to us how we source the material. The
22 problem we're running into is the competition that
23 we're facing, who's trying to take the business away
24 from us.

25 VICE CHAIRMAN HILLMAN: And of these import

1 sources -- China, Germany, Japan, Korea -- would you
2 say one of them, in terms of competition with
3 Taiwanese imports, is there a particular import source
4 that you think had more of an impact on Taiwan's
5 product?

6 MR. LAUB: I don't know. We don't
7 necessarily view it as competing against Taiwan. We
8 look it as competing against Perry Chemical.

9 VICE CHAIRMAN HILLMAN: Okay.

10 MR. LAUB: Perry Chemical has the
11 responsibility to maintain its viability, and
12 therefore we need to stay in the game and we have to
13 compete against whoever is up against us.

14 VICE CHAIRMAN HILLMAN: I'm just trying to
15 understand. Did you feel like you felt import
16 competition more from China or more from Japan or --

17 MR. LAUB: It's hard to quantify because
18 what you find is that the competition is from
19 everybody. Meaning the Koreans are quoting, Japanese
20 are quoting, Chinese are quoting. Each customer will
21 respond back to you that he's being quoted from not
22 just necessarily one subject importer, but from
23 multiple subject importers. So it's hard to say which
24 one subject importer is one that is impacting us the
25 most directly.

1 CHAIRMAN OKUN: I guess if I can go to
2 another one of these issues of trying to make sure I
3 think the record I'm looking at is squaring with at
4 least what I think I'm hearing you say. That goes to
5 this issue, both you Ms. McCord and you, Mr. Chanslor,
6 talked about this kind of cost/price squeeze. You're
7 having these cost increases and the difficult I think
8 in the brief there was a clear indication that the
9 COGS increased from 2002 to 2001 was because of
10 natural gas costs and PVA raw materials.

11 Yet I have to say when I look at the tables,
12 and this is again a little bit tricky because of the
13 confidential nature of the data, raw material costs in
14 our data look like they went down between 2000 and
15 2001. The COGS increase was not related to raw
16 material costs, it was related to other factory costs.
17 One of the major increases in other factory costs was
18 specific to one of the producers. Again, some of this
19 is BPI.

20 But again, I'm just trying to square, I've
21 heard this testimony that suggests to me this big
22 increase in raw material costs and I'm just telling
23 you, I'm trying to square that with what I see in our
24 record which is showing declines.

25 MR. CHANSLOR: Speaking on behalf of

Heritage Reporting Corporation
(202) 628-4888

1 Celanese, we started the business in the 4th quarter
2 of 2000, and during the 4th quarter of 2000 through I
3 believe the first, second, second half of 2001 we saw
4 dramatic increases in natural gas price and dramatic
5 increases in ethylene. I'm sure our data would
6 support that.

7 In fact as I recall, I think during the
8 first quarter of 2001 natural gas hit \$10 a million
9 BTUs which is basically four times what the normal
10 average has been.

11 So we started out, we are a petrochemical
12 company and started out with the natural petrochemical
13 response. Your raw material costs go up, you raise
14 prices to compensate for those costs and we did that.
15 What we found, and I think our data supports that,
16 that we had a dramatic reduction in our sales volume
17 over the course of 2001 as a result of that early
18 strategy.

19 We were new to the business but we quickly
20 learned that the profitability of this business is all
21 about variable margin and all about capacity
22 utilization, and as a company that's back-integrated,
23 we said we need to go and regain our market share and
24 we did that.

25 What we saw as a result of that is a

1 dramatic reduction in our sales price as we went out
2 competing with the subject importers to get our volume
3 back.

4 Once we were successful in doing that, our
5 strategy has been from that forward on, maintain your
6 customer base, maintain your volumes and maintain your
7 capacity utilization.

8 VICE CHAIRMAN HILLMAN: I'm hearing you say
9 from your perspective your raw material costs went
10 very high in 2001 and then came down some from there
11 in 2002 as gas prices came down.

12 MR. CHANSLOR: I think in the latter stages
13 of 2001 and in 2002 we saw gas prices come down.
14 Again, not to historical levels, but down below the
15 peaks that we saw in late 2000, early 2001. And as
16 I'm sure the Commission knows, recently we've seen
17 that same spike in gas and ethylene prices occurring.

18 VICE CHAIRMAN HILLMAN: Beginning pretty
19 much in 2003. It didn't start at the end of 2002.
20 Okay.

21 Ms. McCord?

22 MR. CHANSLOR: It started at the end of 2002
23 and it's carrying forward in 2003.

24 If you work with national gas experts,
25 there's a reason for these kinds of trends depending

1 on weather patterns, peak utility demands and those
2 kinds of things. I think what you see now are those
3 same experts telling us that the natural gas price
4 will never get back to historical levels for the
5 reasons that currently exist today and the dynamics of
6 the market, and that we will continue to see periodic
7 peaks in gas as we saw in late 2000, early 2001, and
8 as we saw in late 2002, early 2003.

9 VICE CHAIRMAN HILLMAN: Ms. McCord, do you
10 agree with -- If there's something that --

11 MS. MCCORD: I agree with Fred. I think in
12 part, we certainly saw the decline in raw materials
13 through the first half of 2002, but raw materials
14 began climbing in about the fourth quarter, if I
15 remember correctly, of 2002, but what you see
16 happening is you've got an inventory effect. So for
17 example our inventory, a lot of the costs don't roll
18 through the inventory until about three months so what
19 you're seeing hit is in the first quarter of 2003 are
20 costs from the end of 2002. We really won't see the
21 February, the peak natural gas prices that occurred
22 here in February of this year, we won't see roll
23 through our inventory until about May, this month.

24 VICE CHAIRMAN HILLMAN: Mr. Greenwald,
25 because you do have access to the BPI data, I would

1 simply ask you to take a look. Again, what our data
2 shows in terms of what has happened to raw material
3 unit COGS over this POI and see if you can help me
4 understand how that squares with the testimony that
5 I've just heard.

6 MR. GREENWALD: We'll be happy to do that in
7 the post-hearing.

8 VICE CHAIRMAN HILLMAN: As a follow-on to
9 that because it's also BPI, respond to the analysis
10 set out in Kuraray's brief, Exhibit 7 of their brief,
11 relating to the industry's financial performance. In
12 other words, it is sort of getting at this issue and
13 at this company-specific issue.

14 MR. GREENWALD: Absolutely.

15 VICE CHAIRMAN HILLMAN: If you could please
16 help me understand how I square that with the
17 testimony?

18 MR. GREENWALD: Definitely.

19 VICE CHAIRMAN HILLMAN: Thank you.

20 CHAIRMAN OKUN: Commissioner Miller?

21 COMMISSIONER MILLER: Thank you, Madame
22 Chairman.

23 Kind of cleanup things here.

24 One, Mr. Greenwald, in my last question,
25 with respect to China, you referenced a case, you

1 cited a case but you didn't give us the name. If you
2 don't have it now, you can give it to us in your post-
3 hearing submission.

4 MR. GREENWALD: We'll do that.

5 COMMISSIONER MILLER: Also, for purposes of
6 the post-hearing submission, we do have this question
7 of the imports from China other than the Sichuan
8 imports and exactly how you think, I'd like you to
9 address exactly how we handle those at this stage. Do
10 we cumulate them?

11 It's sort of a whole other -- I'm intrigued
12 by the Chairman's reference to going into captive
13 production because I was just going to ask you to do
14 it in your post-hearing submission. The related
15 party issue and the captive-production issue, while I
16 recognize you address them in your brief, you
17 basically address them in your brief in the way that
18 sort of says decided. I think I would like to hear
19 more elaboration on the point.

20 On related party -- for example in terms of
21 how the Commission has actually applied the provision,
22 and based on its past application of the related party
23 exclusion whether you think Solutia, excluding Solutia
24 would be consistent with the Commission's past
25 practice.

1 And on captive production, whatever the
2 Chairman doesn't do -- you can put in your post-
3 hearing submission I could say. Although I won't pass
4 the buck so totally.

5 And only because Mr. Greenwald, particularly
6 on factor two on the issue of predominant material,
7 you in the past have had some interesting comments on
8 that and I recall that, I don't necessarily recall
9 exactly which case and exactly where we came down and
10 you're probably going to tell me that you lost.

11 But I do think on factor two, Solutia
12 definitely doesn't come to the same conclusion that
13 you do in your pre-hearing brief. They don't think
14 it's met still. So if you'd like to elaborate now you
15 can, or you can wait until --

16 MR. GREENWALD: I can elaborate now. We do
17 have a producer that does just what Solutia does,
18 DuPont. DuPont's analysis and DuPont's data support
19 what we said in the brief.

20 So much of this again is company
21 confidential information.

22 COMMISSIONER MILLER: Well there's also the
23 issue of how we apply the predominant material factor.
24 Value, cost, weight. We've had some interesting
25 discussions about that in the past.

1 I'll let you address it either with the
2 Chairman or in the post-hearing submission. I think
3 it's worth going into a bit more.

4 With that I think I will stop. I appreciate
5 all the answers that you've given to our questions, my
6 questions, and I thank you.

7 MR. GREENWALD: Thank you.

8 CHAIRMAN OKUN: Commissioner Koplan?

9 COMMISSIONER KOPLAN: Thank you, Madame
10 Chairman.

11 First, I want to join in Commissioner
12 Miller's cleanup. I think I join in all of that. So
13 I too look forward to receiving everything that she
14 just referred to a I'm sure she'll join in what I'm
15 about to do.

16 Let me start out now, Mr. Greenwald, by
17 coming back to you with a question that I raised but
18 didn't have the time to get your response to and that
19 had to do with subject versus non-subject --

20 MR. GREENWALD: And the notion being somehow
21 that the increase in imports from Korea, from Germany,
22 and from Japan came entirely at the expense of non-
23 subject imports.

24 COMMISSIONER KOPLAN: That's at page 16 of
25 Kuraray's brief, that's what I'm referring to.

1 MR. GREENWALD: The account specific
2 information, the description of what goes on, the
3 discussion of price as well as volume contradict that.

4 You have in the record accounts where there
5 is either a shift of volume or a price impact. That
6 does not come at the expense of non-subject imports.

7 You have activity at accounts where non-
8 subject imports aren't present. We talk about, for
9 example, that all foreign producers are to one degree
10 or another in all segments and that's right.

11 At the same time it is also true that, for
12 example, I hope the industry witnesses will support me
13 on this, imports from Taiwan and especially imports
14 from China are concentrated in the textile sector.
15 It's not exclusive. It's not this rigid segmentation,
16 but that's where they're concentrated. You would
17 expect them to go down.

18 Imports from China are less a factor and
19 imports from Taiwan are not a factor. For example, to
20 my knowledge, in the PVB market. But imports from
21 Germany or potential imports from Japan are. That is
22 again competition with the U.S. industry.

23 When you get into other market segments --
24 paper, adhesives, building materials -- what -- with
25 multiple competitors at the accounts. But on a

1 frequent basis what is happening is either a switch
2 from the domestics to subject or alternatively, the
3 price impact of the subject imports are pervasive.

4 I understand the math. I understand the
5 attractiveness of an argument which says look, an
6 increase of \$4 million, and an increase of \$11
7 million, it's perfectly clear on the math that the
8 four must have come out of the 11. That's just not
9 true.

10 COMMISSIONER KOPLAN: Thank you. I
11 appreciate that response.

12 MR. GREENWALD: May I -- unless you want to
13 ask me the question I'd like to answer -- get to the
14 issue of --

15 COMMISSIONER KOPLAN: I'm not done.

16 MR. GREENWALD: Okay.

17 COMMISSIONER KOPLAN: Go ahead.

18 MR. GREENWALD: The last time around you
19 asked a lot of questions about exports and export
20 markets. That seems to me to be one of the critical
21 questions. Your question to the industry, and the
22 industry answered, was what about your participation?
23 How does that affect your financials? How does it
24 affect the economics of your operation?

25 It is true that Respondents make much of

1 that, and what I would like to do is to turn it
2 around.

3 You have heard testimony from everybody here
4 that pricing in overseas markets is systematically
5 lower than pricing in the U.S. markets. And you have
6 heard testimony from Mr. Laub among others that after
7 the antidumping order went off part of the magnet of
8 the U.S. market was, for example, a value in news
9 pricing structure which didn't exist elsewhere, and
10 generally higher prices.

11 This case is about present injury but it is
12 also about threat of injury. What will happen, as
13 sure as day follows night, is that what you see in
14 overseas markets in terms of pricing and market
15 activity is coming to the U.S. The differential is
16 lowered. So when Respondents say look at the problems
17 there are for domestic producers in export markets, my
18 answer to that is you betcha. That is precisely the
19 threat that's at issue. The fundamental difference
20 between exports markets and the U.S. market is the
21 historical absence of any discipline of the
22 antidumping order.

23 And if in fact export market pricing
24 prevails in the United States I don't think U.S.
25 production is viable. I think it's that simple.

1 There is huge global excess capacity.
2 Something has to give. It seems to me that
3 Respondents have teed up the issue perfectly because
4 what's going to have to give if this export market
5 pricing is imported into the United States, is the
6 U.S. industry.

7 COMMISSIONER KOPLAN: Thank you for that,
8 Mr. Greenwald. I appreciate it.

9 I was going to give you a shot. It was just
10 a question of time.

11 I have four questions for the post-hearing,
12 and then I have one other that I'd like answered now.
13 But let me run through the four for the post-hearing.

14 I say post-hearing because they involve
15 business proprietary information so I'd rather get as
16 much detail as possible post-hearing and just touching
17 on it now.

18 First, Respondents argue that subject
19 imports had no significant impact on the domestic
20 industry overall condition at pages 21 to 28 of the
21 pre-hearing brief submitted on behalf of Kuraray. In
22 those pages they present three arguments to support
23 their position. Please address each of those
24 arguments in detail in your post-hearing submission.

25 Second, Respondents raise an issue

1 concerning the financial data reported by the domestic
2 producers. Please address the specific issue raised
3 in Solutia's pre-hearing brief at page five, footnote
4 five.

5 Third, Respondents argue that there are
6 "other factors" besides the volume of subject imports
7 that impact the domestic producers. One of these
8 factors is discussed in the Kuraray pre-hearing brief
9 in the paragraph beginning on the bottom of page 18.
10 Please discuss this argument in your post-hearing
11 brief.

12 Lastly, similarly, please discuss the
13 argument made by Respondents in the Kuraray pre-
14 hearing brief at pages 20 to 21.

15 MR. GREENWALD: May I just ask for a point
16 of order, perhaps from the general counsel's office
17 here?

18 One of the -- the business proprietary
19 information is one company's or the other's for much
20 of the analysis that you want. We have not showed the
21 allegations to --

22 COMMISSIONER KOPLAN: I couldn't hear that.

23 MR. GREENWALD: -- the business proprietary
24 information. We have not shown the confidential data
25 to the companies. It is their own data.

1 What I would like to have clear here is that
2 we can discuss the way in which their data have been
3 used without violating the tenets of the protective
4 order.

5 CHAIRMAN OKUN: Mr. Greenwald, what I'll ask
6 you to do is consult with the general counsel's
7 office. Ms. Alice is here, but if you do that before
8 submitting anything further, as opposed to telling you
9 at this point. But I appreciate you asking about
10 that.

11 COMMISSIONER KOPLAN: Thank you for that,
12 Madame Chairman.

13 I have one additional question. That is
14 other than, and I've heard you talk about Solutia,
15 what record evidence supports the claim that prices of
16 PV grade PVA were impacted by potential purchases --
17 potential purchases -- of subject imports as opposed
18 to non-subject imports or completion between the
19 domestic producers.

20 I'm interested in as much specificity as
21 possible other than what I already have.

22 MR. GREENWALD: Let me ask a question by way
23 of clarification. In the market for PVA for PVB
24 production, there are two U.S. accounts. One is
25 DuPont's captive production and the other is Solutia.

1 And as I understand the question, it is give us as
2 much information as you possibly can on what the
3 impact of offers for sale from subject merchandise to
4 Solutia.

5 There is no other user, I don't think,
6 there's no other user other than DuPont of PVA for
7 making PVB.

8 Thank you.

9 COMMISSIONER KOPLAN: Thank you.

10 I'll wait for the next round. I do have a
11 couple of other things. Thank you.

12 CHAIRMAN OKUN: No one wants to go outside
13 in that rain anyway so we can just stay here awhile.

14 On captive production, actually,
15 Commissioner Miller went through the things that are
16 of interest to me and you can do it post-hearing and I
17 think that's an appropriate place, but because for the
18 second factor it's not one that captive production has
19 normally turned on in the Commission's practice,
20 that's why I'm saying that you can't just treat it --
21 your treatment was it's done. There are some
22 interesting arguments, and again I have the same
23 recollection as Commissioner Miller, Mr. Greenwald,
24 that you had raised this on other occasions and I was
25 trying to remember how that fit in. Your own words

1 either help you or hurt you, I'm not sure. We'll go
2 back and find them.

3 But also, she had mentioned the cost versus
4 weight issue, look at it in a chemical case, whether
5 this is different that in some of the other cases
6 where we've applied it. We have done it in some
7 chemical cases.

8 And the other thing which I'm not sure she
9 mentioned but which interstate interested me was the
10 change in the percentages over the POI and what that
11 meant for all of this.

12 So with that I would ask for that in post-
13 hearing unless there's anything in particular you
14 wanted to say now.

15 MR. GREENWALD: If I had a clear
16 recollection of what I'd said in the past case I would
17 elaborate on it, but I'd have to go back and check.

18 CHAIRMAN OKUN: Okay. That is fair enough.

19 I would also ask, and I think this is best
20 for post-hearing, but a number of the questions that
21 I've raised and my colleagues have raised have related
22 not only to the nature of competition between your
23 companies and the foreign companies but also the
24 foreign companies competing among themselves. Of
25 course that goes to cumulation which you have to reach

1 first before you go to whether this is a cumulated
2 volume or not.

3 I note in both Petitioner's brief, in
4 Clarion's brief and in the Kuraray Respondent's brief
5 there were a number, I guess everyone trying to go
6 behind the questionnaire responses and I've heard a
7 little bit of it today in trying to tell the story of
8 what you think really is going on in this market, so I
9 would just ask that you pay particular attention to
10 that in your post-hearing brief to respond to those
11 and to give us additional information both as it
12 relates to cumulation.

13 Then I guess, Mr. Greenwald, the other thing
14 that has struck me all day is in terms of how we treat
15 China for, I mean let's assume that we take your
16 position and China's imports are -- so that they are
17 non-subject. And if and when the Commerce Department
18 makes a decision then that's when we make the decision
19 about negligibility or whatever else is called for
20 then.

21 But I guess China is out there. You look at
22 the prices in the staff report. At this point they're
23 fairly traded prices or de minimis margins and their
24 volumes, and I really think I want to hear more,
25 because then I heard both from Ms. McCord and Mr.

1 Chanslor talking about lost accounts to China, this
2 about China, this about China. And you're saying
3 their condition of competition.

4 My question is, okay, there might be a
5 condition of competition, I understand, but you've got
6 a whole other issue out there which is are the subject
7 imports that we will be voting on in the first
8 instance causing material injury to this industry?
9 And I want to hear some more elaboration on that.

10 MR. GREENWALD: I think the answer to the
11 last question is clearly yes. But I don't want to
12 mince words here. China is a great big problem and if
13 this case is not won on China an order against Kuraray
14 Japan, Kuraray Germany and Korea will restore a
15 measure of discipline to the market but it won't be
16 enough.

17 So that in a very real sense we recognize
18 that China is a problem. The case we are making here
19 is that yes, China is a problem. Yes, because China
20 is a problem the outcome of that investigation is
21 terribly important to the U.S. industry. But with
22 China in the market one way or the other, the fact
23 that Kuraray has now made a decision which we hope to
24 reverse to reenter commodity markets which it had been
25 out of, and the fact that Korea made a decision to

1 increase its shipments to the United States, is also a
2 problem, present problem and a threat of sort of much
3 worse in the future. That on its own merits an
4 affirmative decision.

5 Finally, the presence of Kuraray, other
6 Japanese producers although frankly to a much lesser
7 extent and Kuraray from Germany and the Koreans is
8 that much more difficult to absorb in light of what
9 China's been doing. There's just no way of getting
10 around that. I don't think you can ignore it.
11 Certainly the industry can't ignore it.

12 CHAIRMAN OKUN: Let me ask the industry
13 witnesses. If you're thinking about your business,
14 your product lines, and you take away those things
15 where you're talking about China, where you've
16 referenced China which I think is heavily textile. I
17 don't want to put words in your mouth.

18 Tell me whether it matters that China
19 continues in that -- In other words, if you still have
20 China are you going to get back to the accounts that
21 you think you've also got the Japanese and the Koreans
22 competing in?

23 Are there prices, anything about pricing or
24 anything else that makes you think it's really about
25 Japan or Korea, not about China?

1 It's hard to ask this question for business
2 people because I know you're just doing your business
3 and you're competing against all these guys. But I'm
4 trying to figure out what the injury is from the other
5 -- If it takes consultation, we'll go to the post-
6 hearing brief.

7 What I'm trying to get at is put aside China
8 and tell me about the others.

9 MS. McCORD: I think we're definitely
10 injured even without China. China is a huge problem,
11 but we are definitely injured without China. Some of
12 the examples I gave in paper and in textile mills are
13 not China. They are Kuraray Japan or Kuraray Germany
14 or Korea in adhesives.

15 So we're definitely injured by those three
16 countries. China just makes it so much worse.

17 CHAIRMAN OKUN: Mr. Chanslor?

18 MR. CHANSLOR: I think because the breadth
19 of our products -- We're injured by all the subject
20 petitioners and I just echo Kathy's comments that
21 China is a serious problem. It's been a serious
22 problem in the textile industry and in some of the
23 adhesives application and it's becoming a more serious
24 problem in some of the other areas.

25 But in response to your request I'll set

1 that aside and look at the other subject importers.
2 They are equally a problem. If you look at --

3 CHAIRMAN OKUN: Clearly a problem in the
4 prices they come in with? In volume? In what --

5 MR. CHANSLOR: It all takes basically the
6 same shape. We are very diligent in maintaining the
7 market share we have because it is absolutely
8 essential to any hope of reasonable financial
9 performance. So we are forced to respond when we
10 believe that we have been challenged by a customer
11 with a serious offer from a subject petitioner that
12 says when we're trying to push prices, raise prices to
13 offset the raw material costs that we've talked about,
14 and a customer comes back and tells us well Kuraray or
15 BCC Chemical has basically said they'll hold our price
16 today, they won't require the price increases that you
17 had, and they're willing to supply product from us.
18 What are you going to do about it?

19 We are convinced because of the product
20 overlap that we've discussed and the reasonable ease
21 at which a new supplier can be qualified, that if in
22 fact we don't comply we will lose volume.

23 In our case we've already experienced it
24 once when we first acquired the business and we
25 challenged whether or not some of these offers were

1 realistic threats and we found out the hard way that
2 they were in fact real. So this time around, and
3 since that original period of time in 2001, we have
4 been very diligent in protecting our market share.
5 The result of that has been clearly a continuous
6 decline in pricing since we acquired the business from
7 what other products had experienced previously and
8 what we had put in the pro forma of the business when
9 we acquired it.

10 MR. MELTZER: There is one aspect of this
11 which is almost metaphysical in that you have Chinese
12 imports and then you have the other cumulated imports
13 and somehow because of the staging of these
14 proceedings we have to deal with China later, although
15 we are pretty confident you will have to deal with
16 them as dumped products in your injury anonymous.

17 But what you're asking really is are the
18 group of Chinese, Korean and Japanese imports in some
19 way an independent cause of injury impacted by the
20 Chinese, the presence of the Chinese import, but
21 nonetheless independently are they a cause of injury?

22 I think what you have to ask yourself is
23 what is the fastest growing set of products in the
24 U.S. market and it's clearly the cumulated imports
25 from Japan, Korea and Germany. And you have to say

1 with an industry facing significant cost/price squeeze
2 with, as the record shows, the amount of excuses
3 capacity and available inventory out there from those
4 countries, what is the likelihood that if there is no
5 order or orders in this case against those three
6 companies, that those exact same trends will not
7 continue.

8 I think you have not only the macro data in
9 terms of the import trends but you have lots of
10 account specific instances where either there were
11 lost sales or far more prevalent, lots of lost revenue
12 cases, particularly attributable to Korean, Japanese
13 and German products.

14 CHAIRMAN OKUN: Okay, I appreciate those
15 comments and I will look forward to the post-hearing
16 brief going into detail on an number of the questions
17 that were raised about relating to the record to what
18 you've just been saying.

19 But let me turn to Vice Chairman Hillman.

20 VICE CHAIRMAN HILLMAN: Thank you, I hope
21 just a couple of follow-ups.

22 I'm still trying to make sure I see the
23 facts on the records in terms of this cost/price
24 squeeze.

25 Both you, Mr. Chanslor, and Ms. McCord

1 talked a fair amount about the high fixed cost nature
2 of this industry. In your brief, Mr. Greenwald, you
3 argued about capacity utilization being below what's
4 necessary.

5 Just so I understand it, and if you have to
6 put it in the post-hearing fair enough but is there a
7 general sense of how high capacity utilization needs
8 to be in this segment in order to be profitable? Is
9 there a number that you have readily in mind?
10 Obviously that may be business proprietary, but is
11 there a sense of how high does it have to be in order
12 for you to be profitable?

13 MR. GREENWALD: It depends on what prices
14 are. You can have very little capacity utilization
15 and sky high prices and you might be okay.

16 I think if I can ask the witnesses to answer
17 the question in the context of today's --

18 VICE CHAIRMAN HILLMAN: In 2001, 2002, kind
19 of what capacity utilization were you needing or
20 hoping for in terms of being profitable?

21 MR. CHANSLOR: I think I'd prefer to respond
22 to that in some detail in the post-hearing brief. I
23 think in general perhaps I can say that once we
24 reversed our pricing policy we were running at
25 exceptionally high capacity utilization. But given

1 the effect that we were seeing on pricing and given
2 the raw material costs at that time, our financial
3 performance was still unacceptable by my company's
4 standards and I think by any company standards.

5 So it clearly is a function of price and
6 volume and you have to basically establish what one is
7 and then you can determine the other.

8 MS. McCORD: We do run our plant at
9 essentially full capacity and have for many years.
10 That has been our strategy. It's been only over the
11 last several years that our financial performance has
12 become totally unacceptable in our company and that's
13 all due to price. Price and then of course the rising
14 costs.

15 VICE CHAIRMAN HILLMAN: Mr. Greenwald, going
16 back to this issue that Commissioner Miller raised
17 initially which is to some extent the paucity of price
18 comparisons and sort of what are we going to do with a
19 record that is so think on the price side?

20 You indicate in your brief to look at AUV
21 data to evaluate price trends of imports. Obviously
22 we're going to hear a little bit about whether that's
23 appropriate, particularly with respect to the Japanese
24 given that there may have been a significant product
25 shift, a mix shift in the products. I wondered if you

1 can comment.

2 Can we really look at AUVs in this case?

3 MR. GREENWALD: AUVs matters because of one,
4 if the mix is constant it obviously is informative in
5 and of itself. If the mix is not constant then it
6 seems to me there is a real question what is going on,
7 what's the range, how low are the low pricing.

8 I think with regard to the Japanese in
9 particular there is a data point in the pricing
10 analysis that should have been provided and was not,
11 and all we can do on that is talk to the staff.

12 But I think you will be able to get from the
13 record one low pricing -- basically a substantiation
14 of the story that you have heard from every witness
15 here about the change in Kuraray's tactics.

16 VICE CHAIRMAN HILLMAN: Ms. McCord, just so
17 I make sure I understand it, Solutia is arguing that
18 PVB grade PVA should be a separate like product
19 because it has more demanding performance requirements
20 among other things, and that the product must qualify
21 using various multiple separate criteria.

22 I'm just wondering, are there other PVA
23 grades or applications that require this kind of
24 stringent hence various criteria that would be
25 analogous to what you do for PVB grade PVA?

1 MS. McCORD: The PVA that goes to Solutia is
2 very, very similar to the PVA that goes to our own
3 operation. As I mentioned earlier, it's also the same
4 PVA, we can also ship that exact same PVA to paper
5 companies, to some adhesive companies and to film
6 companies. There may be tweaking here or there but
7 those changes are relatively minor. That's really the
8 gist of it.

9 VICE CHAIRMAN HILLMAN: On the issue of the
10 hydrolysis level. Are there certain market segments
11 that you are foreclosed from because you only make PVA
12 with a hydrolysis of 97 or above?

13 MS. McCORD: There are may adhesive
14 applications that we don't participate in with our
15 production from LaPorte in Texas where we make this
16 product because it requires a partially hydrolite that
17 we cannot product at LaPorte.

18 VICE CHAIRMAN HILLMAN: So adhesive is one
19 market you're not in with the product that you make.

20 MS. McCORD: For the most part, yeah.

21 VICE CHAIRMAN HILLMAN: Okay.

22 To Celanese, just to make sure I understand
23 it.

24 When you acquired Air Products, the name of
25 the products I guess were changed from Airval to

1 Celval or something else. I'm just trying to make
2 sure I understand whether that had any impact on your
3 business as opposed to Air products. I'm trying to
4 understand whether these trademark names have any sort
5 of significance, whether any of that switch would have
6 had any impact on your business as compared to when it
7 was sold as products under Air Products names?

8 MR. CHANSLOR: No, I don't believe so. I
9 think everyone was very aware of the fact that
10 Celanese had acquired the business. They were very
11 aware of the fact that we were changing trade names.
12 And also a lot of the customers that were talking
13 about it were already Celanese customers with other
14 products.

15 One of the reasons for acquiring the
16 business obviously was it had synergy with a lot of
17 our other businesses, and so many of the customers
18 knew of us, knew of the kind of quality product we
19 make for many years. So it had absolutely no impact
20 on our problems.

21 VICE CHAIRMAN HILLMAN: The last question I
22 want to make sure I understand, it may be that this
23 was folded into one of the questions that Commissioner
24 Koplan was going through, but I wasn't sure I was
25 following it all.

1 That gets to this issue of -- meaning I
2 didn't have the references to the briefs in front of
3 me. But Kuraray and Solutia have calculated these
4 alternative profit and loss figures. Again I'm trying
5 to get to this issue of making sure I understand
6 exactly from your perspective your take on this.
7 Where they're clearly taking out export sales.

8 Obviously the argument being it's your own
9 fault you're losing all this money in the export
10 markets. That shouldn't be attributable to imports as
11 a cause of injury. Some of the sales for PVBUs are
12 also taken out, getting to this argument about whether
13 PVB grade or whatever, PVB type PVA should or should
14 not be included. And then in one instance all captive
15 sales.

16 So I'm just trying to get your reaction to
17 whether, to how we should view these issues of the
18 impact of the export sales at the prices that they are
19 to sales for PVBUs or captive sales in terms of
20 looking at the profit and loss figures.

21 MR. GREENWALD: At the risk of being accused
22 of being too dismissive, those arguments are
23 profoundly silly.

24 What you have is a capital intensive
25 industry. There's enormous overhead. You've heard

1 both witnesses say you have to operate flat out or as
2 close to flat out as you possibly can. If you do not
3 participate in an export market what happens is your
4 capacity utilization goes down and all those fixed
5 costs have to be shifted to the products you sell and
6 therefore the products rise.

7 The notion that somehow any reputable
8 analyst of a financial statement would seriously
9 suggest that you can do the sort of analysis they have
10 done and reach a conclusion about what's going on in
11 the U.S. market is preposterous.

12 And more fundamentally with the export
13 market, it does make the case that so worries the U.S.
14 industry.

15 It is true that export markets are very low
16 priced markets. It is equally true that that is the
17 future. So if you look at threat and you ask yourself
18 where's the U.S. market going if there is no
19 antidumping discipline? The answer is right before
20 you. And in that sense a lot of the analysis that
21 they have offered for you in my view makes the threat
22 of injury case that we're trying to make.

23 VICE CHAIRMAN HILLMAN: I thank you for
24 those answers.

25 No further questions.

1 CHAIRMAN OKUN: Mr. Koplan?

2 COMMISSIONER KOPLAN: I've got one. This
3 will be for the post-hearing as well.

4 Which if any of the products excluded from
5 the scope of these investigations are produced
6 domestically and in what quantities? Please report in
7 your post-hearing brief the quantity of each such
8 product excluded from the scope of these
9 investigations that is produced domestically.

10 MR. GREENWALD: We will confirm this in the
11 post-hearing brief but I think I can say none. The
12 Respondents came to us with legitimate points about
13 products that U.S. didn't make and we had no interest
14 in posing any trade barriers on them. But I'll
15 confirm that in writing.

16 COMMISSIONER KOPLAN: Thank you, Mr.
17 Greenwald.

18 Now then, Madame Chairman, while I have a
19 full house and over the objection of my colleague who
20 has accompanied me to this hearing.

21 Today marks the last time my economist Tom
22 Vanderveen, and for today's purposes I'm going to call
23 him Dr. Tom Vanderveen because he is, will participate
24 with me at a public hearing.

25 Mid-June he will move to Chicago and enter

1 the private sector.

2 I have been extremely fortunate to have been
3 closely associated with numerous dedicated and
4 talented people since beginning my professional career
5 in this city in 1962 -- before some of you were born.

6 Tom Vanderveen ranks right at the top of
7 those associations. He began his association with the
8 ITC by working here for two summers in the early
9 1990s. One for Commissioner Carol Crawford; the other
10 for our Director of Operations, Rob Brogowski. He has
11 been with me for the past four and a half years. His
12 talent, his people skills, his sense of humor and his
13 total dedication to our mission are unsurpassed.

14 I am sure he will excel at anything he does.
15 He certainly has excelled here.

16 Thank you, Tom.

17 (Applause)

18 COMMISSIONER KOPLAN: I yield back the
19 balance of my time.

20 CHAIRMAN OKUN: I'll overlook the age joke
21 and just join you in saying that I've had the good
22 fortune to work very closely with Tom while he's been
23 here and to travel, including the great state of Idaho
24 with him and we had a good time. We'll miss him a lot
25 up here.

1 I think there might be one question I have
2 left, but it's always hard after we're thinking about
3 that.

4 Let me just ask this for post-hearing. With
5 regard to the questions that I've asked about where
6 the competition is and where these other countries
7 are, there is a Table 2-1 in the staff report, the
8 contents of which are confidential but which go to
9 this issue of end uses.

10 One of the categories is other. If you
11 could consult with your industry folks and determine
12 what these other categories might be and why the other
13 ones that we've identified that might be helpful as
14 well.

15 You'll do that for me? Okay.

16 MR. GREENWALD: Yes.

17 CHAIRMAN OKUN: The other thing, just in
18 terms of threat and I know you've addressed it in your
19 brief and I heard your last comments on threat looking
20 at export prices. But the one thing I had asked you
21 to pay careful attention to and address is again where
22 this is looking at the threat material or the
23 information we've collected from Respondents with
24 regard to capacity utilization and really the
25 percentages of home market versus export market, who

1 in this type of case that would indicate the threat of
2 increased material coming to the United States and to
3 go into that in some detail.

4 I think those were my remaining questions.

5 Let me see if Vice Chairman Hillman has
6 anything?

7 (No response)

8 CHAIRMAN OKUN: Let me turn to staff and see
9 if staff has questions of this panel.

10 MR. DEYMAN: I'm George Deyman, Office of
11 Investigations.

12 A question has arisen as to whether imports
13 from the non-subject countries Italy and the United
14 Kingdom entering under the tariff provision for
15 polyvinyl alcohol are indeed the types of polyvinyl
16 alcohol covered in these investigations.

17 Those two countries account for about ten
18 percent of total imports.

19 Staff is examining this matter, but do you
20 recommend that imports from Italy and the United
21 Kingdom be excluded from the import data and
22 consumption data in the final staff report? If so, do
23 you have any basis or any evidence for recommending
24 that?

25 You can answer in the post-hearing brief if

1 you wish.

2 MR. GREENWALD: I think the answer is we do
3 believe that a very large portion, if not all of that,
4 is material that's been excluded, specialty grade. We
5 will try and get you corroborating information from
6 the business.

7 MR. DEYMAN: Mr. Chanslor, you mentioned I
8 believe that the products that you export are in the
9 same range of grades as the products that you produce
10 and sell in the United States. Is that correct?

11 MR. CHANSLOR: Yes, that's right. We don't
12 necessarily export all of the grades, but many of the
13 grades we export are -- We don't make any grades
14 specifically for export.

15 MR. DEYMAN: Then would you say that your
16 average costs for the PVA products that you export are
17 essentially the same as the average costs for the PVA
18 products that you sell here?

19 MR. CHANSLOR: Let me refer back to a
20 statement I made earlier today. The fundamental
21 difference between cost of the various grades is how
22 long it takes in the production equipment to produce
23 that specific grade, and that is a direct relation to
24 the physical properties that you're trying to achieve.
25 So that's really the predominant difference in cost.

1 And for the most part it's relatively small.

2 MR. DEYMAN: Ms. McCord, would you agree
3 with that from Dupont?

4 MS. McCORD: Yes. We don't sell our full
5 line of products. We sell predominantly in the
6 textile industry in Asia. It is for the most part the
7 normal costs but we are selling some second quality
8 material which although it carries the same cost
9 doesn't have the same specifications.

10 MR. DEYMAN: In order to increase our
11 pricing coverage staff would like the parties to give
12 to the staff pricing data on one new product. That
13 product would be PVA for use in paper applications
14 with a range of hydrolysis between 95 to 100 percent
15 and a viscosity between zero to 19.

16 We would need price and quantity information
17 quarterly from January of 2000 to December of 2002
18 just as we asked for the other pricing products. We
19 need those from the petitioners and also from
20 Respondents here representing importers from the
21 subject countries.

22 If you could provide them if possible in the
23 post-hearing brief, but if necessary we'll take them
24 after that time period.

25 Do you think you could do that

1 MR. GREENWALD: What you're doing is you are
2 asking for product as I understand it that is used in
3 various applications and you want it just on paper?

4 MR. DEYMAN: I believe that's a product
5 which you had brought up to the staff early on in the
6 investigation, a product that we did not accept in the
7 first place but now we feel we need it.

8 I think you specified paper. If that is
9 incorrect, maybe we can --

10 MR. GREENWALD: Let us answer the question
11 as it was posed, and then if it turns out this is one
12 of these products that's sold into multiple
13 applications we'll let you know.

14 MR. DEYMAN: Very well.

15 The market share of the subject imports,
16 that is the imports from Germany, Japan and Korea, has
17 increased between 2000 and 2002. The market share
18 itself is business proprietary. But I think it can be
19 characterized as not a very large increase in market
20 share.

21 Is it your argument that you are injured
22 more on price than on volume from these companies?

23 MR. GREENWALD: It's a combination. I don't
24 want to get into a debate on the record with you. I
25 don't think it's appropriate.

1 When you say it's not a very large increase
2 are you taking percentage terms or are you talking in
3 absolute amounts?

4 Let's not answer that, but the question, the
5 way the question was phrased is the sort of thing that
6 deserves a response.

7 It's both price and volume -- the testimony
8 has been consistent from everybody including from Mr.
9 Laub. You have activity across the board you have,
10 except for Celanese's effort to try and maintain
11 production which was not a happy experience, a
12 decision by the United States industry to keep the
13 plants running. Therefore, pricing and what has
14 happened to prices matters a great deal.

15 You have account-specific activity, product
16 specific activity that is directed at sales, but not
17 directed at offers. Therefore it is sort of
18 necessarily limited.

19 The short answer is it's both quantity and
20 price.

21 MR. DEYMAN: Would it be fair to say that
22 since DuPont produces in the 97 to 100 hydrolysis
23 level that it competes relatively less against the
24 subject imports from Germany, Japan and Korea than say
25 Celanese which produces at all the ranges of

1 hydrolysis levels which the subject imports are coming
2 in.

3 MR. GREENWALD: The short answer is no. I
4 don't know the extent to which we've been affected at
5 getting through the testimony. What you heard from
6 Ms. McCord was that there is a difference i adhesives.
7 They are limited there. But they have a fully
8 hydrolyzed product that is sold into textiles. I hope
9 I get this right.

10 They are in paper, they are in PVB, they are
11 in --

12 To the extent there is a difference it is
13 primarily in the adhesive market, but in all the other
14 markets the answer would be no.

15 MR. DEYMAN: The final question I have is
16 for Mr. Laub.

17 Sir, do you buy PVA from DuPont and Celanese
18 also or do you only import the products?

19 MR. LAUB: We also will buy from DuPont and
20 from Celanese Yes.

21 MR. DEYMAN: Have you seen price competition
22 in specific instances where products that have DuPont
23 or Celanese could or could not meet the import price
24 and could you elaborate on that if possible.

25 MR. LAUB: I just have to show I understand

1 the question. If you could repeat it, I will
2 definitely respond.

3 MR. DEYMAN: Are there instances where you
4 have tried to obtain PVA from a supplier, maybe a
5 foreign supplier, maybe DuPont or Celanese, where you
6 have found that the foreign supplier beat the price of
7 Dupont or Celanese and sold at a lower price and got
8 the deal, and vice versa. Are there instances --

9 MR. LAUB: Definitely

10 MR. DEYMAN: -- where DuPont and Celanese
11 beat out the foreign supplier?

12 MR. LAUB: This is a fluid market.
13 Everybody is trying to hold onto what they've got and
14 our focus is to hold onto what we've got.

15 And yes, we do come across in circumstances
16 where we cannot procure the product at a price
17 necessary in order to hold onto the business. That's
18 how come our volumes have dropped. If you look at the
19 data we submitted, you'll see over the course of the
20 past few years how volumes I think are down by about
21 25 percent because we've been unable to procure
22 product having a competitive price.

23 MR. DEYMAN: Would you say that in general
24 the prices at DuPont and Celanese, and you can answer
25 this confidentially if you wish, are equal to, higher

1 or lower than those of specific subject imports?

2 MR. LAUB: I'll respond to that in the
3 confidential brief. Thank you.

4 MR. DEYMAN: That would be very helpful.
5 I have no further questions.

6 CHAIRMAN OKUN: Thank you. Let me turn to
7 counsel for those in opposition to the imposition of
8 antidumping duties to see if they have questions for
9 this panel.

10 MR. WALDERS: We have no questions, Madame
11 Chairman.

12 CHAIRMAN OKUN: All right, then this would
13 be a good time to take a lunch break, but before we do
14 let me again thank this panel of witnesses for your
15 testimony, for your willingness to answer a lot of
16 questions, and we will see the next panel back in one
17 hour, at 1:30.

18 I will remind everyone that the room is not
19 secure and please take any business confidential
20 information with you.

21 (Whereupon, at 12:30 p.m. a luncheon recess
22 was taken to reconvene at 1:30 p.m. this same day.)

23 //

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1 CHAIRMAN OKUN: This hearing of the U.S.
2 International Trade Commission will please come back
3 to order. Madame secretary, I see that the second
4 panel is seated, are we ready to proceed?

5 SECRETARY: Chairman, if we could add
6 Sabrina Neumann as a senior economist with the
7 Economic Consulting Services and all witnesses have
8 been sworn.

9 CHAIRMAN OKUN: Thank you. Without
10 objection. You may proceed.

11 MR. GOLD: Good afternoon. I'm Mark Gold,
12 Technology Manager for Polyvinyl Alcohol and PDB at
13 Solutia. I appear before the commission as a manager
14 of Monsanto Company in the 1996 antidumping
15 investigation. I appeared again last September at the
16 staff conference. I appear before the commission
17 today in an effort to share with you on my thoughts on
18 the proceedings before you and from what I believe is
19 a rather unique perspective. You see not only is
20 Solutia a manufacturer of PVA but we are also a
21 purchaser of PVA. In the course of my 29 years with
22 Monsanto, and now Solutia, I have participated in this
23 business from many different angles. Initially as a
24 first line supervisor at Monsanto PVA production
25 facility. I have also led Solutia's polyvinyl alcohol

1 purchasing and qualification teams. As I indicated,
2 Solutia is a U.S. manufacturer of polyvinyl alcohol.
3 In fact, under ordinary circumstances, you might
4 expect to see us at the table with Celanese and
5 Dupont. Over the years, we have experienced material
6 injury caused by imports of various products and have
7 appeared as petitioners in various cases. We are
8 participating in this investigation and opposing the
9 petition for two reasons. First, the PVA that is used
10 to make PVB is a unique like product and should not be
11 part of the case. Secondly, we do not believe there
12 is any injury to the U.S. industry. The petitioner's
13 are essentially attempting to use the antidumping laws
14 to pre-empt import competition that has not existed in
15 the PVB market. Because of time constraints, I'll
16 only briefly get into the numerous facts that support
17 these arguments. But be assured that supporting
18 evidence not already presented will be provided in our
19 post hearing brief.

20 Petitioners argue that the PVA is PVA the
21 world around. That the PVA that is used for PVB
22 market, is not a distinct like product. Further, they
23 would have you think that PVA has only one or two key
24 properties to distinguish between types. They talk
25 about the degree of hydrolysis and viscosity as the

1 only variables that distinguish categories of PVA.
2 Yet the petitioners well know that many physical
3 characteristics and uses distinguish PVA products.
4 The petitioners have allowed for the exclusion of 15
5 different types of PVA, all the while maintaining that
6 all PVA is the same. Except for the differences that
7 they have endorsed. PVB market, the most significant
8 differences are not the hydrolysis or the viscosity.

9 Critical characteristics of the PVA for the
10 PVB market include ash content and color. This
11 morning, you heard Celanese describe product 325.
12 Three twenty-five designates viscosity and hydrolysis.
13 The product we by however, is 325LA. LA standing for
14 low ash. To avoid penetration from an attack in a
15 collision, the PVB must adhere to the glass. Holding
16 the pieces of glass together and expanding with the
17 blow. PVA destined for the PVB, requires extremely
18 low ash content because ash interferes with the
19 ability of PVB to adhere to glass. Without this low
20 ash content, the PVB would not adhere properly and
21 perform the safety function needed by the glass
22 industry.

23 Another major factor distinguishing PVA from
24 PVB, is the low resin color. Because the PVB will be
25 used in a windshield or laminating into architectural

1 glass, it must meet the demanding requirements for
2 optical clarity. PVA that is used for making textiles
3 or glue, would need not be optically clear. Hence,
4 the requirement of low color to provide optical
5 clarity, establishes a clear dividing line, between
6 the products covered in this investigation and the PVB
7 grade PVA that is purchased by Solutia.

8 The unique characteristics of low ash and color
9 for PVB grade polyvinyl alcohol are not easy to
10 achieve. In addition to specifying these very tight
11 quality perimeters, Solutia must subject the PVA to
12 rigorous testing in order to qualify supplier of PVA
13 for use PVB resin and film products. Starting with no
14 less than 10 tons of test material per iteration, we
15 use the PVA to produce a qualification quantities of
16 PVB sheet. This sheet, fabricated into windshields,
17 must then follow the automotive industry's rigorous
18 preproduction approval process or P-PAP, required of
19 all suppliers. During this process, the windshields
20 undergo up to two years of testing, and we perform
21 these tests for every grade of PVB we make.

22 In order to qualify an alternate PVA
23 supplier, we make a substantial investment in
24 purchasing a large quantity of PVA, interrupting our
25 commercial production and conducting the test

1 themselves. Currently, there only a handful of
2 multinational PVA producers that are capable and
3 qualified to produce PVA to the PVB specification that
4 we require. As we reported in our questionnaire
5 response, we are currently testing some PVA materials
6 that were received over 16 months ago and we are not
7 halfway through the test. These unique chemical
8 requirements of the PVA are directly related to its
9 end use. That is, PVB producers only use PVA that is
10 manufactured to the high quality standards demanded
11 for making PVB. Producers of paper, textiles, or
12 building materials do not call for low ash or low
13 resin that we call for.

14 The Commission should determine that PVA
15 used to make PVB is a unique and a distinct like
16 product. It is distinguished by its physical
17 characteristics and by its unique application in
18 laminating glass.

19 Now let me turn to the question of injury.
20 It's no secret that in the chemical industry, one
21 struggles to make money with plants running below 80
22 percent utilization. However, if you can sell enough
23 product, at almost any price to keep your plant
24 running at high utilization rates, profits begin to
25 roll in. Facilities operating above 95 percent

1 utilization make money within the same industry,
2 faster than the Bureau of Engraving and Printing.

3 So in our opinion, it is important to
4 understand that the performance of the Petitioners
5 business is directly linked to their utilization
6 rates. According to SRI'S industry and market
7 intelligence report, the petitioners installed gas is
8 the United States is more than sufficient to meet the
9 demand in this country. SRI reports total U.S.
10 capacity of 380 million pounds versus total demand of
11 only 300 million pounds.

12 Therefore Dupont and Celanese must export to
13 fill their capacity. Looking at the most recent U.S.
14 export statistics, the petitioners have increased
15 their exports of PVA by 50 percent. Exports now
16 amount to 92 million pounds, which is over eight times
17 the volume of the allegedly dumped imports. Any
18 injury caused by low prices in the exports market has
19 nothing to do with import competition or dumping in
20 the United States. To also fill PVA capacity, both
21 petitioners sell PVB grade material in the merchant
22 market. In fact there are no foreign PVA producers
23 that are currently qualified to supply our U.S.
24 facility. We have been a "buy American" producer for
25 the nearly 20 years we have been purchasing PVA.

1 From our unique perspective, that of the
2 largest purchaser of PVA and the largest market
3 segment, there can be no injury to this portion of the
4 U.S. PVA industry from imports, because we have not
5 imported commercial quantities of PVA. Since there
6 have been no commercial imports of the product that we
7 buy, there can be no injury to Celanese or Dupont that
8 have been caused by these imports.

9 Why then would the petitioners request
10 protection against PVA imports that are not occurring?
11 The answer appears to be that the petitioners want to
12 pre-empt imports in this segment of the market. To
13 understand the strategy, the Commission needs to know
14 that not only is the market for PVB growing, but is
15 poised to double in size.

16 Since 1938 laminated windshields made with
17 PVB have been mandated in the United States. The PVB
18 layer allows a windshield to absorb an impact in case
19 of a collision, minimizing severe head or bodily
20 injuries. The National Highway Traffic and Safety
21 Administration was in 2002, required by law to conduct
22 a rulemaking considering performance standards for
23 prevention of passenger ejections through the side and
24 rear windows of vehicles. Such a rule which must be
25 in place by the end of next year, could greatly expand

1 the market for PVB and therefore PVA. This change
2 could expand the PVB sheet market from approximately
3 12 square feet per vehicle to over 25 square feet per
4 vehicle.

5 Other applications for PVB include laminated
6 glasses and building construction. Architectural
7 glass imparts many security, acoustical, and energy
8 saving attributes. But laminated glass is being
9 increasingly called upon to impart a more important
10 attribute. The PVB layer adds safety against threats
11 from break-ins to bomb blasts. In fact, all new
12 federal building construction, whether its a court
13 house, embassy or military installation, requires that
14 laminated glass be used for bomb blast protection.

15 In short, the petitioners would like nothing
16 better than to restrict imports of PVA so they do not
17 face import competition in an expanding sector of the
18 market, the PVB sector. I should emphasize that
19 Solutia does not want to change our suppliers or
20 switch to imports as a source of PVA. In fact we
21 cannot qualify a new supplier rapidly. However, on
22 the heels of this antidumping case, the petitioners
23 have sought to raise prices, even in our sector of the
24 market. Because we compete with DuPont in the down
25 screen market for PVB, we cannot afford to pay more

1 for PVA without losing our competitiveness.

2 Solutia is a multinational producer, with
3 sister companies and plants in other countries. As
4 such we rationalize our production. In a sense, our
5 own plants compete with each other upon based on raw
6 material, transportation, and other costs. In fact,
7 if Solutia's plant in Belgium can obtain PVA at world
8 market prices, but our U.S. facility cannot obtain
9 comparable prices, we will be forced to shift of PVB
10 resin production from the United States to Belgium.

11 In closing, the Commission should find that
12 first PVB grade material is a unique like product,
13 defined by its optical quality and safety aspects.
14 Secondly, there are no commercial imports of grade PVB
15 material, so there has been no finding of dumping
16 based upon actual sales of this material. And
17 finally, in a business environment where they are
18 currently raising prices, looking forward to a
19 tremendous surge in demand in the PVB market and
20 increasing exports, the petitioners are not otherwise
21 injured. Thank you for your attention.

22 CHAIRMAN OKUN: Thank you.

23 MR. CANNON: I would like to add a very
24 brief footnote to Mark's testimony. In our brief in
25 Exhibit 2, in our confidential brief, we broke out the

1 impact of the export market and the PVB market on the
2 profit and loss performance of the petitioners. We
3 assigned cost to the export sales and we assigned cost
4 to the PVB market sales to indicate what happens to
5 their performance if you remove that segment of the
6 market. Because we think that otherwise the data you
7 look at would be misleading and I note that Kuraray in
8 brief in Exhibit 2B, did the same analysis. Showing
9 that sometimes the left and right hand don't know what
10 each other is doing, or at least all of us on the same
11 side of the room in this case. Our results are
12 different. I have reviewed, in detail a
13 reconciliation done Mr. Malashevich of the two, to see
14 what the difference is. The difference between the
15 two is the result of allocating SG&A charges. The way
16 I allocated SG&A charges was much more conservative.
17 The way in which Kuraray allocated SG&A charges was
18 exactly the manner in which the staff accountants of
19 the ITC in which the way they should be allocated in
20 the questionnaire response. And so, I just wanted you
21 to know that, we are in agreement. The impact that
22 export sales and PVB sales have on the profit and loss
23 of the petitioners. Thank you.

24 COMMISSIONER OKUN: Thank you.

25 MR. WALDERS: Good afternoon. Again for the

1 record, I am Lawrence Walders appearing with Maria
2 DiGuilian, Bruce Malashevich and Sabrina Neumann on
3 behalf of the Kuraray Companies. This case is changed
4 radically since the preliminary investigation.
5 Despite what Mr. Greenwald told you this morning,
6 China is out of the case. The rest of the producers
7 have raised prices and the remaining subject imports
8 account for and insignificant share of the U.S.
9 market. Yet the petitioners brief reads as if China
10 is still part of the case. Now the petitioners may
11 hope that the Commerce Department will change its mind
12 and find a dumping motion for China. The record
13 before the Commission in this
14 investigation, establishes that imports from China have
15 not been dumped. And they cannot be therefore be
16 cumulating with imports from Germany, Japan and Korea.
17 Therefore, the lost sales, lost revenues, and other
18 injuries that the petitioners allege from Chinese PVA
19 cannot be attributed to subject imports. Imports from
20 China and Taiwan are responsible for almost all of the
21 confirmed allegations of lost sales or lost revenue.
22 This is not surprising because imports from China and
23 Taiwan account for the vast majority of total imports
24 and for a far larger share of the U.S. market, than
25 imports from Germany, Japan, and Korea combined. The

1 fact that Mr. Laub is here testifying today in support
2 of the petitioners, demonstrates the significance of
3 Taiwan in this market. We believe there's no basis
4 for an affirmative finding, even if the Commission
5 cumulates all subject imports. But, we believe that
6 the Commission should not cumulate imports in this
7 case either for present or threatened injury. Because
8 the imports do not compete with each other in the
9 American market.

10 The Commission decided to cumulate imports
11 in the preliminary investigation but it stated that it
12 wanted to revisit this issue in the final
13 investigation. This is inappropriate, because the
14 record demonstrates a lack of fungibility between
15 imports from Germany, Japan and Korea. The apparent
16 overlap between imports in the broad end use
17 categories described by the petitioners is misleading.
18 The use of broad categories such as paper or even
19 other -- masks the actual differences between the
20 markets for imports from the three subject countries.
21 The evidence of these differences is discussed at
22 pages 8 to 13 of our prehearing brief.

23 MR. WALDERS: In view of the absence of
24 competition between subject imports in each of the
25 products that were selected for price comparison by

1 the Commission with the advice of the petitioners, and
2 the difference in customers' prices and specific end
3 uses. There is insufficient competition between
4 subject imports to warrant cumulation.

5 If the imports from Germany and Japan and
6 Korea are considered separately, the individual market
7 shares from each country obviously are far too small
8 to have caused injury or threat of injury. Mr.
9 Malashevich will discuss the issues of injury and
10 causation in more detail in his testimony.

11 I would just like to emphasize that it's
12 particularly important to examine the petitioners'
13 profitability data, to identify the actual causes of
14 the alleged problems. Imports play no role in free
15 markets that account for most of the petitioners'
16 sales; that is, PVB exports and internal consumption.

17 The Commission, we submit, should carefully
18 examine the importance of these markets to the
19 petitioners' overall profitability in deciding whether
20 the alleged injury can be attributed to subject
21 imports.

22 It should also consider the indications that
23 Calenese paid in excessive price for their air
24 products, and is therefore burdened with excessive
25 costs not attributable to imports.

1 The petitioners attempt to divert attention
2 from a small volume in market share of subject imports
3 by citing selected examples of underselling, lost
4 sales and so-called lost sales opportunities that they
5 attribute to subject imports. We have analyzed the
6 record on this issue in some detail at pages 32 to 55
7 of the prehearing briefs.

8 I cannot discuss the evidence at the hearing
9 because most of it is confidential, but I would like
10 to point out the petitioners' allegations based on
11 selected partial quotations from the staff report and
12 the questionnaire responses. They do not tell the
13 full story by any means.

14 Often the lost sales or lost revenues are
15 due to competition from China, Taiwan, or a domestic
16 producer. Even in the very few cases where the lost
17 sales or lost revenues can be attributed to imports
18 from Germany or Japan, the quantity and the value
19 involved is minuscule and could have had no material
20 effect on the domestic industry.

21 I now turn to Mr. Malashevich to provide
22 more discussion of the injury issue.

23 MR. MALASHEVICH: Good afternoon, Madam
24 Chairman, members of the Commission. I am Bruce
25 Malashevich with Economic Consulting Services.

1 Our prehearing brief very comprehensively
2 address all the economic arguments raised by
3 petitioners in their briefs, and effective rebuts
4 petitioners' claims of material injury on account of
5 subject imports.

6 This afternoon and considering this public
7 forum I will focus only certain major arguments
8 regarding the absence of volume effect, price effect,
9 and adverse effects of subject imports on the overall
10 condition of the domestic industry.

11 But first I would like to commend staff on
12 the thoroughness of the prehearing report. I will
13 frequently be referring to it during the course of my
14 testimony.

15 One of the many distinctions the staff
16 correctly made was the treatment of imports of PVA
17 from China as nonsubject throughout its report. In
18 our post-hearing brief we will submit a statistical
19 proof that there is no reason to change that
20 treatment.

21 My first point is that subject imports of
22 PVA from Germany, Japan and Korea, that's what I mean
23 by subject imports throughout my testimony, whether
24 assessed country by country or on a cumulated basis
25 simply were not influential in the U.S. market.

1 Kuraray's prehearing brief demonstrates that
2 the adverse volume effects attributable to those
3 subject imports were nonexistent during the POI.
4 There are many ways to demonstrate this, but let's
5 talk about market share first.

6 The market share held by subject imports has
7 been a key variable to the Commission's reasoning in
8 practically every decision that has ever been rendered
9 in an antidumping or CBD case. This case is no
10 different.

11 Then why is it that petitioners' prehearing
12 brief makes no mention of subject imports market share
13 at all until page 35? Even that mention goes only to
14 import share in the commercial market segment.

15 Petitioners' brief nowhere makes mention of
16 subject import share of the entire U.S. market. The
17 reason, of course, is that the market share of imports
18 that remain the subject of this investigation is tiny,
19 too small to have had an adverse impact on three of
20 the world's largest chemical manufacturer. Without
21 market power there can be no material injury.

22 As shown on pages Roman IV-12 and IV-13 of
23 the confidential prehearing report, whether assessed
24 in relation to commercial consumption or total
25 consumption subject imports market share was simply

1 too small to matter during the POI. Nonsubject
2 imports accounted for the majority, 75 percent, and I
3 double checked, that's a public figure, of total
4 imports in 2002, 75 percent. When combined sales by
5 domestic producers and imports from nonsubject
6 countries vastly outweighed the subject imports in
7 terms of both volume and of course market power.

8 In contrast, subject imports represent an
9 insignificant portion of the total market.

10 If you have our prehearing brief before you,
11 the confidential version, please turn to confidential
12 Exhibit 12-A as in Adam, which was submitted as part
13 of our prehearing brief. As you can see in this
14 exhibit, even when total subject imports are assessed
15 against the smaller commercial segment of the U.S.
16 market, their combined share of consumption is
17 minimal. These charts are based on 2002 data. The
18 proportions that you see were reasonably consistent
19 throughout the POI.

20 As you can see on the next page when broken
21 out separately subject imports from Germany account
22 for an even smaller fraction of the domestic
23 commercial market segment.

24 On the last page of this exhibit you will
25 likewise see that the domestic producers and other

1 imports commercial market share overwhelm the market
2 share accounted for by subject imports from Japan.

3 Next, I would like to turn your attention to
4 the matter of underselling. It goes without saying,
5 as I mentioned earlier, without credible market power
6 subject imports could not have depressed or suppress
7 domestic prices to a significant degree. Activity, a
8 word you heard frequently this morning, a very vague
9 concept on its face, activity does not constitute
10 market power.

11 The dropping of Singapore, China and various
12 products from Japan since this petition was filed
13 changed the landscape of the record of price
14 comparisons in this case. It was not any failure of
15 diligence of staff to ensure adequate coverage.
16 Extensive comments were solicited from the parties to
17 add products to the questionnaire at the appropriate
18 time. Petitioners themselves chose products 1 through
19 4 presumably based on their belief that subject
20 imports competed throughout the market, and those
21 products presumably are important. The fact is they
22 don't.

23 Please turn to confidential Exhibit 17 which
24 you now have before you. We have provided certain
25 exhibits separately from the brief for your

1 convenience of reference, I believe. You will see
2 what I believe is a very convenient summary of how
3 frequently subject imports oversold domestic
4 producers' prices where price comparisons were
5 possible.

6 Based on the record in this final phase
7 overselling by subject imports predominate. The few
8 additional data that petitioners would have you add to
9 the record would not change this landscape because the
10 sales volumes involved are too paltry to matter. This
11 and an abundance of other evidence provided in
12 Kuraray's prehearing brief show an absence of
13 significant price effects that can be attributed to
14 subject imports.

15 The record is very clear on this point.
16 Pages Roman V-7 through V-14 of staff's confidential
17 prehearing report show the limited competitive overlap
18 between subject imports and sales of domestic product
19 1 through 6. This is because U.S. imports from
20 Germany are limited to a small range of highly
21 specialized products that have no equivalence among
22 other subject imports.

23 Imports of PVA from Japan likewise do not
24 compete with imports from Germany or Korea in the U.S.
25 market. In contrast, imports of PVA from Taiwan and

1 China are the most significant source of competition
2 in the U.S. market. And examination of the
3 Commission's tradition price comparisons for evidence
4 of an impact from "price cutting" from subject imports
5 during the narrow period after the previous orders
6 were revoked in the middle of 2001 shows that
7 nonsubject imports had the greatest impact on the
8 domestic industry during the period of investigation.
9 All of that data are in the prehearing report.

10 In their prehearing brief petitioners try to
11 negotiate around the clear message that arises from
12 the record of price comparisons as a whole by focusing
13 on selected anecdotes, but their attempt fails owing
14 to the details left incomplete.

15 For example, at one point an instance
16 labeled as underselling in fact was an instance of
17 overselling. At another point a sales characterized
18 as lost actually was regained by a domestic producer.

19 The minute quantities involved in the
20 instances are simply skirted over. The Commission
21 should not be distracted by the anecdotes and instead
22 should focus on the record as a whole. This is
23 underscored by the paltry record of lost sales and
24 lost revenue allegations in this investigation. Even
25 in the very few instances where staff confirms a lost

1 sales or a lost revenue allegation of imports from a
2 subject country, the total value was insignificant
3 compared to the domestic industry's total shipments.

4 The very paltry of allegations against
5 subject countries compared to the allegations made
6 against nonsubject imports from China is yet another
7 powerful reminder that if any imports of PVA are to be
8 held accountable they are from nonsubject sources.

9 Finally, there is the issue of the domestic
10 industry's condition and the effects of subject
11 imports on that condition. From the very filing of
12 this case claims of the domestic industry's financial
13 distress have been central to petitioners' injury case
14 concerning both price effects and effects on their
15 overall conditions.

16 Considering petitioners ample time to
17 prepare their case and considering the clarity of the
18 Commission's questionnaire and staff instructions, it
19 is surprising that at this late date the petitioners'
20 data are still incomplete.

21 Please see confidential Appendix A exhibit
22 before you. This is a summary of how petitioners have
23 submitted their financial data during the course of
24 this case. Flip-flop is a word that comes to mind. I
25 draw in particular your attention to the lower part of

1 the exhibit that shows the history of the operating
2 income that's been reported, and we learned only days
3 before the prehearing brief was due that there will be
4 yet another revision that we have yet to see.

5 Thanks to the diligence of staff's
6 investigation and coming as no surprised the revised
7 data submitted thus far has painted a picture of the
8 domestic industry's financial health which is far
9 different from that portrayed in the petition, and
10 initially in the preliminary phase of this case. I
11 hope the Commission will examine the changes and their
12 implications to this case very carefully.

13 I also hope the Commission focuses on the
14 analysis summarized in confidential Appendix B exhibit
15 also now before you. From your questioning earlier, I
16 clearly already have focused on that to some degree.
17 But using the revised financial data submitted by
18 domestic petitioners to date, this is all petitioners'
19 data, I emphasize, that exhibit demonstrates the
20 domestic industry is doing quite well in the market
21 segment where the adverse effects of subject imports,
22 if there were any, presumably would be most
23 pronounced. So I believe it's highly probative.

24 This is compelling proof of the absence of
25 any casual link between the presence of subject

1 imports and adverse effects on the domestic industry's
2 overall condition. In fact, other factors, including
3 the financial impacts of Celanese's overpayment for
4 the PVA assets of air products have had much more
5 pronounced effects which now have been not only
6 confirmed, but quantified through staff's very thorough
7 investigation and those quantified amounts appear in
8 the prehearing report.

9 I submit that petitioners' economic injury
10 case on the merits has completely collapsed since the
11 Commission's initiation of this investigation. They
12 cannot demonstrate significant adverse price effects
13 or volume effects on account of currently subject
14 imports, and their case regarding financial impacts
15 has been turned on its head. A negative determination
16 is warranted.

17 Now back to Mr. Walders.

18 MR. WALDERS: Thank you. I would just like
19 to say a few words on the issue of threat.

20 First of all, even if the Commission were to
21 cumulate subject imports for the purposes of the
22 present injury analysis, it should exercise its
23 discretion not to cumulate for purposes of threat.
24 The absence of competitive overlap between subject
25 imports warrants noncumulation in the threat analysis

1 as well as in the analysis of present injury. The
2 additional factors that the Commission considers for
3 cumulation for threat purposes, similar rates of
4 increase in imports, similar margin of underselling,
5 and similar pricing patterns are not present in this
6 case. These factors are discussed at pages 57 to 59
7 of our brief.

8 When considered separately there is
9 obviously no threat of injury from imports from
10 Germany or Japan, and the same is true for cumulated
11 imports. There is no excess capacity or reliance on
12 the U.S. market in the case of Germany or Japan. In
13 both cases the producers are operating at nearly full
14 capacity, and they have always concentrated on markets
15 other than the United States.

16 The petitioners raise the specter that
17 Kuraray's acquisition of the Clariant plant in Germany
18 in December 2001 will result in a flood of imports
19 from Germany, but they ignore the fact that imports
20 from Germany dropped by 39 percent in the year after
21 the acquisition.

22 They warn that Kuraray will expand its
23 capacity and that this expansion will be directed at
24 the U.S. market. This argument is based on a few
25 articles in the Japanese press. There have been press

1 reports that expansion dating back to 2001, but to
2 date Kuraray's management has not decided to make the
3 investment in expanded capacity.

4 Even if the capacity of the German plant is
5 eventually expanded, it will not be focused on the
6 American market. KFC, that is, the German facility,
7 consumes most of its PVA internally in producing PVB.
8 The company's commercial sales have always been
9 concentrated on the European market, and that is
10 likely to continue.

11 In fact, the press report on planned
12 expansion quoted by the petitioners points out that
13 Kuraray expects growing demand for PVA in Europe.
14 Also, the substantial decline in the value of the
15 dollar relative to the euro makes the U.S. market less
16 attractive to European producers because it reduces
17 their return on sales to the United States.

18 Now, petitioners claim that prices in the
19 United States are higher than in any other markets,
20 and that that will attract increased imports in the
21 future. That's simply no longer the case as far as
22 Europe is concerned given the drop in the value of the
23 dollar.

24 In the case of Japan as well, PVA producers
25 have consistently concentrated on markets other than

1 the United States. Japanese producers have played a
2 minor role in the American market as demonstrated by
3 the low volume and market share of Japanese imports.

4 Petitioners greatly exaggerate the
5 significance of the increase in imports from Japan in
6 2002. The rate of increase is misleading because it
7 is over a very low base, and the volume of imports is
8 still quite low. The increase is of little
9 competitive significance -- this is noted in our
10 brief. Most of it is due to sales to a single
11 customer.

12 In summary, the issue here as in all cases
13 is causation. The statute and the case law are clear.
14 The Commission must carefully examine all factors that
15 may be affecting the domestic industry, and it must
16 ensure that it does not blame subject imports for any
17 injury that is due to other factors. The requisite
18 causal link is missing in this case, and the
19 Commission should therefore issue a negative
20 determination.

21 Thank you.

22 JUDGE REED: Thank you.

23 MR. McGRATH: Madam Chairman, members of the
24 Commission, I am Matt McGrath of Barnes, Richardson &
25 Colburn appearing today on behalf of Clariant

1 Corporation. With me is Mr. Jeff Saeger.

2 I just wanted to say at the outset that we
3 agree with the testimony that's been provided so far
4 by Solutia and Kuraray. It appeared from listening to
5 testimony this morning that, with respect to the
6 remaining countries that are involved in this case as
7 subject imports, the petitioners seem to be focusing
8 on the Republic of Korea and the Republic of Kuraray.
9 There are three countries here. You're not
10 investigating companies.

11 The claim that somehow Kuraray's ownership
12 of a plant in Germany is part of a large legally
13 significant aspect of your investigation is
14 fallacious.

15 I would like to turn it over to Mr. Saeger
16 to describe why we believe Germany should not be
17 cumulated with the other subject imports with respect
18 to this investigation.

19 MR. SAEGER: Good afternoon. My name is
20 Jeff Saeger. I'm the product manager for Surface
21 Chemicals with Clariant Corporation, headquartered in
22 Charlotte, North Carolina. I've been with the company
23 approximately 11 years and part of that -- my current
24 position, I was technical director at a paper mill.

25 I have a B.S. in paper science and

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1 engineering from SUNY, State University of New York,
2 School of Environmental Science and Forestry. And my
3 entire professional career has been in technical and
4 sales positions concerning the paper industry,
5 especially in coatings for high-quality papers.

6 As you might know, Clariant Corp. is a large
7 U.S.-based manufacturer, especially chemicals, located
8 in Charlotte, North Carolina, employing approximately
9 2,200 American workers, 24 U.S. manufacturing
10 facilities, and has more than one billion in U.S.
11 sales. Clariant is the primary importer of polyvinyl
12 alcohol from Germany and prior to January 1, 2002, was
13 related to the PVA Manufacture Company, now owned by
14 Kure.

15 Clariant has focused its United States sales
16 of PVA in high-quality art paper and in paper market.
17 This includes specialized products, which were not
18 excluded from the scope of the investigation by the
19 Commerce Department; but, nevertheless, do not compete
20 directly with domestic production, imports from Taiwan
21 for DuPont, or with other imports from Japan and Korea
22 still covered by this investigation.

23 In the past, Clariant has imported PVA from
24 Germany, for the high-quality art paper market and
25 products market, and various other niche markets, such

1 as cosmetics, pharmaceuticals, films, and resins.
2 Starting this year, Clariant is only importing and
3 selling PVA from Germany, which is suitable for the
4 U.S. specialty paper market and will no longer be
5 selling PVA to the other specialty markets outside the
6 paper industry.

7 Pyramid PVA imported by Clariant must be
8 exacting specifications, superior quality standards of
9 our customers, and we do not market it as a commodity
10 product. All of our customers require us to be
11 prequalified for paper applications before purchasing
12 PVA from Clariant. It cannot simply purchase the
13 lowest priced PVA on the market, because not all PVA
14 is suitable for the same uses.

15 Furthermore, even when PVA is used in
16 general applications, such as paper products, not all
17 PVA is the same and cannot be used interchangeable for
18 all types of paper products. For instance, high
19 molecular weight PVA used in tissue paper production
20 as a release aid or creping aid is a commodity type
21 market, in which German imports do not participate.

22 The customers in the market, which Clariant
23 services, typically require PVA with low ash content,
24 full free methanol content, very consistent hydrolysis
25 and molecular weight properties. Typically, there is

1 less consistency of these properties in PVA produced
2 in batch processes, such as DuPont. Based on our
3 analysis of PVA from Asian sources, as much as 15
4 percent falls outside manufacturer specifications,
5 disqualifying it from many paper applications.

6 Clariant's PVA has low dusting tendencies
7 preferred for paper manufacturing operations, as
8 opposed to some finely ground domestically
9 manufactured materials. This is the reason we can
10 command premium prices, as alluded to the witnesses
11 this morning in the paper industry. And this is why
12 German PVA is one of the highest priced products of
13 any major supplier subject to this investigation,
14 domestic or import. Because of the higher costs
15 required to meet these specifications, Clariant is
16 unable to price its PVA at competitive levels in the
17 U.S. textiles or adhesives market. Therefore, German
18 imports do not appear in those high volume U.S.
19 markets.

20 After it purchased air products, Sonies
21 technical staff had reduced the company's marketing
22 and support capabilities, especially to the paper
23 industry, which traditionally has a high requirement
24 for technical support. It is generally understood
25 within the industry that Sonies purchased the air

1 product assets at well above their market value and,
2 thus, cutbacks in many areas, such as marketing and
3 service, were not unexpected.

4 DuPont, meanwhile, is focused on the
5 production of PVA for internal consumption of PVB and
6 other products, and sells excess output to the
7 commercial market. In the paper market, DuPont offers
8 a limited range of PVA, used mostly in barrier and
9 container board footings, rather than in the high-end
10 inkjet and coated web offset grade papers serviced by
11 Clariant. Neither DuPont nor Sonies offers the same
12 range and types of PVA as Clariant.

13 Sonies and DuPont have challenged the
14 comparability of two of the pricing products selected
15 for the Commission's questionnaire. It was pointed
16 out that these are sold in small volumes and they do
17 not sell comparable products. This is not surprising
18 in the specialized market that Clariant serves in the
19 United States. We sell smaller quantities of a
20 higher-priced non-commodity grade PVA to distinct end
21 users, generally not served by the Petitioners.

22 We, also, offer our customers a full line of
23 paper chemicals and maintain a technical support staff
24 dedicated to service the entire range of paper
25 chemicals. In fact, PVA is only a small portion of

1 its business. Clariant, also, assists its customers
2 in optimizing usage, increasing output, improving
3 efficiencies, and developing new products. For
4 instance, we are marketing our PVA in conjunction with
5 our U.S. manufactured optical brighteners,
6 fluorocarbons in applications. Neither Sonies nor
7 DuPont makes such commitments to the market.

8 Imports of German PVA have always been in
9 small volumes and high prices. As such, they cannot
10 be contributed to any alleged injury suffered by
11 Sonies or DuPont. In fact, the only reason the
12 domestic industry seems interested in German PVA is
13 because Kure purchased the German company, as alleged
14 earlier.

15 The domestic industry mistakenly believes
16 that this means Kure will use a German plant to
17 increase exports of commodity type PVA to the United
18 States. Despite the change in ownership, Clariant
19 maintains ties with a German manufacturer and has seen
20 no indication that Kure Specialities Europe intends to
21 increase its production for PVA export in the
22 foreseeable future. In fact, imports of German PVA
23 actually decreased since Kure assumed ownership of the
24 German plant. The recent stronger value of the Euro,
25 also, tends to discourage any growth in exports to the

1 United States.

2 We, also, encounter no competition from
3 Japanese or Korean source, and one of the primary
4 reasons is that few producers are willing to develop
5 technical staffing and resources to meet the paper
6 customer's needs. Many of the highly specialized
7 small volume products imported from Japan, which were
8 sold to similar high-end paper markets, have now been
9 excluded from this investigation and, thus, German
10 imports are even less competitive with other imports
11 that might have been argued outside of this
12 proceeding.

13 The battleground for the U.S. PVA industry
14 is in textiles, adhesives, and the PVB market. It's
15 not in the quality paper market.

16 I'm also familiar with PVA pricing and
17 markets outside of the United States. It is clear
18 that Sonies is dumping in European and Asian markets.
19 Any injury they claimed to have suffered is much more
20 likely attributable to the lower revenues that they
21 realized on these export sales, rather than the
22 minuscule specialized imports of Clariant.

23 We ask the Commission not to accumulate
24 German imports with other subject imports and reach a
25 negative determination in this case. I'll be pleased

1 to answer any questions the Commission might have.

2 In addition, I'd like to just, I guess,
3 respond to a statement that DuPont made about some
4 pricing that was offered to a potential paper
5 customer. I think I might know the customer that's in
6 question and that particular customer, we do a
7 significant -- does a significant amount of business
8 with Clariant in other areas. And they came to us,
9 when they found out that we offered polyvinyl alcohol
10 and suggested that this was a price that they were
11 purchasing the material from DuPont. So, it was in
12 response to a customer's request. Thank you.

13 MR. MCGRATH: I believe that ends our
14 testimony and we are all available for questions.

15 CHAIRMAN OKUN: Thank you, very much, and,
16 again, thank you to all the witnesses for appearing
17 here today, for your willingness to provide testimony
18 and answer questions and for the written material that
19 you have provided. Commissioner Koplan will begin our
20 questioning this afternoon.

21 COMMISSIONER KOPLAN: Thank you, Madam
22 Chairman. I, too, want to thank this panel for its
23 contribution to today's hearing.

24 First, this question is for Mr. Gold, Mr.
25 Saeger, Mr. Rabaglia. This morning, I asked

1 Petitioners to discuss the trends in demands for PVA
2 over the period of investigation, and I would like to
3 hear your views, as well. Has demand declined overall
4 for PVA? Are there segments where you have seen
5 either increases or decreases in demand? And what are
6 your forecasts for demand for the next 12 to 24
7 months, both overall and in particular sectors, such
8 as PVB and textiles? Why don't I start with you, Mr.
9 Gold.

10 MR. GOLD: I can only answer that question
11 for the PVB, because we're not familiar with the other
12 markets. But, as I said in my prepared statement, we
13 believe that demand for PVA and to the PVB industry
14 remains strong, confirming what I think you heard this
15 morning from Ms. McCord. And the growth prospects are
16 good. I can't really tell you whether good means two
17 percent or 22 percent in the next 12 to 24 months;
18 but, we, clearly, believe that there's a growth
19 opportunity in this industry.

20 COMMISSIONER KOPLAN: Thank you. Mr.
21 Saeger?

22 MR. SAEGER: I can only answer in regard to
23 paper. But, we look at the paper industry as being a
24 fairly stable market for polyvinyl alcohol. If there
25 is any growth, it would be in some high-end areas,

1 such as inkjet and those types of things, coated
2 inkjet papers.

3 COMMISSIONER KOPLAN: Mr. Rabaglia? Am I
4 pronouncing that right?

5 MR. RABAGLIA: Rabaglia.

6 CHAIRMAN OKUN: Rabaglia.

7 MR. RABAGLIA: Yes. I'd like to introduce
8 myself. I'm the product manager for Wego Chemical for
9 polyvinyl alcohol. I've been involved in the
10 polyvinyl alcohol market now for approximately 17
11 years, so I've seen a lot of changes. And to answer
12 briefly on the question, as Mark indicated, we've all
13 been waiting for some of the changes in our government
14 from a 12 square feet per vehicle, to 25 square feet
15 per vehicle of laminated sheet. And if you're looking
16 at the types of volume that PVB uses in that industry,
17 there would not be enough capacity domestically to
18 support that volume.

19 Also, in the textile industry, which we're
20 very familiar with, Kathy McCord testified at the
21 preliminary hearing and, also, today, that over 100
22 mills have closed over the last several years. I
23 don't know if it's that large of a number, but the
24 textile industry has maintained its own right now, and
25 the way I see it, has generated a good volume of

1 business in very specialized areas and is slightly
2 growing each year, rather than being flat.

3 And in the paper industry, I'm also seeing a
4 good amount of growth in paper. I'm not that familiar
5 with some of the specialized adhesive markets, so I
6 couldn't really answer on that, at the moment. Thank
7 you.

8 COMMISSIONER KOPLAN: Thank you. Let me
9 stay with you all, if I could, and ask this. Demand
10 for PVA overall decreased over the period of
11 investigation. Although one area of growth in
12 consumption of PVA was in the production of PVB,
13 according to Solutia, there were no imports of PVB
14 grade PVA. Over the period of investigation, the
15 quantity of imports from Germany, Japan, and Korea
16 increased by 67.8 percent. If consumption of PVA has
17 declined over the POI, that's over the period of
18 investigation, what explains the increase in subject
19 imports? Mr. Gold?

20 MR. GOLD: I guess I can't answer that
21 question, because in the segment I'm in, in PVB, it
22 has increased very slightly. So, I'm going to
23 hopefully pass that to some of our other panel members
24 here.

25 COMMISSIONER KOPLAN: Mr. Saeger?

1 MR. SAEGER: Actually, if you look at the
2 statement for Germany, it went down. From 2001 to
3 2002, import volumes went down.

4 COMMISSIONER KOPLAN: I was referring to the
5 combined figure, when I referenced the 67.8. Mr.
6 Rabaglia?

7 MR. RABAGLIA: Could you repeat the
8 question?

9 COMMISSIONER KOPLAN: Sure.

10 MR. RABAGLIA: I'm sorry.

11 COMMISSIONER KOPLAN: The question started,
12 demand for PVA overall decreased over the period of
13 investigation. Although one area of growth and
14 consumption of PVA was in the production of PVB,
15 according to Solutia, there were no imports of PVB
16 grade PVA. Over the period of investigation, the
17 quantity of imports from Germany, Japan, and Korea
18 increased by 67.8 percent. If consumption of PVA has
19 declined over the period of investigation, what
20 explains the increase in subject imports?

21 MR. RABAGLIA: Could reflect that the import
22 volume from China during that period decreased by a
23 good margin. That could play a role in those numbers.

24 COMMISSIONER KOPLAN: Thank you. Mr.
25 Malashevich, I'd like to hear from you on this. I

1 don't want to neglect you.

2 MR. MALASHEVICH: I appreciate that, very
3 much. If you will allow me to elaborate post-hearing,
4 I might need some confidential information.

5 COMMISSIONER KOPLAN: That's fine.

6 MR. MALASHEVICH: But, for one, I concur
7 entirely with the gentleman's testimony earlier, there
8 has been reductions in non-subject imports, that the
9 subject imports have filled, if you were. There are
10 some other reasons, including -- how should I say --
11 in our pre-hearing brief, we make the point that the
12 apparent increase in volume of imports is very
13 narrowly based and explained by a single unusual
14 variable. All the details are laid out in our brief.
15 But, we will address it again post-hearing.

16 COMMISSIONER KOPLAN: Thank you. Mr.
17 Walders?

18 MR. WALDERS: Yes. I'd like to add one
19 point. When you look at a percentage rate of
20 increase, you have to also look at the absolute
21 numbers and consider what the base period is. And the
22 level at which imports may have increased over that
23 period, in a percentage term, is very much a function
24 of the low base at which the period begins. The
25 imports in total from all three subject countries are

1 still insignificant, as is the market share
2 insignificant. The rate of increase, again, is an
3 increase over a very low base and, as Mr. Malashevich
4 points out, is essentially attributable to one
5 particular factor, which we described in our brief.
6 So, we would submit that in terms of the statute, the
7 rate of increase is not significant.

8 COMMISSIONER KOPLAN: Thank you. Let me
9 come back now to Solutia. You argue in your pre-
10 hearing brief, at page 14, that, "by including PVB
11 grade PVA in the antidumping investigations, the
12 Petitioners hope to obtain an antidumping order that
13 will restrain prices on products that: one, were not
14 imports; two, were not dumped; and three, were not a
15 cause of injury." You've talked about that in your
16 direct testimony this afternoon.

17 Since 2000, have you been solicited by
18 subject producers, to produce PVB grade PVA from them?
19 Or have you requested price quotes for PVB grade PVA
20 from any subject producers? Were the offers, if there
21 were offers, were the offers of prices below what you
22 were paying for the product from domestic sources?

23 MR. CANNON: You'll appreciate that our
24 response would have to be in the post-hearing brief,
25 in order to reflect the level of prices. We do buy

1 PVB grade material for our operations that are not in
2 the United States, or our operation in Belgium. We
3 are supplied by other PVA makers and so -- including
4 U.S. producers export to Belgium. And so, we are
5 aware of who in the world can produce to our
6 specification and we are sought by other countries and
7 companies, new entrants, who wish to show us that they
8 can make PVA that's good enough for the PVB market,
9 because we're such a large end user. Our volume of
10 PVA is so high that they are attracted and would love
11 PVA and will come to us. But, so far, we have been
12 unable to qualify more than a few of what you might
13 call the world class PVA producers.

14 Now, with regard to the prices that they
15 offer us when they come, in an attempt to get us to
16 qualify them, I need to respond to that only in
17 confidence.

18 COMMISSIONER KOPLAN: Thank you. This
19 morning, you heard Ms. McCord at DuPont testify
20 regarding a meeting with Solutia that took place in
21 September of 2001. I'd like to hear your comments on
22 that. I'm wondering have you used or do you use price
23 quotes from subject producers in your negotiations
24 with domestic producers, in order to receive a lower
25 price offer from the domestic produces. If the Chair

1 would indulge me, I'd just like to get the answer to
2 this. Thank you.

3 MR. CANNON: I think it would be poor
4 business as purchasers, and I would not deny the fact
5 that we would pit suppliers against each other, in an
6 attempt to obtain the best prices, if that's what
7 you're asking. With regard to more about the actual
8 sequence of events, who was competing against whom, we
9 have put an affidavit in with our questionnaire
10 response that lays out the full picture. What you
11 have heard this morning and what you see in the record
12 from the Petitioners is really on DuPont's perspective
13 on the transaction. So, you need to look at the
14 affidavit that we put in the record, to see the more
15 full picture.

16 COMMISSIONER KOPLAN: Thank you for that.
17 If there is anything you can add to that post-hearing,
18 I would appreciate it. And while you're speaking,
19 counsel, let me just say to you, in your post-hearing
20 submissions, please address the allegations and
21 arguments made by Petitioners regarding PVB on pages
22 50 to 52 of their pre-hearing brief. Thank you.

23 MR. CANNON: Certainly.

24 COMMISSIONER KOPLAN: Thank you.

25 CHAIRMAN OKUN: Let me turn, if I could, to

1 the pricing and the record before us. And, Mr.
2 Malashevich, I think I'll ask you to respond, in
3 particular, and, also, Mr. McGrath and Mr. Saeger,
4 some particular questions about Germany and the prices
5 that we see in the record. But, I guess, Mr.
6 Malashevich, just a general comment, which is heard
7 Commissioner Miller, in her questions this morning,
8 talk about the sparsity of data that we have on this
9 record, and that makes it difficult to evaluate. And
10 I think that goes both ways. And I think it is -- you
11 know, to the extent the Petitioners are arguing one
12 thing, we don't see it; it's not in the record. Some
13 of the arguments you were making about overselling,
14 underselling, prices, we don't have a lot of data.
15 And so, I wanted to get some further thoughts from you
16 on what we look to, because I think that troubles me,
17 for both parties.

18 MR. MALASHEVICH: As you know, Madam
19 Chairman, I'm not a lawyer, so I will be answering
20 strictly as an economist. Certainly, there have been
21 a number of cases that the Commission has considered
22 in the past, and not necessarily distant past, I think
23 of some five or six years, where there have been --
24 the coverage of the pricing data has been in question,
25 by one side or another. And I guess my sense of

1 reading the opinions that have been coming out is
2 that's not been a barrier to the Commission
3 considering the data for what they are and giving
4 whatever weight they feel appropriate.

5 We do have a certain amount of testimony
6 about averaging values. That was discussed earlier.
7 But, I really do think that the essence of your
8 inquiry has to begin with what happened to market
9 share. The Petitioners have painted this as a so-
10 called commodity product case, in which case, if lower
11 price really prevails all the time and if there's all
12 the underselling going on there, as Petitioners have
13 claimed, the market share would be a lot larger than
14 it is now.

15 So, one has to ask, well, why is the market
16 share so small. And if you start with that inquiry
17 and then look at the price data, you'll see that a lot
18 of the imports from remaining subject countries are
19 sold in very narrow applications that do not make up
20 the mainstream of the domestic industry's shipments in
21 the United States. That's simply the way it is.

22 As I mentioned before, it's not that the
23 wrong product were surveyed. The right products were
24 surveyed, but the imports currently subject to
25 investigation are simply not sold there.

1 So, I think what has been characterized
2 earlier, I forget by whom, the paucity of the pricing
3 data is due to the circumstances of this case. And
4 the paucity, in itself, tells you about the lack of
5 causal link between the presence of subject imports
6 and price behavior among domestic producers. I think
7 there's an important message to be gained by the
8 paucity. It shouldn't be a barrier to reaching that
9 conclusion.

10 CHAIRMAN OKUN: Okay. Well, let me turn
11 back, if I could, to you, Mr. McGrath and Mr. Saeger,
12 with regard to the products for Germany prices, where,
13 again, it's -- one of the things we try to do in a
14 value market, is to try to get the broadest coverage,
15 by taking one product that someone will tell us, we
16 believe we'll get good coverage on, that we will and,
17 in fact, we don't. And my question is: why for those
18 products? I mean is it that we missed a -- did we
19 miss a product? When you're saying they're
20 specialized -- but, I guess I would think, if the
21 argument is, you import German products and it doesn't
22 compete with the U.S. product, we would be able to see
23 a product, where you would Germany selling and the
24 U.S. not selling, and that's not the record.

25 MR. MCGRATH: Well, Madam Chairman, I

1 certainly would ask Mr. Saeger to comment, as well.
2 It is unusual hearing that, with respect to Germany,
3 the staff has made a super effort to try to come up
4 with some price products, where there can be some
5 comparison. The first time around, when the first
6 four categories were put together, that was a list of
7 product definitions provided by the Petitioners and
8 there was only one of those products that we had an
9 answer to, for, I guess, product number three, which
10 was a product that we sell in the paper market. And
11 we provided price information on that one and I invite
12 you to take a look at what the comparison is. I guess
13 it's confidential, but we'll stand by that comparison.

14 Then, they asked us for some broader survey.
15 We suggested a couple of other items that Clariant
16 sells and feels is somewhat representative of their
17 range of imports. The Petitioners, my understanding
18 was they provided price information with respect to
19 the closest thing they could come up, but it wasn't an
20 exact fit.

21 So, now, I understand staff is going to try
22 again with another product, which we got the
23 definition to. We'll provide some more price data on
24 a fully hydrolyzed product. And maybe four times is
25 the charm.

1 But, I agree with Mr. Malashevich, that the
2 simple fact is, as Mr. Saeger testified, there is not
3 a lot of head-to-head competition between Germany and
4 domestic products. So, I think you're probably better
5 off evaluating some of the other data, such as the
6 fact that Germany accounts for a minuscule portion of
7 imports. Its import level has gone down. That all of
8 the testimony you heard this morning had to do with
9 pricing of commodity products from China and other
10 suppliers.

11 Sorry to monopolize. Maybe, Mr. Saeger --

12 MR. SAEGER: I think because we concentrate
13 on the paper industry and that came up over and over
14 again this morning, that that is one of the higher
15 priced markets out there and it's more specialized.
16 Like I said, our customers in the past year have cut
17 back on technical expertise at the mill location. So,
18 they depend more and more on the supplier and they
19 take that into consideration when they decide who they
20 are going to purchase from and what other products
21 they're purchasing from us. So, that's how we've made
22 inroads into the industry. It's not on pricing.

23 CHAIRMAN OKUN: Okay. Let me come back, if
24 I could, to Mr. Walders and Mr. Malashevich, with
25 regard to Korea and Japan, in particular. One

1 question I was curious about is with the expiration of
2 the AD order in the original -- in the 1996 case, one
3 of the things that I heard several times, in
4 Petitioner's brief, is the change in where Japan's
5 products, the type -- maybe -- I don't know if it's
6 the type of products, because I'm still trying to work
7 out if it's just the grades that are being sold to all
8 these different things, but that the Japanese are
9 selling into different applications than they were.
10 And I wondered if you could comment on that and point
11 to anything in the record, if you could, on that.

12 MR. MALASHEVICH: Yes. The details,
13 unfortunately, are confidential. No one more than I
14 would just like to put this to bed here and now. But,
15 essentially, my answer to you is the same source, when
16 I responded to Commissioner Koplan's question earlier.
17 We have tried, in excruciating detail, to look at this
18 one factor. I just can't characterize it as anything
19 else. But, I don't know, this one factor is such a
20 narrow set of circumstances, I can't imagine anyone
21 could characterize that as a change in strategy or a
22 change in trend or a shift. It's funny to think that
23 that factor can be characterized in the way
24 Petitioners have. I just don't know where it's coming
25 from.

1 CHAIRMAN OKUN: Okay. I will look, then, to
2 the post-hearing briefs for further information on
3 that. But --

4 MR. MALASHEVICH: Excuse me, Madam Chairman,
5 if you'll wait just 10 seconds, we'll give you the
6 page numbers --

7 CHAIRMAN OKUN: Okay.

8 MR. MALASHEVICH: -- which I think will be
9 helpful, so we can all talk about the same thing.

10 (Pause.)

11 MR. MALASHEVICH: We'll look for it and tell
12 you where to find it.

13 CHAIRMAN OKUN: That's fine. You can get
14 back. But, I'm trying to figure out if anyone -- oh,
15 my yellow light is going to come on. This was going
16 to be kind of a long and involved question. So, I
17 think I will skip that and go to Vice Chairman Hillman
18 and I'll come back. And if you find that, you can
19 tell me when I come back to my round. Thank you.

20 VICE CHAIRMAN HILLMAN: Thank you, very
21 much, and I would join my colleagues in thanking this
22 panel. We very much appreciate it.

23 I guess I want to start with maybe you, Mr.
24 Gold, or the others more on the industry side, just to
25 try to understand this phenomenon that we heard

1 described this morning, which is that it's typical in
2 the chemical industry or for chemical products that
3 when raw material prices go up, that the producers
4 prolong those increases in raw material costs to their
5 customers. And I guess I just wanted to have your
6 sense of whether you think that is normally what has
7 happened -- I mean, that is a standard sort of
8 operating procedure in the chemical industry. And
9 would you agree that raw material, the cost went up
10 and that there was a kind of normal response, to try
11 to increase prices during the POI?

12 MR. GOLD: My understanding is that indeed,
13 generally in our economy, prices have gone up. Raw
14 material prices have gone up. I do not believe that
15 it's traditional or customary that you can't
16 automatically pass that along in the chemical
17 industry. And the public record that I could point to
18 is what we report to in our public 10K statements, et
19 cetera, is that the PVB industry prices have been in a
20 general decline for the last eight to 10 years.

21 Again, selling to the auto industry, the
22 auto industry may be different from other industries.
23 I'm not familiar with the textile industry or the
24 paper industry per se; but, in the auto industry,
25 particularly, there's a significant pressure on

1 pricing of supply materials. And in that industry, we
2 don't pass things along. Our customers, who are also
3 sometimes suppliers to the auto industry, we know they
4 can't pass along any raw material prices. And we
5 would expect the same thing of our suppliers.

6 VICE CHAIRMAN HILLMAN: Okay. Mr. Saeger or
7 Mr. Rabaglia, do you want to comment at all? I'm just
8 trying to understand whether this is sort of a common
9 expected phenomenon; that is, raw material prices go
10 up, that they get past through to the purchasers of
11 chemical products.

12 MR. SAEGER: Our typical response is one of
13 two things: either try to increase pricing or look at
14 our plants on ways to optimize our manufacturing. And
15 that's usually, either look for different raw material
16 sources or optimize at our plants. So, I mean, those
17 are the two methods to take and, usually, we try to --
18 in the paper industry, it is fairly competitive in
19 some of the markets that we're in. So, we're forced
20 to optimize internally through production costs, raw
21 material costs, those types of things.

22 VICE CHAIRMAN HILLMAN: But, were you aware
23 that the domestic producers during this period were
24 trying to get prices up?

25 MR. SAEGER: Yes, because the way that they

1 make a general blanket statement on the Internet or
2 trade magazines. And that's more indicative of
3 commodity-type products. Most of the products we sell
4 are very specialized. So, if we do a price increase,
5 it might be on a case-by-case basis with individual
6 customers and that the pricing is sent out to
7 individual customers -- price increases.

8 VICE CHAIRMAN HILLMAN: So, you're aware
9 that, as a general matter, they were trying to get
10 prices up?

11 MR. SAEGER: Sure.

12 VICE CHAIRMAN HILLMAN: And that the price
13 increase -- they were asserting that the reason for
14 the price increases was cost increases?

15 MR. SAEGER: Yes. It's raw material, vam
16 cost, energy costs; yes.

17 VICE CHAIRMAN HILLMAN: Okay. But, your
18 view was that you are kind of in a little bit of a
19 different market, so that even if the prices are going
20 up for the textiles guys or the building materials,
21 that doesn't necessarily mean that they would be going
22 up for you?

23 MR. SAEGER: We're still higher than those
24 markets in paper. So, either -- of course, we'd like
25 to raise prices, too; but, there are other durations.

1 So --

2 VICE CHAIRMAN HILLMAN: Okay. Mr. Gold or
3 Mr. Rabaglia? Mr. Rabaglia, go ahead.

4 MR. RABAGLIA: Yes. During the last 15 or
5 16 years of business, I did witness more frequent
6 price changes within the PVA market, as raw material
7 for vam went up. Immediately following the next
8 quarter, you would see prices of polyvinyl alcohol
9 going up. But, the general business practices that
10 have taken place over the last five years are totally
11 different than what they were in the past.

12 Most organizations now have contracts that
13 are either three years in duration. So, during that
14 period, as a supplier or manufacturer, you swallow
15 those price increases, because you are contracted to
16 supply your customers. And some clauses are in
17 contracts that represent a certain type of dollar
18 value would be where the change has to be put in place
19 and for a certain duration of time, also.

20 So, during this period, let's say a three-
21 year contract period, if the price of energy for two
22 consecutive quarters goes up by a certain dollar value
23 or you can use a barometer, the price of oil has gone
24 up to a certain dollar value per barrel two
25 consecutive quarters, during that contract period.

1 Now, you're allowed to raise the price of your product
2 and your customer recognizes that as a reason to raise
3 your price. Otherwise, no, prices don't fluctuate
4 anymore up and down on a frequent basis.

5 VICE CHAIRMAN HILLMAN: Okay. And would you
6 say the majority of your contracts have this kind of
7 price escalator, the escalator clause in them?

8 MR. RABAGLIA: Most long-term contracts, you
9 have that in, yes.

10 VICE CHAIRMAN HILLMAN: Mr. Gold?

11 MR. GOLD: I believe at the preliminary
12 stage, we put in the record from our long-term
13 contracts with DuPont and Sonies. If not, we can do
14 it in the post-hearing. That will be obviously
15 confidential --

16 VICE CHAIRMAN HILLMAN: Correct.

17 MR. GOLD: -- what's in our contracts. I
18 wanted to point out, though, that they are very long
19 term. We're not talking one quarter contracts; we're
20 talking years. And so, price increases that may occur
21 because of terms of the contract are quite different
22 than what you're talking about here, such as raw
23 materials --

24 VICE CHAIRMAN HILLMAN: Right.

25 MR. GOLD: -- go up one year, something like

1 that.

2 VICE CHAIRMAN HILLMAN: Okay. No, I
3 appreciate that. Like I was saying, I was just trying
4 to get a sense of whether the DuPonts and the Sonies -
5 - you know, this is the way business has always been
6 done; that when raw material costs go up, they get a
7 cost increase coming to them, they pass it along, and
8 the purchasers just generally are -- have, as a matter
9 of practice, always paid it. They were telling us
10 this morning that they weren't getting these price
11 increases that they were trying to get, and I was just
12 trying to understand whether that was aberrational
13 that they're not getting them or whether they normally
14 do get the kind of price increases that they're
15 seeking.

16 MR. GOLD: I think Mark would testify that
17 it's certainly our experience, we cannot get price
18 increases from automotive customers on PVB. It's
19 exactly the same analogy. We buy the PVA to make PVB.
20 We can't get our customers to give us price increases.

21 VICE CHAIRMAN HILLMAN: Mr. Rabaglia?

22 MR. RABAGLIA: I was going to add to that.
23 The price changes in the market or the notification
24 that goes out by DuPont or Celanese recently on their
25 website indicated they're going up, I believe, 20

1 cents a pound. And within the period of
2 investigation, that total price increase could
3 accumulate to 25 cents a pound. And that at the end
4 of the contracted periods that they were supplying
5 their customers, whether it be June, July, August,
6 that when that contract was up for renegotiation, that
7 they would be faced with those price increases. But,
8 since the time frame that they had made that public
9 statement of 20 to 25 cents per pound, a lot of
10 contracts have not come into place for renegotiation.
11 So, whether or not they actually are going to achieve
12 that type of dollar value, obviously, we'll see in the
13 future.

14 VICE CHAIRMAN HILLMAN: Okay. I appreciate
15 that. Thank you.

16 I guess, Mr. Walders or Mr. Malashevich, if
17 I could go to you, just to try to understand a little
18 bit more the relationship between Kure's Japanese and
19 its German operation. Do they produce similar PVA
20 products? Do they serve similar markets? Has there
21 been any effort to integrate or rationalize the
22 production in Japan versus that that occurs in
23 Germany?

24 MR. WALDERS: They supply very different
25 products to different markets. There's very little,

1 if any, overlap in the sales in this market.

2 VICE CHAIRMAN HILLMAN: Let's start with
3 production. Do they produce similar PVA products,
4 both in Germany and in Japan?

5 MR. WALDERS: Both companies are full-line
6 producers. But, as we've said, the issue, at least
7 with respect to cumulation, is what's happening in the
8 American market.

9 VICE CHAIRMAN HILLMAN: I understand that.
10 I'm just trying to understand --

11 MR. WALDERS: They're both --

12 VICE CHAIRMAN HILLMAN: -- the output of
13 both facilities would be basically the same?

14 MR. WALDERS: The product line is similar.
15 It's not identical. But, they are essentially both
16 full-line producers.

17 VICE CHAIRMAN HILLMAN: And would they be
18 supplying the same markets or would pretty much the
19 German products go to certain markets or certain
20 applications versus the Japanese?

21 MR. WALDERS: The German product is sold
22 primarily in Europe. The Japanese market is sold
23 primarily in Asia. Both of them are competitors in
24 the world market; so, obviously, they sell elsewhere,
25 as well. But, the concentrations are Europe for KSE;

1 Asia for Kure Limited.

2 VICE CHAIRMAN HILLMAN: How about on an end-
3 use basis? Do the Germans tend to sell more into a
4 particular end use than the Japanese, or are they
5 selling to the same end-use market?

6 MR. WALDERS: I don't know as far as the
7 world market is concerned; but, as far as the U.S.
8 market is concerned, the end uses are different.

9 VICE CHAIRMAN HILLMAN: Okay. Do you know
10 whether they sell PVA -- does Kure sell PVA in the
11 United States for textile applications, either to
12 textile blenders or to textile mills?

13 MR. WALDERS: Yes, they have sold to textile
14 blenders.

15 VICE CHAIRMAN HILLMAN: To blenders?

16 MR. WALDERS: Yes.

17 VICE CHAIRMAN HILLMAN: Okay. I see that my
18 red light is on. Thank you, Madam Chairman.

19 CHAIRMAN OKUN: Commissioner Miller?

20 COMMISSIONER MILLER: Thank you, Madam
21 Chairman. And let me join my colleagues in thanking
22 all of the witnesses for being here, participating in
23 the hearing today.

24 It wasn't where I was going first, but as
25 long as Vice Chairman Hillman was just asking these

1 questions, Mr. Walders, I'm trying to reconcile what I
2 just heard you say and the information we have in our
3 staff report, regarding end uses by country. And I
4 know some of that we're trying to clarify that there
5 is some data issues there. Well, first of all, let me
6 ask this question. We had this other category. We
7 have a fair amount in the other category. What do we
8 think the other category is? Is that something you
9 can comment on here today or do I need you to
10 elaborate on that in the post-hearing? Whenever you
11 have overlap in other, you kind of say, so, what's
12 that.

13 MR. WALDERS: Well, we can try to explore
14 that. But, I think, from what I have read, at least,
15 there is a myriad of individual end uses for polyvinyl
16 alcohol apart from the basic commodity markets and
17 volume markets. I think to some extent, they're sold
18 in pharmaceuticals. They're sold for use in
19 cosmetics. They're sold for use in various other
20 products, which I guess would fall within the other
21 category.

22 But, other is a metaphysical term, I
23 suppose. Other than what is the question. And I'd
24 say, it is difficult to draw any conclusion from a
25 basket category as broad and as undefined as that.

1 But, we'll see what we can determine from the
2 information we have, as to what some of these other
3 markets might be.

4 COMMISSIONER MILLER: All right. Well,
5 you've argued about limits on the fungibility here.
6 But, again, I ask myself, what is the overlap and
7 other means for fungibility of the product?

8 MR. WALDERS: I would submit that it means
9 nothing, because the decision of the Commission has to
10 be made upon the record. And a record of overlap in a
11 category as general as other can't really tell you
12 anything as to fungibility of products, which is the
13 standard for determining cumulation.

14 COMMISSIONER MILLER: All right. I look
15 forward to whatever comments you have on it, in your
16 post-hearing brief.

17 Let me go on to a couple of questions I
18 would like to ask Mr. Gold or Mr. Cannon about
19 Solutia. First, Mr. Gold, in your testimony, you
20 referenced an SRI report. You referenced an SRI
21 report that, at least to my knowledge, I don't think
22 you submitted the report with your pre-hearing brief.
23 And I would like to ask you to do so.

24 MR. CANNON: All right. The report was in
25 our post-conference brief and it provides another

1 source for things like consumption and exports of
2 similar magnitude to the staff report, which Mr. Gold,
3 not being on the APO --

4 COMMISSIONER MILLER: Right.

5 MR. CANNON: -- could look at.

6 COMMISSIONER MILLER: Okay. And was the
7 entire report submitted as part of your post-
8 conference brief?

9 MR. CANNON: Yes, it was.

10 COMMISSIONER MILLER: Okay. I should have
11 access to it. And if I don't -- I'll admit to you, I
12 don't go back and read post-conference briefs for
13 purposes of a hearing. But, I appreciate you pointing
14 the way, so that I can find it.

15 Then, Mr. Gold, I wanted to ask you a little
16 bit more about the rulemaking that you reference, that
17 the National Highway Traffic Safety Administration is
18 involved in, because you cited that as a basis for
19 your expectations of increased demand for PVB,
20 basically, as I understood it. And from your
21 testimony, it wasn't clear to me what the status is of
22 that rulemaking and because I think it goes to some of
23 the demand questions, for example, that Commissioner
24 Koplan had asked. I wanted to learn a little bit more
25 about that.

1 MR. GOLD: Certainly. This is a newsletter
2 from -- it's called the EPGAA. It's Enhanced
3 Protective Glasses Automotive Association. It's the
4 group that -- it's an industry standard organization
5 working to promote the use of laminating safety glass
6 in side and back windows of cars. And I'll just quote
7 from just a portion of that. It says, "in February
8 2003, U.S. House of Representatives and U.S. Senate
9 sent guidance to NISA and how and when to complete its
10 work on ejection mitigation in the Omnibus
11 Appropriations Bill," which became Public Law 108-7 on
12 February 20, 2003. In the bill, Congress stated it
13 "supports the adoption of measurement to improve
14 ejection prevention performance of motor vehicles no
15 later than December 31, 2004 and recognizes that the
16 agency may need to develop new test procedures."

17 What that means to us is that in about -- I
18 guess it's about 18 to 19 months from now, we're
19 expecting NISA to comply with this and issue ejection
20 mitigation constraints, which will have, as part of
21 that, a strong, if not compelling requirement for the
22 implementation of side laminates in vehicles.

23 COMMISSIONER MILLER: But, how -- you're
24 expecting that this will happen? I mean, how certain
25 is it, in fact? I mean, the fact that Congress

1 suggests what you just read still seems to me as
2 though it's a way to go, in this process.

3 MR. GOLD: There's likely to be a long way
4 to go, you're right. But, we've already seen this
5 coming. There are vehicles, and I can name brands and
6 models, that already have -- in North America that
7 have side laminated windows and most of that is for
8 things other than safety. It's for things like noise
9 reduction, et cetera. But, we believe it's coming
10 sooner rather than later for a variety of driving
11 reasons and this would probably be the final issue
12 that would bring it through, much like passenger air
13 bags, bring it through to completion.

14 COMMISSIONER MILLER: Okay; all right.
15 Well, if there's anything more you want to provide
16 with respect to that, although I take the testimony
17 that you've given and your one comment about the one
18 article, you might submit that. I would only invite
19 the representatives of Petitioners to comment, if they
20 have any information or thoughts on what this means
21 for demand in the product and what the time frame
22 might be, in terms of increased demand for PHB.

23 Then, again, Mr. Gold, one thing -- and I
24 think you've answered some more questions about this,
25 but I was a little confused in your testimony,

1 because, at one point, you said that there are only a
2 handful of multinational PVA producers that are
3 capable and qualified to produce the PVB
4 specification. Can you name those for me here?

5 MR. GOLD: We'd prefer to put that in the
6 post-hearing brief.

7 COMMISSIONER MILLER: All right, that's
8 fine. You said there are a handful that are capable
9 and qualified; but, at a later point, you said, in
10 fact, there are no foreign PVA producers that are
11 currently qualified to supply our U.S. facility.

12 MR. GOLD: There is a difference -- and let
13 me draw a distinction between capable and potentially
14 qualifiable, as opposed to qualified.

15 COMMISSIONER MILLER: That, I would have
16 understood the difference.

17 MR. GOLD: Okay.

18 COMMISSIONER MILLER: But, you said,
19 "capable and qualified," and maybe you meant for other
20 producers and not you. I don't know.

21 MR. GOLD: No. On our global business,
22 there are only a handful of PVA producers capable and
23 qualified to provide PVB specifications and PVA to us.
24 But, in our North American facility, or United States
25 facility, there are no foreign suppliers qualified.

1 So, one statement refers to our global capability; the
2 other North America.

3 The reason being, there are two issues of
4 qualifications. One is, ours says, you know, you can
5 put it in the front of the process and it comes out
6 the back of the process. That's minor portion of
7 qualifying the product for us. The other portion is,
8 now I've got this product, I've got to demonstrate to
9 my customers, glass companies, and their customers,
10 the U.S. auto industry, that their windshield is not
11 going to fall apart in a year or two years, and that's
12 the lengthy qualification process.

13 So, although a PVA supplier may be qualified
14 in Europe for making glass windshields by synchoband
15 for use in Peugots, they're not necessarily qualified
16 in North America by PPG to make windshields for
17 General Motors.

18 COMMISSIONER MILLER: Okay; all right. I
19 did understand the distinction of qualifications by
20 your customers, as well. But, I was just -- I was a
21 little confused here by it. So, I appreciate it.
22 That helps clarify.

23 Then, one other point that I was trying to
24 make, you talk about import competition. Your view
25 that the Petitioners are trying to restrict imports of

1 PVA, so they don't face import competition in an
2 expanded specialty market, the PVB sector. But when
3 you say PVB sector there, you're still talking about
4 PVA -- imports of PVA for PVB, aren't you?

5 MR. GOLD: Yes, I am.

6 COMMISSIONER MILLER: You're not talking
7 about -- you said, at a later point, that there are no
8 imports of PVB, itself, isn't that right? I think you
9 said that in your conclusion, there are no commercial
10 imports of -- no, that's something different.

11 MR. GOLD: It is very confusing. And,
12 honestly, Commissioner, we don't use PVA. We use
13 PVOH, because it's just so confusing when we're
14 talking. So, sometimes, I fall into that trap, as
15 well.

16 COMMISSIONER MILLER: Okay.

17 MR. GOLD: But, I will be glad to answer
18 your questions.

19 COMMISSIONER MILLER: Are there imports of
20 PVB? In other words, at one point, you suggest in
21 your testimony, I think, that if you can't afford to
22 pay a higher price for PVA, you might -- I think you
23 suggested you might import -- didn't you suggest you
24 would be forced to ship your PVB resin production from
25 the U.S. to Belgium; in other words, to go downstream

1 and then import the PVB, itself. Is that what you're
2 suggesting?

3 MR. GOLD: Perhaps not. Some of our product
4 that we -- the PVB sheet we make in North America is
5 shipped to Latin America, Asia, whatever. So, we
6 wouldn't bring the PVB back here. It might just go
7 directly to those end customers.

8 COMMISSIONER MILLER: Okay. Sorry, but I
9 just wanted to make sure I understood your testimony.

10 MR. CANNON: At the preliminary phase, the
11 question came up about PVB imports, and I recall that
12 we looked at import stats for PVB and they were a
13 very, very low volume. It was no competition, in
14 terms of imports in the PVB market.

15 COMMISSIONER MILLER: Okay. Thank you, Mr.
16 Gold. I appreciate you answering my questions.

17 CHAIRMAN OKUN: Commissioner Koplan?

18 COMMISSIONER KOPLAN: Thank you, Madam
19 Chairman. I've got two questions left. The first
20 one, I'd ask either Mr. Walders or Mr. McGrath both to
21 respond to. On page 41 of Petitioners' pre-hearing
22 brief, they argue that the Commission should disregard
23 the price data for products five and six. Product
24 five is PVA for use in art paper applications and
25 product six is PVA for use in resin applications.

1 They claim that the price data "collective for
2 products five and six do not reflect the broader price
3 trends in the U.S. PVA market, because these products
4 are narrowly defined, involve very low volume of
5 sales, and are sold into tiny niche markets."

6 What is your position on this issue? Should
7 the Commission disregard this data?

8 MR. MCGRATH: Maybe, if I can try that.

9 COMMISSIONER KOPLAN: Sure.

10 MR. MCGRATH: I remember reading that line
11 from the brief and thinking, yes, I agree entirely.
12 It's not representative of the broader price trends in
13 the United States market, because the German imports
14 that meet those definitions don't really compete in
15 the broader market in the United States. And as I was
16 explaining earlier, I think we have tried to identify
17 some product areas where there might be some overlap
18 or some product that either Sonies or DuPont is
19 producing a similar specification, maybe not selling
20 to the same type of customer, to maybe obtain some
21 information.

22 But, the fact that there is a small volume
23 that's accounted for and the fact that they may not
24 report something that's identical to it, I don't think
25 should be a reason for you to dismiss that data or not

1 use it, in your analysis. The very existence of that
2 data for the particular -- for one of the countries
3 that you're trying to get data on, which is Germany, I
4 think is revealing in itself of one of the reasons why
5 there should not be cumulation in this case. Because,
6 the price data you're getting is confirming what
7 you're seeing in divergence, for instance, in levels
8 of imports; other countries going up, Germany going
9 down.

10 So, I think that the short answer is, no, it
11 should not be ignored. And, yes, I agree with the
12 statement that it doesn't reflect the larger trends in
13 the marketplace, because they're competing with
14 something different.

15 COMMISSIONER KOPLAN: Thank you. Mr.
16 Walders?

17 MR. WALDERS: Yes, Commissioner Koplan. I
18 would just like to add that if the Petitioners are
19 correct, that these price differences should be
20 disregarded, because the products of the domestic
21 producers and the products of the German manufacturers
22 don't compete, then by the same token, you should
23 focus on that as a reason not to cumulate Germany with
24 imports from other countries, which are not sold,
25 also, in that market.

1 COMMISSIONER KOPLAN: Thank you. My final
2 question: Petitioners argued this morning that prices
3 of PVA are higher in the United States than they are
4 in other countries and, therefore, that the U.S. is an
5 attractive market for foreign producers. Are PVA
6 prices in the U.S. higher than in other markets? Can
7 you provide any evidence showing that PVA prices in
8 the U.S. -- regarding PVA prices in the U.S. versus
9 other countries? I throw that out to the panel.

10 MR. CANNON: In our brief, we can provide
11 you with the prices that we pay for PVA to be exported
12 and used I Belgium, as well as in the U.S. It's the
13 same supplier. In your own export statistics that you
14 can get off the ITC website, you can see the average
15 unit values for exports, some 92 million pounds, and
16 you can see the prices that the U.S. producers charge
17 when they export to China or Mexico or other markets.
18 And you can judge from that, that, in fact, the prices
19 in those markets are far lower than prices in the U.S.
20 market.

21 COMMISSIONER KOPLAN: Thank you.

22 MR. MCGRATH: Commissioner?

23 COMMISSIONER KOPLAN: Thank you, Mr. Cannon.
24 Mr. McGrath?

25 MR. MCGRATH: We, also, have some

1 information we'd be happy to provide. Clariant sells,
2 of course, in the European market, and they encounter
3 DuPont, in selling these product that's in that market
4 at much lower prices than what they see as being
5 charged in the United States. So, we'll provide that
6 as part of our post-conference.

7 MR. PERRY: Commissioner Koplan, my name is
8 William Perry. I represent Sichuan Vinylon Works. I
9 would just like to comment that my client in China has
10 seen it, has seen very low prices by Celanese and
11 DuPont. I remember there are dumping laws in China
12 and they're looking at that seriously.

13 COMMISSIONER KOPLAN: Thank you for that,
14 Mr. Perry. Anybody else?

15 (No response.)

16 COMMISSIONER KOPLAN: If not, I thank you
17 for your responses to my question and I'll turn it
18 back to you, Madam Chairman.

19 CHAIRMAN OKUN: Thank you. Mr. Walders, in
20 your direct testimony and, also, in response to
21 questions, you've gone through, in some detail, your
22 response to the Petitioners' argument regarding Kure's
23 intent for the North American market. But one thing I
24 wondered is whether you have available or could submit
25 a post-hearing brief, Kure, whether they had such

1 plans at the time of the acquisition, the Clariant
2 acquisition, indicating its business plans for North
3 America, Kure's business plans for North America.

4 MR. WALDERS: I'll inquire. I don't have
5 that information, at this time.

6 CHAIRMAN OKUN: Okay. And I think with
7 regard to the capacity increases, was there anything
8 further you wanted to add on that, with regard to the
9 allegations where Kure's capacity would be marketed?

10 MR. WALDERS: Well, as I said, there has
11 been no indication, at this time, to expand capacity.
12 And as to where that expansion would go, if it does
13 take place, the only thing we can look at, at this
14 time, is the record of Kure and before, as Clariant,
15 in marketing this product, most of which has been
16 focused on the European market. The sales to the
17 United States, as you've heard today, are focused on
18 narrow niche specialized markets. I know of no
19 indication of any change in that pattern. And above
20 all, given that KSC is a German company, located in
21 Europe, with a primary market in Europe, it would make
22 sense to assume that any expansion, should it occur,
23 would be directed primarily at the European market.

24 As for whether or not there might be some
25 increased shipments to the United States in the

1 future, at this point, no one knows. But, as we all
2 know, the Commission's decision on threat cannot be
3 based on speculation. It must be based on evidence of
4 a real and imminent threat. And I think there is no
5 such evidence here.

6 CHAIRMAN OKUN: I appreciate those comments.

7 MR. SAEGER: Excuse me, I'd like to address
8 that, as well. The rumor or the possible expansion of
9 the plant goes back to pre-Clariant ownership, when
10 Hurk Celanese owned that plant and it was expanded in
11 1993 and 1995. So, there's been rumors of plant
12 expansion that date back probably eight, nine years,
13 about the addition of an additional production line.
14 And while Clariant had the plant, if the plant was
15 expanded, it was strictly for additional PVB
16 production. Kure Specialties Europe, also, produces
17 polyvinyl buterol and that is a very strong growth
18 market in Europe, especially with legislation on
19 architectural safety glass that's been designated in
20 many countries. Buildings over a certain have to have
21 architectural safety glass. So, they are strictly
22 probably looking at that, if they were to expand the
23 plant, for polyvinyl buterol production.

24 CHAIRMAN OKUN: I appreciate those comments.

25 And the other question I had, you may have addressed

1 it, I just may not have heard it, which was with
2 regard to another of the press releases, which had to
3 do with a new U.S. research and development facility
4 and whether that would impact PVA sales in the United
5 States by Kure.

6 MR. WALDERS: I read the article. I don't
7 see the connection. Research and development is not
8 production. R&D can be conducted anywhere in the
9 world. I don't believe that the Petitioners have
10 drawn any link between that development and any
11 increase in imports into the United States from Japan,
12 Germany, or anywhere else.

13 CHAIRMAN OKUN: Okay. Anything else you
14 want to submit post-hearing on that, I would
15 appreciate. Let me turn back, if I could, to you, Mr.
16 Perry, on a couple of questions related to Sichuan,
17 since, given how the record closing will go, we will
18 have these staggered votes. And I wanted to ask you a
19 couple of things. One is with regard to, we had
20 engaged Mr. Greenwald this morning with regard to the
21 legal issues regarding cumulation and how to treat the
22 de minimus, at this point, product, and I wanted to
23 know whether you had any further comments, based on
24 what you've heard this morning. I know that this has
25 been briefed, so I don't need to rehash that; but,

1 just in terms of anything you heard this morning you
2 wanted to comment on.

3 MR. PERRY: Well, let me just counter a
4 little bit. Mr. Greenwald believes the dumping margin
5 will go up at the final. Obviously, we believe it
6 will remain zero or diminimus. Couple of comments on
7 that. Remember, high prices in the U.S. market result
8 in one other thing, low dumping margins. High prices
9 result in low dumping margins. That's a fact of life.
10 If the prices are low, that's where you get higher
11 dumping margins here. You have higher prices.

12 The most recent issuance from the Commerce
13 department is probably the verification report of
14 Sichuan Venlon Works, and the verification report, it
15 was clean as a whistle. I mean, they couldn't find
16 anything at Sichuan, so it's going to make it much
17 more difficult.

18 I think the other problem for the Petitioner
19 coming up at Commerce is, remember, we have had a
20 prior case. In the prior case, Sichuan got a zero,
21 and many of the arguments that the Petitioners
22 attempted to raise here were already rejected by the
23 Commerce Department in the first case. That case was
24 appealed to the Court of International Trade. The
25 Court of International Trade affirmed the Commerce

1 Department.

2 So it's going to make it more difficult for
3 the Petitioner to get that margin up above diminimus.
4 Now I'm here because, obviously, with the Commerce
5 Department, you can't guarantee anything, but, if I
6 were a betting man, I wouldn't bet on the Petitioner
7 in this case.

8 How do you treat -- I mean, I think we're
9 nonsubject at this point, and we're out. And that is
10 the vase majority, not all of them, but the vast
11 majority of the imports from China.

12 CHAIRMAN OKUN: Okay. Well, then let me
13 just engage in a hypothetical with you because --
14 again, because of the record closing, there's going to
15 be limited time as this thing goes on to get
16 information.

17 I mean, assume for purposes -- again, very
18 hypothetical, that we continue to treat the Chinese
19 material as subject, for purposes of going forward,
20 but diminimus waiting for Commerce's final, that we
21 went negative on the two countries that we will vote
22 on first, but Commerce changes its mind -- not
23 changed. I shouldn't say, "Changes its mind." My
24 friends at Commerce would take issue with that -- but
25 comes up with a different result at the end of the

1 day, and you're not diminimus, your client is not
2 diminimus. What would be your position regarding
3 cumulation with Korea at that point as well as the
4 other issues?

5 MR. PERRY: Then they're out. I think it's
6 a difficult --

7 CHAIRMAN OKUN: No, no. They're not.

8 MR. PERRY: I mean, if you've already
9 reached a negative determination on injury on Korea,
10 Japan, and Germany, and they're out, then they can't
11 be cumulated anymore because they're no longer subject
12 to investigation. I mean, I understand your problem,
13 but --

14 CHAIRMAN OKUN: We still have Korea because
15 --

16 MR. PERRY: Oh, Korea, yeah. So I would
17 assume -- well, the other thing is whether the Korean
18 are competitive with the Chinese imports or not. We
19 would have to look into that, and let me reply to that
20 in a post-hearing brief.

21 CHAIRMAN OKUN: Okay. That would be helpful
22 to do that again as well as --

23 MR. PERRY: I mean, just one point. We have
24 taken the position throughout, I mean, at the
25 preliminary stage and the pre-hearing brief here, that

1 we don't compete with the Japanese or the Germans. I
2 mean, our stuff is the lower end of the market.
3 Theirs is much higher end.

4 CHAIRMAN OKUN: Right, which is the reason I
5 asked that you address Korea, given that that could be
6 one possible outcome.

7 MR. PERRY: Okay.

8 CHAIRMAN OKUN: Then the other thing, just
9 staying with you and maybe going to Mr. Rabaglia for
10 just his take on this, which is, you know, again, I
11 mean, the data -- the details are confidential, but if
12 we look at the staff report and look at imports from
13 China and their trends in the fourth quarter of 2002,
14 I wonder if you could comment on what you think is
15 going on with Chinese pricing and import trends and
16 why.

17 MR. PERRY: Well, they're going down, and
18 one of the reasons why they're going down is the
19 Chinese market is going like gangbusters right now.
20 The reason why Celanese and Du Pont are exporting is
21 demand is shooting through the roof in China. The
22 reason is textiles. They have a huge, growing textile
23 market in China. And, yes, we've even admitted, yes,
24 SCW is adding capacity, and when we were there, we
25 talked to them, and they said it's totally for the

1 Chinese market. Demand in China is really going up
2 substantially, and that's one reason.

3 MR. ROMANO: There was also a publication
4 that I read about a year ago. I believe it was Fred
5 Chanslor that they stated that he was not through yet
6 with polyvinyl alcohol and that they were still
7 looking for another plant to purchase because of the
8 increase of growth in the Asian community of polyvinyl
9 alcohol. That would be a good indication on what type
10 of growth is taking place there right now.

11 CHAIRMAN OKUN: Okay. Again, anything that
12 hasn't been submitted on that would be helpful for the
13 post-hearing brief. And I guess my final question on
14 China would be, in the staff report there was a -- I'm
15 trying to find it -- a footnote indicating the volumes
16 that were the non-Sichuan volumes that -- with
17 Commerce statistics, and I wondered if you agree or
18 have any reason to disagree with those figures that we
19 would have there as the non-diminimus --

20 MR. PERRY: Let me take a look at the
21 numbers. I know it's pretty small. I mean, we
22 represent most of it, but I know there's some other
23 stuff out there.

24 CHAIRMAN OKUN: Okay. Thank you very much.
25 And thank you again for all the responses to

1 my questions. Let me turn to Vice Chairman Hillman

2 VICE CHAIRMAN HILLMAN: Thank you.

3 I guess a quick follow-up on that is just to
4 make sure I understand that, other than Sichuan, what
5 are the largest -- do you know the largest producers
6 of PVA in China, and would you anticipate competition
7 from these firms in their sales to the U.S. market?

8 MR. ROMANO: I am familiar with the majority
9 of the polyvinyl alcohol manufacturers in mainland
10 China. I believe there is a total of 13 factories.
11 There is only one factory that really produces a
12 capacity that is a substantial type capacity comparing
13 to a Du Pont or a Celanese or some of the other
14 factories here, and that's Sichuan Ventalon Works.
15 The other factories are all very small, and their
16 products are really not manufactured for export
17 purposes.

18 However, one thing that is very interesting,
19 because I testified in the preliminary hearing, that
20 both Du Pont and Celanese brought about this wave of
21 polyvinyl alcohol that's sitting on the shoreline of
22 China right now waiting to crash into the American
23 market.

24 Well, when the first antidumping petition
25 was lifted, there was, I believe, an almost two-year

1 period in which all other 12 factories could freely
2 trade polyvinyl alcohol into America. Within that
3 two-year period, if, perhaps two to five containers of
4 polyvinyl alcohol came in during that period, that is
5 a good indication on what type of role those factories
6 play as export manufacturers of alcohol.

7 VICE CHAIRMAN HILLMAN: Okay.

8 MR. ROMANO: Five containers is less than,
9 maybe, a hundred metric tons or a couple hundred
10 thousand pounds in two years.

11 VICE CHAIRMAN HILLMAN: Okay. If it's not
12 already on the record -- and I apologize that I didn't
13 look at everything that came in in the post-conference
14 briefs. If we don't have the information in terms of
15 this number of these 13 facilities and any information
16 that you have on those that's available to you, if
17 you could submit it in the post-hearing brief, I would
18 appreciate it.

19 MR. PERRY: We did take the Commission --
20 Deborah and George sent us the foreign producer
21 questionnaires. We have forwarded it on to the
22 Chamber of Commerce for Chemicals in Beijing, and they
23 have been designated by the government to form their
24 responses and ask them to hand it out to the other
25 foreign producers. I'll follow up and say that you're

1 looking for whatever you can get from them

2 VICE CHAIRMAN HILLMAN: Okay. No, we would
3 very much appreciate it. Thank you.

4 I guess just a couple of questions to you,
5 Mr. Malashevich. I just want to make sure I
6 understand to some degree the import of your kind of
7 statements. I guess, first of all, you persistently
8 referred in your original testimony to this issue of -
9 - that the imports are so small that they don't have
10 any market power. That's not normally a term or a way
11 in which the commission assesses volume in these
12 cases.

13 I mean, obviously, in theory, the
14 introduction of any additional supply, along with
15 offers to supply more, could put downward pressure on
16 prices regardless of this idea of market power. So
17 I'm just trying to understand sort of how you define
18 it and sort of from whence comes this notion that we
19 should be looking at whether imports have market
20 power.

21 MR. MALASHEVICH: There is a general notion
22 -- and I'll try to get some academic references for
23 you -- that the simple offering of product that is not
24 backed by a credible physical supply will have a
25 fleeting, as opposed to sustained, impact on the

1 market.

2 So, for example, our company does not
3 perform audit services as the Big Four accounting
4 firms do. We can hire five people tomorrow and
5 undercut the auditing firms by 80 or 90 percent and
6 send out fliers to all the companies in the United
7 States that we have auditing services here, we have
8 the capability to do this, and we could do it for 20
9 percent of what the Big Four do. But we will, I
10 suspect, have no takers, which is why we don't do it,
11 because we don't have enough people, we don't have the
12 background in it, et cetera.

13 So the Commission has considered this in the
14 past, actually, in the early '90s steel cases, there
15 was this theory that you have a boatload of steel in
16 India coming across the ocean, and that has immediate
17 impact on U.S. prices. And the Commission reject
18 that, properly so, at the time because one boatload
19 may affect a particular sale, but it's not sufficient
20 supply to affect the market generally. That's what I
21 mean by market power, a physical supply.

22 And the physical supply of the material that
23 actually was delivered to the United States is too
24 small to have market power sufficient to move the
25 price generally as opposed to an isolated, anecdotal

1 transaction. And even in that regard, you'll see that
2 the great majority of the lost sales and lost revenue
3 allegations by value or quantity were not verified by
4 staff.

5 VICE CHAIRMAN HILLMAN: I mean, I hear what
6 you're saying, and I understand the point. I'm just
7 not sure that this -- introducing this notion that
8 somehow our volume analysis equates to some notion of
9 market power is something that we would normally do if
10 there's -- I mean, I understand what you've said.

11 Secondly, I just want to make sure I
12 understand in your Appendix B materials that you've
13 submitted here -- again, to some extent, I'm trying to
14 make sure I'm squaring this with some of the arguments
15 Mr. Greenwald was making because, obviously, you know,
16 the argument is, if you just simply take out
17 everything connected to export sales, it's not clear
18 to me how you take into account the -- if you will,
19 the capacity utilization need, I mean, that you can't
20 just withdraw out everything connected to export sales
21 without having an effect on what the total capacity
22 utilization of a facility would be.

23 So I'm trying to understand how you take
24 into account the beneficial effect on the industry or
25 the fact that these additional export sales help

1 spread their fixed costs over a larger base. It's not
2 clear how, when you've just simply taken this out,
3 you've dealt with this issue of their need to spread
4 over a large amount of fixed cost.

5 MR. MALASHEVICH: Well, the answer to that
6 in a couple of ways -- first of all, understand that
7 this is one part of the exhibit. There is a very
8 detailed description in the mechanics involved in
9 arriving at these numbers that was intended to allow
10 staff or anybody else to duplicate our work.

11 Secondly, the Commission, I guess -- we are
12 not intending to evaluate the profitability of each
13 business segment standing alone. It's the
14 contribution of each business segment to the total
15 operations of the industry. And, furthermore, there
16 have been a lot of cases in the past where there has
17 been market segmentation discussed, and the Commission
18 has looked at various indicia of the industry's
19 operating performance in the segment where there are
20 no imports and in the segment where imports are
21 concentrated.

22 You've done that. I mean, the Commission
23 has done that with price data, it's done that with
24 shipment data, it's looked at market shares and tried
25 to see if there is a relationship between,

1 hypothetically, where -- in a segment where the
2 imports are concentrated and the behavior of prices in
3 that segment versus the behavior of prices in a
4 segment where they are not concentrated.

5 What we are doing is entirely consistent
6 with methods the Commission has applied in the past,
7 and it seems to me fairly obvious that, if there is
8 injury owing to the subject imports and if that
9 industry is causing distressed financial performance,
10 then you will see that in the behavior of prices
11 relative to cost in the segment of the market
12 competing most directly with subject imports, but you
13 don't see that here.

14 VICE CHAIRMAN HILLMAN: Well, I guess I
15 could at least understand it as your rationale for
16 taking out the data related to PVA sold in to the PVB
17 market on the argument that, to the extent that you
18 can show that that is an isolated market -- I'm not
19 sure you can, but, nonetheless, just say you could. I
20 could at least understand your saying, "Okay. Imports
21 are not competing in the PVB segment of this market,"
22 assuming, for purposes of argument that there is such
23 a segment, and we segment it out.

24 I do think that's very different though from
25 taking out exports. I mean, again, I'm not sure I'm -

1 - I don't think the same exact logic holds in terms of
2 why one would look at this differently and take out
3 exports. And, again, it does, to me, raise this issue
4 of how you're treating fixed costs.

5 MR. MALASHEVICH: Well, let me answer that
6 in two ways. First of all, you heard the testimony
7 earlier today that the mix of what the companies
8 exports are basically the same as what they sell here.
9 So, you know, the average unit -- you've got the
10 average unit cost associated with those as they
11 testified earlier also would be the same.

12 So, generally, if you're doing this kind of
13 analysis, it would have a problem if you had a very
14 different product mix, if you have very different
15 costs. But there is testimony on the record from the
16 preliminary phase of this investigation as well as in
17 the final phase of this investigation that they export
18 and sell domestically the same stuff that costs the
19 same to produce. And, under those circumstances, this
20 is an entirely legitimate method of examining and
21 measuring the contribution of both.

22 Now on the element of fixed costs, I suppose
23 you could do that, and we'll take a look at it, but
24 the Commission never does it itself. For example,
25 when you have -- you've considered cases involving

1 steel bar and wire rod. They're largely produced on
2 the same equipment. An allocation is made based upon
3 the product mix of what's sold.

4 So virtually any case the Commission has
5 where operations of the relevant establishment produce
6 things in addition to what is subject to
7 investigation, you allocate the cost and sales
8 precisely as we have done in this appendix. So if we
9 have done something wrong here, the Commission has
10 been doing something wrong for many, many years.

11 VICE CHAIRMAN HILLMAN: Well, I mean, again,
12 I hear your answer. I mean, again, to the extent that
13 the Commission has done this, we have tried to look at
14 whether -- you know, at those places where there is
15 competition, particularly, price competition. I do
16 not believe that we have then tried to sort of take
17 this down to the notion of, you know, rewriting profit
18 and loss statements to try to figure out if you, you
19 know, hypothetically, were not in this line of
20 business and were only in some other line of business,
21 what would it be.

22 I mean, I don't -- again, I understand our
23 analysis in terms of looking at where we thing prices
24 are segmented across a particular market. I
25 understand your argument. I just want to make sure I

1 understood the nature of the testimony.

2 MR. WALDERS: I would just like to add one
3 point, Commissioner Hillman, and that is -- I guess
4 it's an obvious one. Exports and imports don't
5 compete. And, if, as the information shows, the
6 impact on overall profitability is heavily influenced
7 by the export performance of domestic producers, that
8 can't be attributed to competition from subject
9 imports.

10 VICE CHAIRMAN HILLMAN: I understand the
11 point. Thank you very much.

12 CHAIRMAN OKUN: Commissioner Miller?

13 COMMISSIONER MILLER: I have no further
14 questions. I was just watching to see if -- it looked
15 like somebody else wanted to respond to Vice Chairman
16 Hillman's last question. But, if not, then I have no
17 further questions, so thank you.

18 CHAIRMAN OKUN: Commissioner Koplan?

19 COMMISSIONER KOPLAN: I don't think I do. I
20 just want to check with Tom. Tom says I have no
21 further questions. Thank you very much.

22 CHAIRMAN OKUN: For the rest of your tenure?

23 COMMISSIONER KOPLAN: No, I won't stipulate
24 to that, not a chance.

25 CHAIRMAN OKUN: Seeing no further questions

1 from my colleagues, let me turn to the staff to see if
2 staff has questions of this panel.

3 MS. ALVES: This is Mary Jane Alves from the
4 General Counsel's office. I'd like to ask
5 Respondent's counsel to specifically address in each
6 of their briefs -- although I recognize that they may
7 not necessarily be issues to you, I would be
8 interested in knowing all of your responses with
9 respect to the legal issues in this case.

10 Specifically, I would particularly like
11 response as to whether or not there is more than one
12 domestic like product at issue in this case, your
13 positions regarding captive production and whether or
14 not the statutory factors and the threshold have been
15 met, the issue of negligibility, the issue of whether
16 or not the imports from Sichuan Cenepec are or are not
17 subject or nonsubject imports, and your reponse to the
18 related party analysis.

19 Because of the record-closing component in
20 these staggered investigations, it would also be
21 helpful if you could distinguish, where possible, how
22 changes in Commerce's final determinations would be
23 impacted with respect to any of these legal issues as
24 well.

25 MR. WALDERS: Could you repeat that last

1 question, please?

2 MS. ALVES: Because of that fact that the
3 investigations have been staggered at the Department
4 of Commerce, to the extent that the answers to these
5 questions would differ with respect to any changes in
6 Commerce's final determination, i.e., non-de minimis
7 margin, for example --

8 MR. WALDERS: With respect to this
9 investigation?

10 MS. ALVES: If your answers would, for
11 example, the 10 in the subsequent case.

12 MR. WALDERS: Very well.

13 MR. DEYMAN: I'm George Deyman, Office of
14 Investigations. The staff has no further questions.
15 Thank you.

16 CHAIRMAN OKUN: Thank you.

17 Mr. Greenwald, do you have questions for
18 this panel?

19 MR. GREENWALD: No questions.

20 CHAIRMAN OKUN: I again would like to thank
21 all the witnesses for appearing here today, very much
22 appreciate all the testimony you have given.

23 Let me go over the time allocations before
24 the panel is dismissed. For petitioners, you have 33
25 minutes or actually 34 minutes remaining from your

1 direct, including five minutes for rebuttal, for a
2 total of 38 minutes. Respondents, you have 16 minutes
3 left for rebuttal and five minutes for closing for a
4 total of 21 minutes.

5 And Mr. Greenwald, how will you proceed?

6 MR. GREENWALD: If you would give me five
7 minutes of the 38 minutes to think, I would very much
8 appreciate a five-minute recess. You can take it out
9 of my time.

10 CHAIRMAN OKUN: No, you're a much quicker
11 thinker than that. How much are you going to use?

12 MR. GREENWALD: I can't imagine using more
13 than 10 to 15 minutes. I think it's probably going to
14 be less.

15 CHAIRMAN OKUN: Okay, if we take a five-
16 minute recess, we will come back to Mr. Greenwald's 10
17 minutes rebuttal and closing.

18 And Mr. Walders, for you?

19 MR. WALDERS: I don't think I will be taking
20 any more time than Mr. Greenwald, but I also would
21 like think about it.

22 CHAIRMAN OKUN: Okay. Well, you have the
23 same five minutes, not an extra five. All right, we
24 will stand in recess for five minutes. Think fast.

25 (Whereupon, a short recess was taken.)

1 MS. ABBOTT: Could everyone be seated,
2 please?

3 CHAIRMAN OKUN: We will resume with Mr.
4 Greenwald's closing and rebuttal. Mr. Greenwald, are
5 you going to come to the podium?

6 MR. GREENWALD: If you insist.

7 CHAIRMAN OKUN: Well, I would appreciate
8 that as well.

9 MR. GREENWALD: Thank you very much. John
10 Greenwald from Cutler & Pickering for petitioners.

11 What I am going to try and do in the next 10
12 minutes or so is take stock of the testimony and note
13 areas where there is agreement, perhaps also some
14 comment on areas where I think that the weaknesses in
15 some of the respondents' arguments have been exposed,
16 and I want to do this by taking each issue before you
17 serially.

18 The first is the cumulation. There was an
19 awful lot said about cumulation. It took up a lot of
20 time. But in fact the more that was said by
21 respondents the stronger the cumulation case became,
22 and let me give you specifics.

23 Mr. Walders, I think, in response to a
24 question said publicly that Kuraray is in fact in the
25 textile sector. That contradicts the argument that

1 they are not in the low end. I think the record, to
2 some extent, details this, and here I would like to
3 turn to staff.

4 One of the thing that I think staff has to
5 do in looking at this testimony and then looking at
6 what is fact is on the confidential record is check
7 the sectors that it says people are present in, and
8 make sure that it comports with what the testimony
9 showed. Let me just give you an example.

10 If for whatever reason a respondent selling
11 to sector X, which is one of your enumerated sectors,
12 were to say that it's in that other category,
13 something is wrong and that record should be
14 corrected. And I believe that as you look at your own
15 records and your various cumulation charts there is an
16 important correction that has to be made.

17 Similarly, on the pricing data. Now, this
18 gets into a little bit to injury and causation, but
19 similarly on the pricing data. If Mr. Walders is
20 right, and I assume he is, that Kuraray is in the
21 textile business, then you ought to make sure that if
22 the product that is sold is within one of the product
23 categories on which you have asked for information,
24 and it's not in fact there, there is a problem that
25 ought to be corrected.

1 So we're talking here about cumulation. I
2 think given the admission of my friend Mr. Walders you
3 also need to check some of the things on the record,
4 and you -- well, what you will also find, I think the
5 testimony is very clear, that in fact Korea is in the
6 textile segment, that China is in the textile segment,
7 et cetera, et cetera, et cetera.

8 Then with regard to Germany, the testimony
9 that was given was actually very clear. It was given
10 by -- I wish I were better at names -- the gentleman
11 from Clariant, Mr. Saeger. And he spoke about highly
12 specialized grades. In fact, what happened in this
13 investigation is, I believe, Clariant or Kuraray,
14 both, suggested products in the paper sector. I think
15 the products 5 and 6 that are in fact relatively
16 specialized. There are rough U.S. equivalents so they
17 are not excluded. But that's not the business that
18 Clariant is in, and that was a misimpression.

19 Now, why can I say with confidence that
20 that's a misimpression? Because one of the things
21 that Mr. Saeger said actually confirmed one of the
22 points that DuPont has made, and that is, that very
23 recently a producer of paper, a paper customer that
24 has bought from DuPont immediately went to Clariant in
25 the face of DuPont's disclosed price increase. The

1 amounts at issue are not small.

2 Our intelligence about the Clariant price
3 offer was that they were perfectly prepared to
4 undercut the DuPont price and the price increase, and
5 whether that -- you know, I don't have any independent
6 verification of that, but it is very clear that
7 Clariant is not in this high-grade special paper
8 market, the segment of the paper market exclusively.

9 I would also urge you to look at the other
10 areas where Clariant -- if any -- where Clariant
11 report sales, because it seems to me the discussion
12 was solely around paper. In fact, that was
13 disingenuous. There is a lot more going on.

14 Finally, I read Mr. Saeger's testimony, and
15 he said going forward Clariant is limiting to a very
16 narrow area, and that's probably right insofar as
17 Clariant is concerned. The unspoken part of that what
18 is Kuraray doing. Kuraray now own the Clariant plant.
19 And are they bringing in more commodity grade
20 products? I suspect the answer to that is yes, if
21 only by the way in which the testimony was drafted.

22 So on cumulation, I think that when you
23 parse through and you listen carefully to what was
24 said a lot of the protestations, the reasons -- the
25 protestations about how inappropriate it is to

1 cumulate -- you will find it to be pretty empty.

2 A minor point, I am not going to quarrel
3 over lawyers' issues. It is unfortunate that Korea
4 was not here and did not articulate to you exactly
5 what it is doing. But in the world we live in there
6 should be an adverse inference there.

7 Then with regard to injury, there really
8 wasn't much question about injury. It is true that
9 respondents have raised questions about the
10 financials, and the Commission has asked, and they are
11 all good questions, and they have to be answered in
12 confidence. But more broadly, what the respondents
13 were doing, were not saying this is not an industry
14 that is not injured. Rather, what they were doing was
15 saying this is an industry that is not injured by
16 imports into the United States. So it's essentially a
17 causation argument.

18 The first point they make is that the
19 problem is exports. And when you look at the
20 financials, and you somehow disaggregate exports,
21 everything in fact is fine. The exchange between
22 Commissioner Hillman and Mr. Malashevich was right on
23 Commissioner Hillman's end and less than robust on Mr.
24 Malashevich's end.

25 In fact, when he said, somebody said, it's a

1 wonderful statement, "Exports and imports don't
2 complete." Well, okay, I mean, you can accept that.
3 But in fact if you're looking at export markets, what
4 you find is not only is there a presence of Kuraray
5 and the Chinese, and Kuraray Germany, and the Korean,
6 in fact they are the predominant suppliers in those
7 markets. So to the extent there is anything
8 instructive to be gained about export markets, it's
9 that. Without the discipline of an antidumping order
10 there is no conceivable way that the U.S. industry can
11 survive at what it needs to essentially justify its
12 economic existence, and if that ever comes to the
13 United States the industry is as good as finished.

14 But let me go now to sort of more, more
15 specifics or the more traditional causation factors,
16 and let me first start with -- again, sometimes I wish
17 I were an economist because I could use phrases like
18 "market power" with authority, and I really can't, but
19 let me try and understand what the argument was.

20 Mr. Malashevich concluded that because he is
21 not competing with Arthur --

22 MR. MELTZER: They are gone.

23 MR. GREENWALD: Whoever the Big 5 are --
24 Price Waterhouse -- whoever the Big 5 are, therefore
25 Kuraray doesn't have any market power with regard to

1 DuPont and Celanese. I mean, you know, get real.
2 There are some arguments that are entertaining to
3 listen to, and then there are arguments that are --

4 MR. MELTZER: That are better not made.

5 MR. GREENWALD: -- better not made. And Mr.
6 Meltzer is right. If you are looking at a Big 5
7 analogy you can put DuPont there, you can put Celanese
8 there, that's true. You also have to put Kuraray
9 there, you have to put Sichuan there, you have to put
10 the Koreans there.

11 So the notion that somehow the volume of
12 imports translates into the lack of market power
13 doesn't really ring very true.

14 At this point let me go to the testimony of
15 Solutia. Everyone of us agrees that there are not a
16 whole heck of a lot of imports of PVA for PVB. We
17 don't dispute that, and certainly Solutia doesn't.
18 But when the exchange came, did you or do you use
19 competitive offers, competitive prices from foreign
20 suppliers in your negotiations with DuPont and
21 Celanese?

22 The answer was, in my sort of -- as I heard
23 it, of course, we do. That's what you do in business,
24 and that's true.

25 When Kuraray or Nippon Gossi supplies

1 Solutia Europe and Solutia says to DuPont you better
2 have a price that is competitive if you want to keep
3 our business. It may very well be that all the people
4 at Solutia go back and say, ha-ha-ha-ha, boy, we were
5 just kidding. But the phrase that was used in the
6 testimony, again when you parse the language, is,
7 well, DuPont may have had the perception that that was
8 serious, and in fact, of course, they do. They have
9 to, and it happens in sector after sector after
10 sector.

11 The notion that there must be a quantum of
12 sale to have that sort of price impact when in fact
13 the people you are talking about, if I can use Mr.
14 Malashevich's own characterization, a world class
15 supplier is nonsense. What you have is offers.

16 The testimony on our side was that for the
17 most part DuPont throughout the period, and Celanese
18 later in the period made a conscious decision to keep
19 operating at high capacity. Celanese departed from
20 that when it had disastrous result. In order to do
21 that DuPont and Celanese cannot afford to ignore
22 credible offers that are given to them by their
23 customers.

24 When whoever the customers in the paper
25 business goes to see Kuraray or Clariant, whoever it

1 is in Germany, and gets a quote, DuPont, which is
2 trying to get a price increase through because there
3 are these higher costs, cannot say we can ignore it.

4 So, so far it seems to me that in terms of
5 the basic testimony both by Solutia and by the Germans
6 support the essence of what DuPont and Celanese have
7 been saying. The rise in imports from Korea, from
8 Japan, from Germany, I suspect did not come entirely
9 at the expense of the United States. In other words,
10 I do not believe that every single account that bought
11 from one of these producers the displaced supplier was
12 a U.S. producer.

13 On the other hand, I do believe, and I think
14 the testimony confirms without contradiction, that in
15 this market prices get out. Let me use textiles as an
16 example. The truth of the matter in textiles is that
17 there are companies like Millikan that have U.S.-
18 source preference, and that's very clear. It is
19 equally true that companies like Millikan know what
20 their competitors are getting from compounders, and
21 that whatever that price is is the price that
22 Millikan, citing foreign producer prices, throws at
23 the U.S. industry. And they have a choice of meeting
24 or not meeting that competition.

25 Finally, a couple of points that are sort of

1 -- yes, as to cost, the testimony by respondent was
2 unequivocal on rising costs. I know the number that
3 you are looking at in your staff report, but something
4 there is wrong, and I'm not quite sure -- I mean, I've
5 got to go back and find that out. But you have heard
6 from us and from respondents that in fact, yes, costs,
7 material costs have gone up, the energy problem
8 flowing through the system.

9 This does lead to a cost/price squeeze and
10 this goes to, finally, my sort of last point, I have
11 probably gone on more than 10 minutes. Yes, okay.
12 Give or take a few. Which as to --

13 COMMISSIONER KOPLAN: We're counting.

14 MR. GREENWALD: -- do with threat. Let me
15 just summarize. Things that everybody agrees to,
16 everybody agrees that prices offshore are lower in the
17 U.S. market. Nobody can make money at those prices,
18 and the issue of survivability is who can lose the
19 most, not who can make the most. Don't forget that
20 the margins that Commerce found against Kuraray Japan,
21 Kuraray German, Nippon Gossi were all sales to low
22 cost margins. They basically dropped out of the
23 investigation.

24 So what you have in this situation is too
25 much supply chasing too little demand. It is, you

1 know, sort of Basic Econ 101. Then supply is coming
2 into the United States. In many ways my job would be
3 a lot easier if the imports had rise to 10 percent
4 rather than whatever percent, or 20 percent. They are
5 talking about imports this small. We know the
6 numbers.

7 But this industry can't wait. It is not
8 able to absorb losses on the scale that -- their
9 performance -- let me say performance, and certainly
10 in the future it cannot continue under current
11 conditions.

12 Now, finally, with regard to pricing and
13 price underselling, and here I promise you I will
14 close, but I want to talk to both the Commission and
15 the staff, there were confidential handouts referred
16 to by Mr. Walders and Mr. Malashevich on pricing.
17 There are differences between the universe of prices
18 that were supplied by respondents in the preliminary
19 phase of this investigation and in the final.

20 We don't know why there are those
21 differences but there are. So I would ask the staff
22 will have to go through the confidential record and
23 explain the differences, and explain why there are
24 changes that people made to their questionnaire
25 responses, or the like.

1 But it is a serious issue and there are
2 questionnaire response gaps, if you will, or changes,
3 whatever, that need to be addressed.

4 The universe of prices that you have in the
5 product-specific analysis less than we would like. It
6 will be more when the record is corrected. There are
7 some products, especially the ones selected by counsel
8 for Kuraray, where, you know, it shows what they want
9 to show but not in enough quantity to matter, and
10 there are other areas where in fact the price
11 underselling is clear and is evident, and in fact to
12 my mind sustains the basic proposition with regard to
13 Kuraray that they made a conscious decision to change
14 their marketing strategy to get into commodity grade
15 products, and that's what the future holds.

16 If this Commission decides no, I can predict
17 to you that within a matter of months, if not -- you
18 know, or a year, this industry will have no choice but
19 to come back because the only thing that is different
20 between the U.S. market and the offshore market, and
21 everybody agrees prices are not at a sustainable
22 level, is in fact the existence of U.S. antidumping
23 laws.

24 Thank you.

25 CHAIRMAN OKUN: Thank you.

1 Now I'll turn to Mr. Walders.

2 MR. WALDERS: Thank you, Madam Chairman.
3 I'm going to yield some of our time to my colleagues
4 here who have important statements to make on behalf
5 of Solutia and Clariant.

6 CHAIRMAN OKUN: Okay.

7 MR. CANNON: This morning we heard a lot
8 about tweaking, tweaking physical characteristics.
9 You need to know that a tweak of 25 parts per million
10 in chemistry makes the PVA unable to adhere to glass
11 when you're making PVB an unusable. These very slight
12 physical differences make a lot of difference.

13 More importantly, we heard about markets
14 that are distinguished by their use. This case has
15 been defined around these different markets and use
16 looms very large in this case now. The top five of
17 the 15 products that were excluded were not
18 copolymers. They were excluded by their end use. And
19 to be excluded you had to sign a certificate we
20 promise we will only use it in this market. So the
21 petitioners chose use to define their case, PVA used
22 for PVB merits your consideration on that basis.

23 Secondly, I want to address the one offer,
24 the September negotiation. The Commission has never
25 found injury in any market or case or segment on one

1 offer. I had a petitioner, a client, an engineer,
2 Erbo Processors from Japan, we had one sale. We got
3 an affirmative decision from the Commission. It was a
4 \$20 million sale. But there has been no case with one
5 offer.

6 And there was no lost sale here as a result
7 of this discussion, and you know when business people
8 talk about price negotiations there will be multiple
9 sources of information. What has not been said here
10 is that we are a producer of PVA. We know what it
11 costs. When Celanese and DuPont come to us and say,
12 we want to raise the price, we can look them in the
13 eye and say, you know, we make PVA. We know whether
14 your raw materials are going up or your energy costs,
15 and we work with them when that happens. So this is a
16 more complex scenario than I can get a lower price
17 from one supplier.

18 Lastly, I would like to talk about what is,
19 I guess, the -- it's the argument that we raise that
20 actually drew the adjective of being silly or
21 preposterous. It's the argument that no financial
22 analyst would exclude export performance. Of course
23 not. The Commission is not a body of financial
24 analysts. You're executing a statute.

25 In the '94 legislative history and the '79

1 legislative history, both, Congress said that you
2 should not attribute to subject imports effects that
3 are from other sources.

4 Now, I'm not talking about weighing causes.
5 I'm talking about focusing on subject imports.
6 Because that is what the dumping law is about. The
7 dumping law does not exist to rescue DuPont and
8 Celanese for overbuilding capacity, and that's what
9 they have. They have more capacity in the United
10 States than they need to serve this market. They are
11 exporting one-third of their production based on the
12 public figures, and you can see the actual numbers in
13 the record.

14 And the U.S. as a whole is a net exporter.
15 They are exporting more than we import. So in this
16 case, unlike most cases before the Commission, you
17 shouldn't ignore the impact of those exports on their
18 financial condition.

19 Thank you.

20 MR. McGRATH: Good afternoon again. Matt
21 McGrath on behalf of Clariant, and there were just a
22 few points I would like which really go to the issue
23 of cumulation that we discussed all afternoon, and
24 which is important to your analysis of Germany in this
25 case.

1 Among the many comments that were made
2 throughout the testimony this morning, certainly again
3 and again I think you heard emphasis on where Celanese
4 and DuPont run into cheap, large quantities of
5 commodity-grade product in the market, where they are
6 hearing quotes in competition that have to do with
7 textiles and adhesive. Oh, yes, and paper, let's not
8 forget paper.

9 I think it was very revealing, paper has
10 always been an afterthought, and is even more so in
11 this case now that we're down to subject countries
12 which really are not the major impact. I think at the
13 end of testimony this morning Mr. Greenwald very
14 frankly admitted that the dumping order against these
15 countries, this wouldn't do the trick. What they are
16 really interested in is China and Korea. They are
17 interested in something else, and they are interested
18 in the possibility that Clariant and Kuraray which is
19 connected somehow or other with a bunch of different
20 countries might become a problem in the future because
21 of their presence and because of their size. So
22 that's really how kind of the gnat of Germany gets on
23 this elephant of a case.

24 The fact is German volume is extremely low
25 even if we do find a product for price comparison

1 between Germany and products in the U.S. that are
2 somewhat close to those specifications but not exactly
3 the same end use. You're still not going to see a
4 very high volume no matter what you look at. That's
5 because there just isn't -- there isn't that much in
6 the market.

7 One piece of testimony that was offered this
8 morning, Ms. McCord discussed one customer -- we will
9 try to deal with this in detail in the post-hearing
10 brief -- one customer which she said there was a lower
11 offer, and then Mr. Greenwald again just made
12 reference to it just now, and that it involved a large
13 volume.

14 Our understanding, while we may differ what
15 the volume was, but this once again, I think,
16 highlights the reason why we caution against using too
17 much of the very narrow, a couple of little pieces of
18 anecdotal information in trying to evaluate this.

19 That particular customer that we think we're
20 talking about here is one that buys lots of other
21 paper chemicals from Clariant. Clariant sells to them
22 and is working with them on other things. In the
23 course of their work with other customers, PVA
24 occasionally comes up. That was the nature of how
25 this happened. It wasn't a situation where an

1 importer was going around and shopping a lower price
2 to another U.S. customer.

3 And at the end of the day, if we have the
4 right situation, Clariant ended up no agreeing to
5 offer that price anyway. There was a small amount
6 that was taken for qualification and that was the end
7 of it.

8 Another point that had been made was that
9 the petitioners here felt that they had to take large
10 price cuts in order to keep quantity going, keep
11 volume going in their plant since capacity utilization
12 and keeping that utilization high is critical to their
13 success, or to their staying in business.

14 And again, all the examples given had to do
15 with the necessity of taking lower prices in order to
16 maintain volume, significant volumes, that accounts
17 that dealt with textiles and adhesive and other end
18 uses.

19 Mr. Laub did indicate right off the bat that
20 paper holds the highest price, and that's not what
21 they are talking about when they say taking big price
22 cuts in order to keep capacity high.

23 And finally, Mr. Greenwald did make
24 reference to the fact that Clariant has decided to
25 focus its efforts in the future for German product on

1 the paper market. The only question you are left with
2 then that Mr. Greenwald leaves you with is what will
3 Kuraray do, and all the Commission can really do is
4 look at the record it has. There is no evidence that
5 Kuraray has any sort of master plan on its German
6 plant into a new platform for shipping commodity-grade
7 chemicals to the United States.

8 Theoretically, any producer of PVA in the
9 world could make a commodity-grade product, but that
10 doesn't meet the economics of this particular market,
11 and of that particular production, and of that market
12 in Europe which is the base for that plant, as it is
13 now, and the only product that comes here is focused
14 on the specialty paper market.

15 So I conclude just by saying once again that
16 I think the factors are here for not cumulating
17 Germany with the other countries. Even if you do
18 cumulate, I think the numbers are pretty strongly in
19 favor of a negative finding.

20 MR. WALDERS: Thank you. I would like to
21 just express a truism, which is that the Commission's
22 decision in this case, as in every case, has to be
23 based upon substantial evidence in the record of the
24 investigation. I can sympathize with Mr. Greenwald
25 because he is lacking that substantial evidence to

1 support his claims of injury and causation, and
2 instead what he has given us is speculation, anecdotes
3 and quarrels with the staff report.

4 For example, the allegation that Kuraray is
5 now bringing in commodity product from Germany, where
6 does that come from? Where is the evidence? He said
7 so. But where is the evidence? Where does the record
8 support it? Certainly not the record that has been
9 developed in this case. The record, as we have shown,
10 is quite to the contrary.

11 What comes in from Germany is specialized
12 product that does not compete with other imports and
13 barely competes at all with domestic products, and is
14 certainly not a commodity product.

15 Mr. Greenwald said there is not much
16 question about injury here. Well, I beg to disagree.
17 There is a considerable question about whether this
18 industry is in fact injured, and we have pointed out
19 the questions and the conclusions that should be drawn
20 in our brief when you analyze the individual
21 profitability of each of the companies who are
22 petitioners before you.

23 The other issue that I find very difficult
24 to follow is Mr. Greenwald's statement that because
25 prices are low in export markets, therefore there will

1 be a flood of imports into the United States at lower
2 prices.

3 I don't see how that follows. The market
4 conditions, the conditions of competition, the
5 exchange rates, and many other factors in foreign
6 markets are quite different than they are in the
7 United States. As we all know, a finding of threat of
8 injury must be based on evidence that the threat is
9 real and imminent, and what we have here is mere
10 conjecture, and I would submit empty rhetoric. There
11 is no link between what is going on in export markets
12 and what might happen here. What might happen here
13 depends on market conditions in this country.

14 Mr. Greenwald said that his job would be
15 easier if the market share of subject imports were
16 higher. I can understand and sympathize. The fact is
17 the market share is much lower. It is so low, it is
18 so insignificant that it could not be a cause of
19 injury or threat of injury.

20 Mr. Greenwald probably also feels that his
21 job would be easier if China were included in this
22 investigation. The fact is that China is not subject
23 to this investigation. No matter what his speculation
24 may be as to what the Commerce Department will do in
25 the future China is not subject imports. He may try

1 to characterize it as being a condition of
2 competition, but the key issue for the Commission is
3 causation.

4 The courts have said repeatedly that you
5 must find a causal link between subject imports and
6 injury, and that you may not attribute to subject
7 imports injury that some other causes, including most
8 particularly non-subject imports, and in that respect
9 I would include Taiwan as well. It is noteworthy that,
10 unlike the previous investigation, this time Taiwan is
11 not named as a respondent. It doesn't require any
12 speculation at all to conclude why that is the case.
13 You heard the testimony today from an importer from
14 Taiwan who is on the side of the petitioners. You
15 also know the petitioners themselves have a strong
16 interest in imports from Taiwan.

17 Let's look at the record, not at the
18 speculation, look at the facts, follow the law with
19 respect to causation, and we are confident that you
20 will find that there is no evidence, no substantial
21 evidence on the record of injury or threat of injury
22 from subject imports.

23 Thank you.

24 CHAIRMAN OKUN: Thank you. Post-hearing
25 briefs, statements responsive to questions and

1 requests of the Commission and corrections to the
2 transcript must be filed by May 15, 2003. Closing of
3 record and final release of data to the parties is May
4 30, 2003, and final comments are June 3, 2003.

5 I note that in addition parties may submit
6 additional comments on Commerce's final determinations
7 with respect to China and Korea not later than close
8 of business on August 18, 2003.

9 With no other matters to come before the
10 Commission, this hearing is adjourned.

11 (Whereupon, at 4:15 p.m., the hearing in the
12 above-entitled matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Polyvinyl Alcohol from China
INVESTIGATION NO.: 731-TA-1014-1017 (Final)
HEARING DATE: May 8, 2003
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: May 8, 2003

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: Maria Hester
Signature of Court Reporter