

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
CARBAZOLE VIOLET PIGMENT 23) 701-TA-437 and
FROM CHINA AND INDIA) 731-TA-1060 and 1061
) (Final)

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Wednesday,
 November 10, 2004

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

The hearing commenced, pursuant to notice, at
 9:34 a.m., before the Commissioners of the United States
 International Trade Commission, the Honorable STEPHEN
 KOPLAN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:Commissioners:

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

APPEARANCES: (cont'd.)

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS
COORDINATOR
CYNTHIA TRAINOR, INVESTIGATOR
CYNTHIA FORESO, COMMODITY ANALYST
CRAIG THOMSEN, ECONOMIST
DAVID BOYLAND, ACCOUNTANT/AUDITOR
MARY JANE ALVES, ATTORNEY
GEORGE DEYMAN, SUPERVISORY INVESTIGATOR

In Support of the Imposition of Antidumping Duties:

On behalf of Nation Ford Chemical Company (NFC)
and Sun Chemical Corporation (Sun):

JOHN A. DICKSON, CEO, NFC
EDWIN B. FAULKNER, Director, Product Management
and Communications, Sun
STEPHEN J. SCHMIDT, Senior Manager, Global
Purchasing, Sun

GREGORY C. DORRIS, Esquire
Pepper Hamilton, LLP
Washington, D.C.

On behalf of Clariant Corporation:

ANDREW ZAMOYSKI, Manager, Pigment and Additives,
Clariant Corporation

MATTHEW T. MCGRATH, Esquire
STEPHEN W. BROPHY, Esquire
Barnes Richard & Colburn
Washington, D.C.

APPEARANCES: (Cont'd.)

In Opposition to the Imposition of Antidumping Duties:

On behalf of Pidilite Industries, Ltd. and Alpanil Industries:

NARENDRA PAREKH, Joint Managing Director, Pidilite Industries

LIZBETH R. LEVINSON, Esquire
Garvey Schubert Barer, LLP
Washington, D.C.

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P R O C E E D I N G S

(9:34 a.m.)

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CHAIRMAN KOPLAN: Do I understand the witnesses have been sworn?

MS. ABBOTT: The witnesses for the first panel have been sworn.

(Witnesses sworn.)

MS. ABBOTT: Opening remarks on behalf of the Petitioner will be by Gregory C. Dorris, Pepper Hamilton.

CHAIRMAN KOPLAN: Thank you.

You may proceed, Mr. Dorris. Good morning. Your microphone?

MR. DORRIS: Hello and good morning. I am Greg Dorris of the law firm of Pepper Hamilton, counsel to Petitioners Nation Ford Chemical Company and Sun Chemical Corporation.

By now, each of you most likely has read the parties' prehearing briefs and analyzed the prehearing report. The movie Jerry McGuire comes to mind, at least the scene where Jerry comes back to confess his love and launches into a long, heartrending explanation, but he gets interrupted when she says, "Stop. You had me at hello."

I suspect that having read the briefs and

1 prehearing report, we also have you at hello. The
2 facts in these investigations are overwhelmingly in
3 favor of affirmative determinations, and the
4 opposition is virtually nonexistent.

5 What Petitioners would like to do
6 productively here this morning is explain why they
7 filed the petition initially pro se as their last
8 alternative to combat the rise in unfairly traded
9 imports from China and India and what these cases are
10 all about.

11 Petitioner did not file these cases
12 reluctantly, mind you, but rather purposely after
13 careful thought and consideration. Toward this end,
14 our first witness will be John Dickson, the CEO of
15 Nation Ford Chemical Company. Mr. Dickson will
16 describe the domestic production and sale of the crude
17 Carbazole Violet 23 and injurious impact of the
18 unfairly traded imports from China and India on his
19 business.

20 Ed Faulkner of Sun Chemical Corporation's
21 Performance Pigments Group will follow Mr. Dickson.
22 He will discuss the production process and end uses of
23 the finished pigments. Mr. Faulkner also will discuss
24 the significant negative impacts caused by the
25 unfairly traded imports from China and India on the

1 U.S. industry.

2 Steve Schmidt, also from Sun, will speak
3 next as essentially an expert on the global markets
4 for pigments and pigment preparation. Mr. Schmidt
5 will provide additional insight on the like product
6 issue, as well as the negative price effects of the
7 unfairly traded imports from China and India.

8 Finally, Andy Zamoyski, the Manager of
9 Pigments and Additives of Clariant Corporation, will
10 provide his perspective as to the negative impact of
11 unfairly traded imports from China and India on
12 Clariant.

13 Andy is accompanied by counsel Matt McGrath
14 and Stephen Brophy of Barnes, Richardson & Colburn.
15 While Clariant is not a petitioner, it fully agrees
16 with and supports the petition.

17 You will learn from this presentation and
18 our responses to any questions you might raise that
19 this industry producing Carbazole Pigment 23 is
20 materially injured and is threatened with additional
21 material injury by the dumped imports from China and
22 the dumped and subsidized imports from India.

23 While we may have had you at hello, we hope
24 that if there are any lingering doubts remaining that
25 those doubts will be resolved here today in favor of

1 an affirmative determination.

2 Before turning the floor over to opening
3 remarks by counsel for the participating Indian
4 Respondents, I will say that the issue of whether the
5 Indian imports are negligible should no longer be a
6 question.

7 As the Commission found in its preliminary
8 determination and as discussed in further detail in
9 the prehearing report and Petitioners' and Clariant's
10 prehearing briefs, the Indian import data in the
11 official Bureau of Census data grossly understates the
12 Indian imports during the negligibility timeframe.

13 To paraphrase the recent election,
14 Petitioners strongly believe that every pound should
15 count and every pound should be counted. When they do
16 and they are, then the Indian imports will be shown
17 not to be negligible.

18 The Indian imports are being dumped at very
19 high margins from close to 30 to almost 70 percent --
20 we now have the final results -- and are benefitting
21 from substantial direct export subsidies ranging from
22 over 17 to 33 percent. Despite their lower volume,
23 they have contributed to the price declines over the
24 period of investigation.

25 That this is primarily a price case confirms

1 that the unfairly low-priced Indian imports have
2 contributed to the injuries suffered by the domestic
3 industry. The Indian and Chinese imports should be
4 cumulated in finding material injury or threat of
5 material injury, and affirmative final determinations
6 of injury should be made against both countries.

7 Thank you.

8 CHAIRMAN KOPLAN: Thank you.

9 MS. ABBOTT: Opening remarks on behalf of
10 the Respondents will be by Lizbeth R. Levinson, Garvey
11 Schubert Barer, LLP.

12 CHAIRMAN KOPLAN: Good morning.

13 MS. LEVINSON: Good morning. I have a very
14 brief statement. I'm Lizbeth Levinson from Garvey
15 Schubert. I'm representing the Respondents from
16 India, Alpanil and Pidilite.

17 As you can imagine, we urge the Commission
18 to look at the official Census Bureau statistics, the
19 import statistics on which you commonly rely for
20 making negligibility determinations. Although I heard
21 counsel for the Petitioners claim that these
22 statistics are in some ways tainted, they've had over
23 a year to try to correct these statistics and work
24 with the Customs service if they believe they're
25 tainted. We don't believe that they're flawed in any

1 way.

2 I believe that in the preliminary
3 determination the Chinese Respondents explained that
4 some of them were importing presscake, as opposed to
5 the dry color, and when they were importing the
6 presscake they were reporting in some small instances
7 the wet presscake rather than the dry color, thereby
8 inflating the volume that was coming in.

9 In the final phase of the investigation, we
10 were able to determine that the imported presscake
11 actually constitute a very, very small percentage of
12 total volume from China and in fact could not distort
13 the official statistics.

14 On the other hand, the statistics from the
15 questionnaire responses are not complete. There are a
16 number of flaws that we'll be discussing in our post-
17 conference brief and my witness will be discussing
18 during his testimony today.

19 In short, we ask you to rely on what you
20 usually rely on, the official Census Bureau
21 statistics, which show that India is negligible in
22 that it's less than three percent.

23 By the way, I will point out that even if
24 you were to use the questionnaire responses that India
25 still is negligible for the CVD part of the case. As

1 you know, there are two cases here, CVD and
2 antidumping. The statute does provide that for a
3 developing country like India less than four percent
4 on the CVD side is sufficient for negligibility.

5 Thank you very much.

6 CHAIRMAN KOPLAN: Thank you, Ms. Levinson.

7 Madam Secretary, before we proceed I believe
8 there's one preliminary matter that remains
9 outstanding. I caught a bit of an error that I made,
10 so let me lay the predicate for the hearing by
11 starting and saying, as I should have done a moment
12 ago:

13 Good morning. On behalf of the United
14 States International Trade Commission, I welcome you
15 to this hearing on Investigation Nos. 701-TA-431 and
16 731-TA-1060 and 1061 (Final), involving Carbazole
17 Violet Pigment 23 From China and India.

18 The purpose of these investigations is to
19 determine whether an industry in the United States is
20 materially injured or threatened with material injury
21 or the establishment of an industry in the United
22 States is materially retarded by reason of subsidized
23 imports from India and less than fair value imports
24 from China and India of subject merchandise.

25 Schedules setting forth the presentation of

1 this hearing, notice of investigation and transcript
2 order forms are available at the Secretary's desk.
3 All prepared testimony should be given to the
4 Secretary. Do not place testimony directly on the
5 public distribution table.

6 As all written material will be entered in
7 full into the record, it need not be read to us at
8 this time. All witnesses must be sworn in by the
9 Secretary before presenting testimony.

10 I understand the parties are aware of the
11 time allocations. Any questions regarding the time
12 allocations should be directed to the Secretary.

13 Finally, if you will be submitting documents
14 that contain information you wish classified as
15 business confidential, your requests should comply
16 with Commission Rule 201.6.

17 Madam Secretary, I believe I have now
18 covered the preliminary matters.

19 MS. ABBOTT: Thank you, Mr. Chairman.

20 CHAIRMAN KOPLAN: We can proceed to the
21 first panel.

22 MS. ABBOTT: The first panel in support of
23 the imposition of antidumping and countervailing
24 duties, please come forward. All witnesses have been
25 sworn.

1 CHAIRMAN KOPLAN: Mr. Dorris, you may
2 proceed.

3 MR. DORRIS: Yes. We're going to begin with
4 Mr. Dickson.

5 MR. DICKSON: Good morning.

6 CHAIRMAN KOPLAN: Good morning.

7 MR. DICKSON: My name is John Dickson. I am
8 the CEO of Nation Ford Chemical Company. NFC is a
9 small, privately held producer of organic chemicals
10 located in Fort Mill, South Carolina.

11 We have been the only domestic producer of
12 crude Violet 23 since 1988 when we signed a supply
13 contract with Sun Chemical Corporation. This
14 contract, still in effect today, requires NFC to be
15 competitive with other world sources of crude violet.
16 It provides no insulation from low prices from other
17 countries such as China and India.

18 Unlike other major producers of finished
19 violet, Sun does not produce the crude pigment. For
20 strategic reasons, it has been important to Sun that
21 they align themselves with an independent crude
22 producer in the United States. Although NFC may be
23 strategically important to Sun, Sun cannot be expected
24 to pay more for domestic crude than from China and
25 India.

1 During the period of investigation, both
2 China and India have been actively selling or trying
3 to sell crude pigment to Sun and other finished
4 pigment producers in the USA. NFC reduced its tolling
5 fee by almost 40 percent beginning in 2002 in a
6 desperate attempt to be competitive with the Chinese
7 and Indian crude pigment.

8 Nevertheless, we lost more than half of our
9 business that same year, and we suffered enormous
10 injury. The record shows that these losses have been
11 substantial and are continuing through the present
12 year.

13 Although direct comparisons of domestic and
14 Chinese crude prices are not possible because NFC's
15 toll price does not include raw materials provided by
16 Sun, it is possible to make an indirect comparison by
17 adding Sun's cost of raw materials to the NFC toll
18 price.

19 On that basis, the Chinese undersold NFC at
20 Sun by more than 33 percent in 2001, close to 20
21 percent in 2002, although we had reduced our price by
22 40 percent, the tolling fee, for that period, and just
23 over 20 percent in 2003. From the NFC point of view,
24 there is no question that we have suffered material
25 injury directly because of the dumped imports from

1 China and India.

2 NFC is a large part of the domestic
3 industry. Unlike the equipment used for converting
4 crude to finished pigment that can be used for
5 different colors, the production of crude requires
6 completely dedicated equipment.

7 There are several carefully controlled
8 solvent based chemical reactions that generate
9 substantial amounts of wastewater and solid waste.
10 There are six separate chemical reactions required to
11 synthesize the crude starting with the carbazole.

12 Specialized equipment and operator training
13 is required for all of these separate steps, including
14 the final isolation and purification of the product.
15 The result is a high quality product with outstanding
16 product yield based on raw materials, energy and labor
17 consumed in the production.

18 NFC operates a substantial and modern
19 facility producing crude violet that provides
20 employment for approximately 20 people. We have
21 production capacity to supply the entire domestic
22 requirement of crude Violet 23. The plant is safe,
23 well engineered and is competitive with other world
24 producers on an even playing field.

25 If duties are not imposed on Chinese and

1 Indian product imports of violet, plain economics will
2 force Sun to discontinue purchasing crude from NFC and
3 buy crude and finished pigment from China and India.
4 This will end the production of crude pigment in the
5 United States.

6 There is no question that NFC has been
7 injured by the presence of the dumped crude from China
8 and offers to sell from India. China has also
9 demonstrated that they have huge capacity to produce
10 violet based on their rapid increase in the U.S.
11 market during the period of the investigation.

12 Even though India has sold little or no
13 crude in the United States, they have substantial
14 capacity and are attempting to get business by
15 offering very low prices. There are no less than 12
16 producers in India listed on the internet. The only
17 reason they have not been successful in getting
18 business is that the Chinese prices have on average
19 been somewhat lower than those offered from India.

20 But, make no mistake about it. If duties
21 are not placed on the Indian product they will
22 continue to offer product in the United States and
23 take business from the domestic industry.

24 As will be discussed in more detail later by
25 Steve Schmidt, crude and finished violet pigment

1 should be considered one like product.

2 At this point, I would like to introduce Ed
3 Faulkner from Sun, who will explain in more detail the
4 impact of unfairly traded finished Violet 23 from
5 China and India.

6 Thank you very much.

7 MR. FAULKNER: Good morning. My name is Ed
8 Faulkner, and I'm the Director of Product Management
9 and Communications for the Performance Pigments Group
10 of Sun Chemical Corporation.

11 A central part of my current job is to
12 analyze and report on the global market for organic
13 pigment, so I'm quite in tune with the market. I've
14 been with Sun for 31 years, and during that time I've
15 traveled to over 30 countries in pursuing the
16 business.

17 I have held numerous manufacturing and
18 marketing positions dealing with pigments and pigment
19 preparation, including the position of plant manager
20 with direct responsibility for pigment production. In
21 fact, I started my career as a Sun production
22 supervisor in the department that manufactures
23 finished Carbazole Violet Pigment 23 or Violet 23 for
24 short.

25 Sun is one of the leading producers of

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1 organic pigments and dispersions for use in the
2 coloring of printing inks, plastics, paints, cosmetics
3 and textiles. Performance Pigments, headquartered in
4 Cincinnati, Ohio, operates four pigment plants in the
5 United States -- Cincinnati, Ohio; Staten Island, New
6 York; Muskegon, Michigan; and Bushy Park, South
7 Carolina. In addition, two other facilities located
8 in Amelia, Ohio, and New Brunswick, New Jersey, are
9 dedicated to the production of pigment preparations.

10 The unfairly traded imports from China and
11 India are putting increasing pressure on Sun's sales
12 of pigments and pigment preparations. The current
13 case shows that Sun's production and sales of Violet
14 23 are experiencing serious negative impacts from the
15 very low priced dumped and subsidized Indian and
16 Chinese imports.

17 Violet 23 occupies a unique spot in color
18 space. It is a blue shade violet that exhibits a one-
19 of-a-kind clean hue and has very high tinctorial
20 value. In short, a little bit goes a long way, and
21 there are no other violet pigments that are as blue,
22 bright or clean as Violet 23.

23 Violet 23 is the primary organic violet
24 pigment for the coloring of printing inks and
25 plastics. It became the workhorse pigment because of

1 its distinctive color shade, very high strength and
2 great resistance properties.

3 In the printing industry, it is used widely
4 in publications, packaging, labels and textile inks.
5 In other words, it's on the magazines we read, the
6 snack food bags we buy at the deli, the label on the
7 beverages we drink and the clothes we wear.

8 In the plastics industry, it is used in most
9 resins, excluding the engineering ones. It is very
10 strong in tint and can actually look black in mass
11 tone. Most of its use is in olefins and PBC. It is
12 often used at low levels to provide a clean pastel
13 violet and is added in small quantities to blue in
14 fibers to produce a clean, red shade blue.

15 Violet 23 can be found in children's toys,
16 carpets, home wiring insulation, shampoo bottles and
17 many other such articles. Violet 23 is also used in
18 paints and other specialty applications such as
19 contact lenses and sutures. Its major uses in paints
20 are as a shading agent for blues to make them redder
21 and to brighten white paint.

22 As you have learned by now and as explained
23 by Mr. Dickson a few minutes ago, Violet 23 is
24 produced in a multi-step process beginning with the
25 crude form. The next step is the finishing of the

1 crude form.

2 The overwhelming majority of the crude
3 pigment purchased by Sun from domestic and foreign
4 sources is converted to ground presscake at our plant
5 in Cincinnati. The ground presscake is produced by
6 Sun using a particle size reduction process also known
7 as an attrition process. It is a batch operation and
8 is referred to as salt grinding.

9 The first step in this attrition process is
10 to combine crude Violet 23, ground sodium chloride,
11 which is common table salt, and an organic liquid
12 vehicle into a high shear, high energy mixer. The
13 salt particles are harder than the pigment particles,
14 so they attrit or reduce the size of the crude
15 particles to a point where it exhibits the desired
16 properties of color, shade and tinctorial value. The
17 vehicle provides mass to the mix, forming a magma that
18 permits the salt to grind the pigment. The cycle time
19 varies, but is measured in hours rather than in
20 minutes.

21 The second step is to recover the pigment
22 from the magma. This recovery is accomplished by
23 charging the magma to an agitated tank containing
24 water and an inorganic acid. The pigment which is not
25 water soluble forms a slurry while the salt and

1 vehicle dissolve. The slurry is then fed to a
2 filtration device where the pigment is trapped, and
3 the salt vehicle water filtrate is sent to a
4 wastewater treatment facility after neutralization
5 using a caustic solution.

6 The pigment is extracted from the filter and
7 is commonly called presscake at this point. It
8 consists of approximately 40 percent solids and 60
9 percent water. Dry color is produced by slurring the
10 presscake in water and then atomizing that slurry into
11 an 800 degree Fahrenheit airstream which instantly
12 flashes off the water, leaving a dry powder. The
13 process is known as spray drying.

14 Presscake is used to produce dry color and
15 flush color at the Sun plant in Cincinnati, Ohio, and
16 shipped to the Sun plant in Amelia, Ohio, where it is
17 converted to aqueous dispersions. Presscake is sold
18 to the merchant market primarily for the production of
19 aqueous dispersions and primarily used in packaging
20 and textile ink industries. The term merchant market
21 here refers to the product sold by Sun to other
22 companies as opposed to that it consumes internally.

23 Dry color is used in three major area --
24 solvent based packaging inks, plastic articles and
25 consumer paint. Dry color accounts for the major end

1 use of Violet 23. Dry color is sold to the merchant
2 market and used internally by Sun's Ink Division.

3 A very small amount of the crude Violet 23
4 purchased by Sun is converted to finished dry color at
5 our facility in Bushy Park, South Carolina. The
6 process used for the conversion is very different from
7 the one in Cincinnati. The crude is conditioned via
8 an acid swelling process followed by recovery of the
9 pigment from the acid with subsequent drying and
10 blending. The end use for these niche products is in
11 the automotive coatings industry.

12 Violet 23 is imported from China in the form
13 of crude pigment, ground presscake and dry color.
14 Material is imported from India in the form of dry
15 color. As just described by John Dickson, imports of
16 the crude pigment have negatively impacted domestic
17 crude production and sales represented by NFC
18 resulting in much lower prices and significantly
19 reduced volume.

20 Imports of the ground presscake and dry
21 color have had the same effect on the domestic
22 production and sales of the finished pigment. Sun is
23 not aware of any flush color or aqueous dispersions
24 being imported from China or India during the period
25 of the investigation, but intends to watch closely any

1 developments in these areas as the means of
2 circumventing any future antidumping or countervailing
3 duty orders on Violet 23.

4 In addition to manufacturing pigments, Sun
5 is also the world's largest producer of printing inks.
6 The Ink Division, known in the United States as
7 General Printing Ink or GPI, consumes significant
8 quantities of Violet 23 manufactured by the
9 Performance Pigments Group.

10 The two divisions, Performance Pigments and
11 GPI, are operated as standalone business units.
12 Consequently, Performance Pigments sells product to
13 GPI at competitive prices with the objective of making
14 a profit in the process. The products sold to GPI are
15 the same ones that Performance Pigments sells to the
16 merchant market. As market prices have dropped for
17 Violet 23 dry color, Performance Pigments has reduced
18 sales prices to GPI to keep in step with that market.

19 As the record must now show, the domestic
20 industry producing Violet 23 is in a weakened
21 condition that only continues to get worse. The
22 unfairly traded imports from China and India have
23 dragged prices down to such low levels that Sun simply
24 cannot continue to compete profitably. Sun has lost
25 significant market share to the unfairly traded

1 imports.

2 Indeed, it is much cheaper to buy the dumped
3 crude and finished product from China and dumped and
4 subsidized finished from India than for Sun to make
5 these products here in the United States. At some
6 point, without the relief from these unfairly traded
7 imports sought here today, Sun will have no other
8 rational business choice than the closure of its U.S.
9 production of Violet 23.

10 The steep decline in Sun's selling prices
11 are a direct result of the dramatic declines in U.S.
12 prices caused by the unfairly traded Chinese and
13 Indian imports. Steve Schmidt of Sun will elaborate
14 further on these negative price impacts.

15 Steve?

16 MR. SCHMIDT: Good morning. My name is
17 Steve Schmidt. I'm Senior Manager in the Global
18 Purchasing Department at Sun Chemical.

19 As part of my responsibility, I travel to
20 and work with suppliers throughout the world. For
21 over 20 years now, I have been responsible for
22 overseeing Sun's global purchasing of various raw
23 materials used in the production of organic pigments
24 and pigment preparations.

25 I'm also responsible for the raw material

1 purchasing for the toll manufacturing done for Sun
2 Chemical, including the crude Violet 23 production by
3 NFC. I purchase the raw materials to make the crude
4 and the manufacturing inputs to convert the raw
5 materials into Violet 23. I also oversee the purchase
6 of completed crude from Sun and also from other
7 foreign producers.

8 Crude Carbazole Violet 23 has no other use
9 than to be converted into finished Violet 23 pigment,
10 so from the start it is dedicated to finished Violet
11 23 production. There are no independent uses in the
12 market for the crude form, namely because the
13 conversion process into presscake and dry color is
14 necessary to provide the essential coloring property.
15 The crude, therefore, is not interchangeable with
16 finished Violet 23 pigment presscake or dry color.

17 Having said this, however, it's also true
18 that crude embodies and imparts the finished presscake
19 and dry color, the essential characteristics and
20 functions that could not be achieved in any other way.
21 I have visited many of the Violet 23 crude and
22 finished pigment facilities and plants around the
23 world, including those in Asia. Sun's Violet 23
24 pigment plant and NFC's Violet 23 crude plant rank
25 among the top of the list for quality of facilities.

1 The processes run by Sun Chemical and by NFC
2 use the most modern technology that maximize yield,
3 minimize waste generation and minimize cost. I have
4 struggled for some time now to balance the cost of raw
5 materials in order to compete with the declining
6 prices of finished Violet 23 in the U.S. market.
7 Unfortunately, I'm losing the fight.

8 In recent years, the pricing of Violet 23
9 crude, presscake and dry color pigments has fallen
10 dramatically because of the low-priced products from
11 China and India. I admit that Sun has purchased some
12 Chinese Violet 23 crude and finished imports in an
13 effort to compete with the low finished Violet 23
14 pigment prices from China and Indian producers. Sun
15 recognizes the futility of this approach, however, as
16 prices for presscake and dry color continue to drop
17 below our cost despite our best efforts.

18 We have seen the same negative price impact
19 in our export market from the Chinese and Indian
20 product. Because China and India sell into Europe and
21 other foreign markets in U.S. dollars the same as we
22 do, we are losing our export business to these
23 markets. We lose this business even when currency
24 exchange rates might favor U.S. exports, such as the
25 present situation with the euro versus the U.S.

1 dollar.

2 We have seen pricing in the United States
3 from India and China that will go as low as it takes
4 to gain our market share, regardless of cost. Violet
5 crude from India also was being offered. Sun was able
6 to buy Chinese crude Violet 23 at less than \$10 a
7 pound duty paid. Violet crude from India was also
8 being offered for below \$10 per pound before the
9 preliminary relief was imposed.

10 Finished Violet 23 still appears to be
11 available for less than \$12 per pound duty paid
12 delivered. Indian finished Violet 23 is not much
13 more. Our experience is there's no bottom. Whenever
14 we meet a price in the market, the price just drops
15 again.

16 Unless antidumping and countervailing duties
17 are imposed against imports of Chinese and Indian
18 finished pigment, the domestic industry will be forced
19 to discontinue production in the United States. Sun
20 will have a make or buy decision on the manufacture of
21 Violet 23 crude and finished pigment.

22 When the purchase price is below our
23 variable cost, we could end up discontinuing
24 production and buying finished Violet 23. Obviously
25 due to the symbiotic relationship between the two,

1 crude production at NFC will also end. Given the
2 present trends in unfairly traded imports from India
3 and China, therefore, the demise of the Violet 23
4 domestic industry is a very real possibility.

5 Andy Zamoyski, manager of Pigments and
6 Additives for Clariant Corporation, will complete the
7 presentation. Andy?

8 MR. ZAMOYSKI: Good morning. My name is
9 Andrew Zamoyski. I am the manager or I am a manager
10 of the Pigments and Additives Division at Clariant
11 Corporation. I'm located at the plant in Coventry,
12 Rhode Island.

13 Clariant Corporation is a large U.S.
14 manufacturer which is based in Charlotte, North
15 Carolina. We employ about 2,200 American workers at
16 24 U.S. manufacturing facilities. We have more than
17 \$1 billion in U.S. sales.

18 Clariant is a leading producer of organic
19 pigments for use in the coloring of inks, plastics and
20 paints. You heard from Ed about uses of carbazole
21 violet. We compete in many of the same markets.

22 Most importantly for this investigation,
23 Clariant is a domestic producer of finished violet in
24 both its presscake and dry color form. Clariant
25 imports crude Violet 23 from its affiliated companies

1 in Europe and produces finished Violet 23 at our
2 facilities in Coventry, Rhode Island. Like other
3 domestic producers, Clariant has been faced with
4 increasing competition from unfairly traded imports
5 from China and India. Clariant fully supports the
6 petition in this case.

7 Approximately six years ago, Clariant began
8 to see an increasing amount of competition from low
9 priced imports of finished Violet 23 from China and
10 India. More recently, the volume of these imports has
11 surged, and the price has declined to levels that are
12 below Clariant's cost of production.

13 Clariant uses the most advanced technology
14 and the most efficient process for producing finished
15 Violet 23 and still has not been able to compete with
16 Chinese and Indian imports. As John said, make no
17 mistake. These imports compete directly with our
18 product.

19 In response to this competition, Clariant
20 was forced to lower its prices again and again in vain
21 attempts to retain customers. However, every time we
22 tried to meet the lower price of Chinese and Indian
23 imports, their prices would fall further. As a
24 result, Clariant has lost many of its longstanding
25 customers and at this point has simply given up on

1 trying to sell these customers any Violet 23.

2 I should mention when we made our two top 10
3 lists of customers we were questioned as to why they
4 were so different. One reason was that a lot of the
5 customers on our original top 10 list no longer are
6 customers because of these pricing situations.

7 The customers Clariant currently maintains
8 have found added value in the technical service and
9 customer service and dependability that Clariant
10 provides. However, price is a strong inducement in
11 this industry, and Clariant understand that even these
12 customers may ultimately decide to switch to Chinese
13 and Indian imports.

14 As you heard from Sun's representatives,
15 these imports have had a severe negative impact on the
16 domestic industry. Clariant's performance has been
17 extremely poor. We have been forced to cut back
18 production, our sales have declined substantially, and
19 our financial performance has also been consistently
20 poor for the period of the investigation.

21 Without antidumping relief, Clariant may
22 well be forced out of the Violet 23 business. It
23 simply makes no sense to produce Violet 23 in Rhode
24 Island at prices that cannot compete with unfairly
25 traded imports from China and India.

1 Finally, we consider it extremely important
2 that relief be provided on imports from both
3 countries, China and India. If relief is provided on
4 China alone, Clariant fully expects low-priced Indian
5 imports to increase further and take China's place.
6 Relief against China alone would be of little benefit
7 to our company if we are still left to face a
8 competitor with the ability to sell at dumped and
9 subsidized prices.

10 Thank you. I'll be available to answer any
11 questions that you have.

12 MR. DORRIS: Mr. Chairman, that concludes
13 the direct presentation. We're eager to answer your
14 questions.

15 CHAIRMAN KOPLAN: Thank you very much, Mr.
16 Dorris. I want to thank the witnesses for their
17 presentation this morning.

18 We will begin the questioning with
19 Commissioner Miller.

20 COMMISSIONER MILLER: Thank you, Mr.
21 Chairman, and thank you and welcome to those of you
22 who are here the first time and those of you who are
23 back again. We appreciate your being here.

24 When you finish early, I don't even get a
25 chance to get all the way through my thoughts on what

1 I've heard and what I want to question, but let me
2 start, if I could, with some questions that to a
3 certain extent so many things proceed from our like
4 product decision and so the question of the crude and
5 finished being one like product is sort of the first
6 issue that at least for me in my analysis I'll have to
7 resolve.

8 Mr. Dorris, for purposes of your post-
9 hearing brief I'll ask you to do this because this is
10 a very legal question, okay? I've read your brief on
11 the point. To the extent you can look at Commission
12 precedent on using the semi-finished analysis and
13 using it alone as opposed to using it in combination
14 with the traditional analysis, which is I think more
15 often our experience, I think that would be helpful to
16 look at what the Commission has done on that point
17 alone, using just the semi-finished analysis alone, so
18 if you would do that for purposes of post-hearing, I
19 would appreciate it.

20 Then let me go to kind of the bigger what
21 will help me I think more in understanding the
22 industry. Mr. Dickson, perhaps you or Mr. Schmidt as
23 well could tell me a little bit more about the
24 industry structure here in the United States and
25 elsewhere with respect to the crude and the finished

1 product.

2 Mr. Dickson, in your comments I think, if I
3 recall, you may have made a comment about other
4 producers being vertically integrated, making both the
5 crude and the finished in the same facility. That's
6 just what I want to understand is how often producers
7 actually are vertically integrated and make both.

8 In Clariant, Mr. Zamoyski, you've said you
9 do, but you're importing the crude from Europe so
10 you're obviously doing it in different facilities.

11 Just help me a little bit in understanding
12 the relationship between the crude and the finished
13 product in terms of production and industry structure.

14 MR. DICKSON: Certainly. I look upon the
15 crude production as a matter of chemistry. This is a
16 matter of chemical reactions that are actually
17 starting with the basic chemical, carbazole, and then
18 through a whole series of different reactions creating
19 the molecule which is known as Carbazole Violet Crude
20 Pigment 23.

21 Sun has not historically been a producer of
22 the crude, but they have been a major consumer of the
23 crude to convert it by physical means into the
24 finished pigment that then is suitable for use in
25 pigmentation.

1 Other countries -- Europe in particular --
2 Clariant has been a major producer of both the crude
3 and the finished pigment. I know, for example, at a
4 plant that they have in France that I had visited in
5 the same facility they were making the crude, and then
6 it was being transferred over and being converted to
7 the finished.

8 I think the same situation and also the
9 similar situation in Germany, although there's been a
10 divestiture, I understand, of the crude producing
11 facility from Clariant into the name of another
12 company, Allessa, but it was all part of Clariant
13 before this divestiture took place.

14 Certainly historically we have the situation
15 that in the United States there has been one producer
16 of the crude and two or more or two large converters
17 with Sun being the largest converter of the crude to
18 the pigment.

19 If you look to India, the two main parties
20 in this case, Pidilite and Alpanil, are both producers
21 of crude and finished in the same facility, or at
22 least within the same gates of the building. Also, if
23 you look to the Chinese, I think that three of the
24 Respondents, the original Respondents, were producers
25 of both the crude and the finished.

1 The point is that in the United States as
2 things have worked out we are the crude producer.
3 Clariant had produced crude many years ago prior to
4 1988. They had been a major supplier of Sun. They
5 elected to discontinue crude production in the United
6 States, and that's where NFC picked up and became the
7 crude producer.

8 COMMISSIONER MILLER: Okay. Mr. Schmidt, do
9 you want to add anything? You were nodding your head
10 in agreement with much of what Mr. Dickson said.

11 MR. SCHMIDT: Just to finish the rest of the
12 world, there is one producer in Japan who's a crude
13 producer, but not a pigment producer, so in Japan
14 there's not vertical integration, but the rest of the
15 world is pretty much a vertically integrated industry
16 other than --

17 COMMISSIONER MILLER: Vertically integrated,
18 but what I heard often times in what you were saying
19 is it's not a vertical process. Even if the company
20 is vertically integrated, it sounds as though there's
21 a distinct point at which the crude ends in the
22 manufacturing process and the finishing process
23 begins.

24 Is that fair? I mean, often times, Mr.
25 Dickson, I think you said well, within the same gates

1 they're making this conversion. I mean, it's a
2 separate act or a separate process.

3 MR. DICKSON: Yes. There's a definite
4 making of the crude.

5 COMMISSIONER MILLER: Right.

6 MR. DICKSON: The crude is finished. Then
7 the crude can be shipped to the location, although it
8 may be located within the same gate.

9 COMMISSIONER MILLER: Right.

10 MR. DICKSON: Or it could be shipped, as is
11 our case, to Cincinnati where it is then converted
12 into the finished pigment by Sun.

13 COMMISSIONER MILLER: Okay. Now can you
14 talk a little bit more or describe in more detail the
15 relationship between NFC and Sun?

16 I mean, there's a fair amount in this
17 record, like many records, where we don't have many
18 companies involved. There's a lot of confidential
19 information that's been provided, and I don't know
20 what's publicly known and what's privately known or
21 only privately known.

22 Let me just ask you to describe, to the
23 extent whatever you can describe publicly, is the
24 nature of the relationship between NFC and Sun. You
25 mentioned in your initial testimony, and I didn't

1 catch the year. 1988. 1988 was when you entered into
2 the contract with Sun to provide them in the tolling
3 relationship with the crude.

4 Let me just ask you to describe what you can
5 or the Sun representatives want to talk about, just
6 the nature of the relationship between the two
7 companies.

8 MR. DICKSON: Prior to 1988, NFC had no
9 substantial dealings with Sun Chemical. Actually, I
10 believe that they historically bought some sulfanilic
11 acid from us so we knew them. Of course, I had known
12 Mr. Schmidt for many years before that, but it was
13 strictly a professional, arm's length relation, as it
14 is today. NFC is wholly owned, privately owned, by
15 myself and my family so there is no cross ownership
16 between the companies.

17 The question is really how did we get
18 involved with Sun, and what was the thing that caused
19 it. Actually, in the years just before 1988 we had
20 begun to work with Clariant to make one of the
21 chemical intermediates that they use to make the
22 carbazole violet. This was aminoethylcarbazole.

23 At the point that Clariant made the decision
24 to discontinue production at their plant in New Jersey
25 at the time, it was very logical for Sun to come to us

1 because they knew we were making an intermediate for
2 Clariant, then called Sandoz, and ask that we take it
3 the next two or three steps further and actually make
4 the crude pigment.

5 That caused us to get into the business, and
6 we were the logical ones to do it because we were
7 already halfway there making this intermediate, AEC.
8 During that year actually the negotiations began in
9 1987 and ended with a contract in 1988, but
10 essentially it provided that NFC would be a contract
11 manufacturer for Sun of the crude pigment.

12 As I mentioned, that contract is still in
13 effect today. Interestingly enough, the contract does
14 not prohibit us selling crude pigment to others, but
15 realistically there's no one else to sell to because
16 Sun is the largest single customer by well over 50
17 percent in the USA, Clariant has their own crude
18 production, and there's no real opportunity for us in
19 Europe or in the Far East competing with what the
20 Chinese and Indians can supply.

21 We're in a sense captured where we are.
22 There's no way out, but we're not looking for a way
23 out. It's just the way the business relationship has
24 developed.

25 It's very important to understand that we

1 are not insulated from the crude prices by Sun because
2 we're required to be competitive, and even though,
3 other things being equal, we'll get 60 or maybe 70
4 percent of the crude business from Sun, it's only if
5 we can meet the prices of the other crude producers.
6 China and India specifically have brought those prices
7 down dramatically over the past several years.

8 COMMISSIONER MILLER: Okay. That's very
9 helpful. I appreciate that.

10 I just want to confirm one thing that I
11 heard you say. You said that the contract does not
12 prohibit you from selling to others if there were
13 opportunities to sell to others?

14 MR. DICKSON: Exactly.

15 COMMISSIONER MILLER: Okay. All right. I
16 just wanted to make sure I had that correct.

17 Thank you. I appreciate all of your
18 answers. Thank you.

19 CHAIRMAN KOPLAN: Thank you.

20 Commissioner Hillman?

21 COMMISSIONER HILLMAN: Thank you. I, too,
22 would welcome all of you to this hearing this morning,
23 and thank you for taking the time to be with us.
24 Welcome back to a number of you.

25 Mr. Dickson, perhaps if I can stay with you

1 just for a minute to make sure I understand this as
2 well. In terms of how this issue of your having to
3 meet the price or be competitive on price with crude
4 from elsewhere, and presumably at this point the
5 elsewhere is entirely from imports.

6 Is that specified in the contract? If so,
7 how is it determined what keeping your price at a
8 competitive level with the imports really means?

9 MR. DICKSON: Yes, it is specified in the
10 contract, and each year we negotiate the price for the
11 next year. As a matter of fact, in December we expect
12 to be negotiating the price for next year with Sun.

13 COMMISSIONER HILLMAN: Once it's negotiated
14 each year, that price holds for the year?

15 MR. DICKSON: Yes.

16 COMMISSIONER HILLMAN: Okay.

17 MR. DICKSON: It's always been a year-to-
18 year type deal.

19 COMMISSIONER HILLMAN: And what do you look
20 to to determine what is the comparable price?

21 MR. DICKSON: We are advised by Sun as to
22 what their alternatives in buying from us are, and
23 they would give us a price indication of where the
24 Chinese or Indians are and ask if we can beat the
25 price.

1 Usually it's a two-step process. Actually,
2 we make a proposal, and we say this is the volume we
3 would like to have this year, and this is the price
4 that we need based upon changes in raw material and
5 other factors in order to support the business, so we
6 make a proposal of volume and price. This goes to
7 Sun. They comment, and they say yes or no.

8 In recent times it's been no to our
9 proposal. We can't afford to pay you this amount when
10 we can buy it for 40 or 50 percent less from China.
11 You're going to have to figure out some way in order
12 to beat the price.

13 The history shows that we did make such an
14 attempt in 2002 by significantly reducing our tolling
15 cost in what was really a desperate attempt to stay in
16 the business, keep making product and be competitive
17 with the Chinese, even then the Chinese price ended up
18 lower than ours, but Sun had purchased from us.

19 Sun did allow us an increase for 2003,
20 solely knowing that without that we might not have
21 been able to continue production in 2003, so Sun has
22 already paid more than they otherwise would have had,
23 especially within this past year.

24 COMMISSIONER HILLMAN: Okay. All right.
25 That's very helpful.

1 Do you make anything other than the crude
2 violet at your facility?

3 MR. DICKSON: Yes. Crude violet has
4 historically been 35 to 40 percent of our business.

5 We do make other organic chemicals there,
6 the most significant of which is sulfanilic acid,
7 which represents about 60 percent of our business, and
8 other contract chemical and color manufacturing,
9 specifically solvent dyes which are used to color
10 plastics primarily is another significant part of our
11 business.

12 COMMISSIONER HILLMAN: Are those also sold
13 to Sun?

14 MR. DICKSON: No. They're sold to other
15 customers. The only product that we're selling to Sun
16 is the toll manufacturing of carbazole violet and
17 small quantities of sulfanilic acid, which are used at
18 a different location.

19 COMMISSIONER HILLMAN: Okay. All right. I
20 appreciate that.

21 Mr. Faulkner, if I can turn to you just to
22 understand again this issue of how these prices get
23 set again from the crude perspective.

24 You just heard Mr. Dickson's take on it. I
25 guess from your perspective what is it that you're

1 looking at when you're trying to decide what this
2 contract should be with Sun on an annual basis?

3 MR. FAULKNER: I'm going to defer to Mr.
4 Schmidt on that. Sorry.

5 COMMISSIONER HILLMAN: Okay.

6 MR. SCHMIDT: The basic process we have, we
7 supply the raw materials that go into making the
8 carbazole violet, and then NFC provides the tolling
9 fee. We negotiate the other raw materials and come up
10 with a total cost, including the proposed tolling fee
11 that John would submit. We do two things.

12 COMMISSIONER HILLMAN: Just so I understand
13 it, when you're negotiating with NFC it is really only
14 about the tolling fee?

15 MR. SCHMIDT: Only about --

16 COMMISSIONER HILLMAN: They're not in on the
17 negotiations for the raw materials that you're
18 purchasing?

19 MR. SCHMIDT: They're not in on the
20 negotiations, but we work together. If we have an
21 opportunity to reduce costs, then we would explain the
22 situation. You know, getting lower cost materials or
23 some other way of reducing the cost, we would work
24 with NFC.

25 Yes, Sun Chemical negotiates for the raw

1 material inputs, the major raw material inputs, and we
2 then calculate the total cost. Frankly, in the last
3 couple of years we pretty much sit down with our
4 marketing department and say okay, what can we afford
5 and still be able to make and sell violet pigment.

6 We kind of back into what we can afford to
7 pay for crude based on kind of the maximum we can
8 afford to pay for the crude to be able to make
9 finished pigment and still sell it at any kind of a
10 margin. It used to be a little different process, but
11 now the last couple years it's pretty much been trying
12 to back into a cost that will allow us to stay in the
13 business.

14 We also, of course, see what other prices
15 are available in the marketplace in terms of crude
16 because we do have competitors who can buy crude at
17 prices equal to or lower than ours, even though their
18 volume is substantially -- dramatically -- lower than
19 ours. They can buy it from imported sources at the
20 same price or lower and compete with us or cut our
21 prices. We're also competing against finished
22 imported pigment as well.

23 COMMISSIONER HILLMAN: Okay. Let's turn to
24 the pricing of the finished products. As I heard your
25 testimony, you're selling to inks, to textiles, to

1 plastics, to coatings. Those would be the sort of
2 major categories of end use that you're selling into
3 on the finished side.

4 MR. SCHMIDT: If you want to talk about
5 sales and customers, really Ed should cover that.

6 COMMISSIONER HILLMAN: Okay. All right. As
7 I understand it from your testimony, pretty much these
8 are prices that are set on a spot basis in essence,
9 negotiated item by item?

10 MR. FAULKNER: Yes.

11 COMMISSIONER HILLMAN: Okay. Which means
12 they're set for each and every purchase order or each
13 and every transaction?

14 MR. FAULKNER: Maybe not quite to that
15 extent, but it's done on that sort of a basis.

16 COMMISSIONER HILLMAN: Okay. Is there much
17 price variance between end use? In other words, are
18 the ink people paying exactly the same amount as the
19 textile people or the plastics or the coatings people?

20 MR. FAULKNER: There's certainly variation
21 within the industries. There's variation amongst the
22 industries. There's no set difference between one
23 industry and another, but there are some variations
24 between them, as well as amongst the industries,
25 largely driven in terms of the amount of volume that's

1 involved.

2 COMMISSIONER HILLMAN: Okay. Who would be
3 the high volume purchasers?

4 MR. FAULKNER: Generally speaking, the
5 largest portion of carbazole violet goes into the ink
6 industry.

7 COMMISSIONER HILLMAN: Okay. Do the ink
8 purchasers tend to be large?

9 MR. FAULKNER: Yes.

10 COMMISSIONER HILLMAN: Okay. So to the
11 extent that there's price variances, they're mostly a
12 function of volume?

13 MR. FAULKNER: Largely so.

14 COMMISSIONER HILLMAN: Okay. Because the
15 product itself is pretty much the same whether it's
16 going into each of these, or are you making
17 distinctions in the product depending on which segment
18 you're going into?

19 MR. FAULKNER: There are some differences in
20 the shade or the dispersability or the depth of the
21 mass tone, but they're pretty much the same from one
22 to the other.

23 COMMISSIONER HILLMAN: So as a producer, you
24 know already where your product is going to end up
25 when you're producing it because you're going to be

1 making these variations, or is it you're pretty much
2 producing it, and you don't know what the end use will
3 be?

4 MR. FAULKNER: In some cases we make
5 specific products for specific industries based on a
6 shade or a mass tone, something like that. In another
7 case we'll make a product that could be sold to any
8 number of industries, so it depends on the product.

9 COMMISSIONER HILLMAN: Okay. As among these
10 end users, where did you first start to feel the
11 competition from imports?

12 MR. FAULKNER: In the ink industry.

13 COMMISSIONER HILLMAN: Entirely in the ink
14 both from --

15 MR. FAULKNER: Initially.

16 COMMISSIONER HILLMAN: Okay.

17 MR. FAULKNER: Then it moved on to plastics
18 and some other areas.

19 COMMISSIONER HILLMAN: So initially ink and
20 then plastic?

21 MR. FAULKNER: Yes.

22 COMMISSIONER HILLMAN: Okay. Again, I'm
23 just trying to understand how the prices get set and
24 how these negotiations work. Your ink customers then
25 come to you and say I can get X amount better deal

1 from the Chinese or the Indians?

2 MR. FAULKNER: Absolutely. As Steve said in
3 his testimony, if we agree to that price all of a
4 sudden the Chinese or the Indian price will drop even
5 lower.

6 COMMISSIONER HILLMAN: So then does your
7 customer come back to you and say yet again, or how
8 does it work?

9 MR. FAULKNER: Yes, it does to the point --

10 COMMISSIONER HILLMAN: Do you have a
11 purchase order by purchase order in essence agreement
12 with them?

13 MR. FAULKNER: Yes. That's exactly the way
14 it works.

15 COMMISSIONER HILLMAN: Okay. All right.
16 Then on quality issues. Are there any issues in terms
17 of the quality issues?

18 MR. ZAMOYSKI: Excuse me. Could I make a
19 point about the --

20 COMMISSIONER HILLMAN: Sure. I'm sorry. I
21 could not see you. I apologize. Go ahead, Mr.
22 Zamoyski.

23 MR. ZAMOYSKI: No problem. I'd like to
24 emphasize what Ed has said.

25 What happens is you have a market that's

1 pretty well established, and suddenly you start
2 getting requests from customers saying gee, I can get
3 this for \$5 a pound or \$10 a pound less. You meet
4 that price, and then you go through that cycle again.
5 The cycle continues to increase in its frequency so
6 that, you know, suddenly you're down to levels that
7 are about a quarter of what they once were in some
8 areas.

9 We also noticed it first in not only the ink
10 area, but also the textile printing area where I
11 should say now I don't think we have any business left
12 in the textile printing area. Most of our big ink
13 customers have also disappeared off of our top 10
14 chart.

15 COMMISSIONER HILLMAN: Okay. All right. I
16 appreciate those responses. Thank you very much.

17 CHAIRMAN KOPLAN: Thank you, Commissioner.
18 Commissioner Lane?

19 COMMISSIONER LANE: Good morning. Thank you
20 for coming here today and helping us understand this
21 industry and the issues before us.

22 I would like to ask first a question of
23 someone from Sun, maybe Mr. Faulkner. I'd like to
24 talk about substitutability. Has Sun's Violet 23
25 failed to meet a purchaser's specification during the

1 past three years? If so, what was the reason or
2 reasons that the specifications were not met?

3 MR. FAULKNER: Not every product that we
4 make will work in every application the customers
5 have.

6 We've talked this morning. Violet is used
7 in everything from textiles to plastics to various
8 types of printing ink, including publication inks,
9 packaging inks, metal decorating inks and also into
10 specialty applications, even into contact lenses and
11 sutures, so not every one of our products will always
12 work in a specific application for a specific
13 customer.

14 The answer to your question is yes, there
15 are some times we cannot meet a customer's
16 specifications with our product. Not necessarily
17 because of the quality of our production, but just the
18 fact that that particular product doesn't work.

19 COMMISSIONER LANE: Okay. Thank you. Now
20 I'd like to focus a little bit on the tolling
21 agreement between NFC and Sun.

22 As a practical matter, how quickly could Sun
23 move to alternate sources of crude Violet 23? Second,
24 as a contractual matter under the tolling agreement,
25 could Sun do this? If so, how quickly?

1 MR. SCHMIDT: Well, in any process we have
2 an approved material where we try to make the same
3 product over and over again for a customer, so the
4 main reason we have a domestic supplier is so we have
5 a continuing supply of the same materials so our
6 finished product coming out the door hits the
7 customer's door, and it works every time the same way.

8 It can be done, which means we bring in
9 another product, we run trials, we test it in customer
10 applications to determine if -- you know, to make sure
11 the customer won't see the difference. In some cases
12 we have agreements with customers where we'll notify
13 them of a significant change so that they can do the
14 evaluation before we do it.

15 It's not the preferred route, but it can be
16 done. It takes a little bit of time, but you can at
17 the end of the day substitute one crude carbazole
18 violet, assuming it's good quality, for another.

19 COMMISSIONER LANE: Okay. Thank you. This
20 question is for NFC and Sun. On page 21, Note 51 of
21 your prehearing brief, you assert that NFC and Sun
22 enter into arm's length negotiations to calculate the
23 prices that NFC will be paid for crude Violet 23 it
24 toll produces.

25 Describe to me how this works and what

1 factors enter into the development of a fair price.

2 MR. DICKSON: The contract that we have is
3 an evergreen contract. Unless one party gives one
4 year's notice or three year's notice or whatever is in
5 the contract, it will just continue on from year to
6 year.

7 However, the contract provides that on a
8 yearly basis that the price and the volume for the
9 following year is reviewed, and it's during that
10 review that Sun will advise us essentially, based upon
11 their market conditions, as to what they can afford to
12 pay for the crude pigment. We're essentially
13 negotiating the tolling fee, the contract fee that we
14 have for converting the raw materials over to the
15 crude.

16 Conversely, we come in at the same
17 negotiation and say this is what we need for next
18 year, and this is the volume that we would like to
19 have in order to support our business. We have in the
20 past tried to justify price increases.

21 Recent times, the price has only gone the
22 other way, but we've had to face the reality of the
23 Chinese crude availability at much lower prices than
24 where we were, so in year 2002, faced with the
25 alternative of losing possibly more business or all of

1 our business, we did make a large adjustment downward
2 in our tolling fee of approximately 40 percent.

3 Notwithstanding that, the Chinese still
4 undercut somewhat further when you compare overall our
5 tolling fee plus what Sun was paying for raw materials
6 versus what the Chinese price was, and during that
7 year we got much less volume, less than half of what
8 it had historically been, and most of the business
9 went to China at actually even a lower price after we
10 had made the 40 percent reduction.

11 In the following year we went through a
12 negotiation and said we want to stay in business.
13 We're going to be filing an antidumping suit together.
14 Please bear with us. Allow us something of a price
15 increase and give us more volume for 2003. The record
16 shows that that happened and that while we were not
17 profitable, things were not as bad, truly bad, as they
18 were in 2002. We've continued in the same
19 relationship with no change for 2004.

20 That's essentially the way it works. We've
21 always had a very close working relationship with Sun.
22 They have in the early phases helped with the
23 financing of equipment. They have no ownership
24 position, and we've always paid back any advances that
25 they had given us.

1 They've helped in the technology and
2 developing the whole process, so it's been a
3 partnership and not simply a matter of I can buy a lot
4 cheaper from Japan or from China, but that you have to
5 do something in order to keep the business, and this
6 is what the record shows.

7 COMMISSIONER LANE: Okay. Thank you. Now
8 the follow-up question. Please explain why the
9 Commission should find that these arm's length
10 negotiations produce a truly competitive market price
11 for crude Violet 23 when there is no competition among
12 U.S. producers and NFC is the only U.S. producer of
13 crude Violet 23.

14 MR. SCHMIDT: Yes, NFC is the only crude
15 violet producer in the United States, but the pigment
16 market is a global market. There's producers in
17 Germany. There's producers in crude Violet 23 in
18 Japan. There's producers in China and there's
19 producers in India, and they all have access to the
20 U.S. market.

21 Sun knows all the producers, and we keep
22 track of what the global price is so that we can
23 remain competitive against what the people we're
24 competing with are paying and using as their raw
25 material input.

1 We're very familiar with the global price
2 and also what that cost is to get it to the USA, duty,
3 freight, et cetera.

4 COMMISSIONER LANE: Okay. Thank you. NFC
5 and Sun, on page 14 of your prehearing brief you
6 assert that an order solely against China would shift
7 Chinese imports to Europe, Asia and other world
8 markets, causing significant Indian import volumes to
9 shift from these third countries to the United States.

10 What evidence do you have that supports this
11 assertion?

12 Would you move your microphone a little bit
13 closer?

14 MR. SCHMIDT: A little closer? Okay.

15 COMMISSIONER LANE: Thank you.

16 MR. SCHMIDT: I'd say historically I'll say
17 the pricing, the drop in pricing in the U.S. market
18 originated from Indian imports originally. Frankly,
19 when they got into a price fighting war in terms of
20 who was going to get the greater share, I think it was
21 stated before that the Chinese prices went lower than
22 I think the Indian producers were willing to go, but
23 they were still dramatically below the U.S. market
24 price.

25 There still is -- you can still get pricing

1 from India for pigment and for crude at prices well
2 below the U.S. market price, but generally, as was in
3 one of our testimonies, the price will keep going
4 down. The price will go as low as it needs to go from
5 China to get the business regardless of what
6 competitive price you offer, so I think as the price
7 from China goes back up the Indian price is still
8 relatively close to the Chinese price and still well
9 under the U.S. market price.

10 COMMISSIONER LANE: Okay. Thank you. I'll
11 wait for my next round for my additional questions.

12 Thank you, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you, Commissioner
14 Lane.

15 Commissioner Pearson?

16 COMMISSIONER PEARSON: Let me also extend my
17 greetings to the panel. Good to have you here today.
18 Believe me, I'm learning something because I don't
19 have a lot of previous experience dealing with blue
20 pigment.

21 A couple questions for clarification. Mr.
22 Schmidt, in your opening remarks, if I understood
23 correctly, you indicated that Sun had lost export
24 business in Europe to India and China. Did that occur
25 during the period of the Commission's investigation;

1 in other words, since 2001? The reason for asking is
2 that our data don't show any exports of those
3 products.

4 Is the question better directed to Mr.
5 Faulkner? Whoever.

6 MR. FAULKNER: Yes, it has occurred since or
7 during the period of investigation, and our filings
8 have been amended to reflect that.

9 COMMISSIONER PEARSON: Okay. Good. So you
10 also recognized the potential data discrepancy?

11 MR. FAULKNER: Yes.

12 COMMISSIONER PEARSON: Okay. Good. The
13 second question. Mr. Faulkner, you indicated that the
14 material imported from India has been limited to dry
15 color.

16 Now, if that's the case why would we have
17 the problem that we apparently have with the import
18 statistics and the disagreement over what the volume
19 actually is from India?

20 MR. DORRIS: It's still unclear to us why
21 the Indian data are underreported in the Census data.
22 Just to be careful with the confidential information,
23 but certainly looking at the PIERS data that we put on
24 record in our brief, it shows that the dry color is
25 coming in.

1 It's possible it's being misclassified when
2 it comes in. Certainly PIERS itself uses a different
3 classification. If that classification is used at the
4 time of entry, it may be not being classified properly
5 under the Census data.

6 In particular, I think if you see some of
7 the PIERS data they're commingling pigment shipments
8 on the same entry or same shipment at least and so
9 it's possible that on the same entry they're using one
10 classification number for different pigment colors and
11 it's not being correctly coded.

12 Certainly when you look at the questionnaire
13 data from the foreign producer's questionnaires they
14 show a much more significant amount from India in
15 terms of what the original data right now in the
16 prehearing report shows, so I think it's difficult for
17 us, obviously not having access to any proprietary
18 information from the Census data, to figure this out
19 completely, but I think the data on record show that
20 it is being underreported probably more for
21 misclassification reasons than for this presscake
22 issue.

23 COMMISSIONER PEARSON: Okay. Just going
24 back to your opening statement, was I correct in
25 understanding that as far as you know the only product

1 that's come into the United States from India has been
2 -- what's the term -- dry color?

3 MR. FAULKNER: Yes. The Indians have
4 offered crude, but to the best of our knowledge none
5 has been imported. It's been strictly finished
6 pigment, but no presscake.

7 COMMISSIONER PEARSON: And no presscake
8 either?

9 MR. FAULKNER: No presscake either.

10 COMMISSIONER PEARSON: No presscake.

11 MR. FAULKNER: Just the dry color.

12 COMMISSIONER PEARSON: Just the dry color.

13 Okay. Thank you.

14 Let me ask a little bit about demand in the
15 U.S. market. In our tables we refer to it as U.S.
16 consumption quantity. As we consider demand, is it
17 best for us to look just at finished Violet 23, or
18 should we be paying quite a bit of attention to demand
19 for crude Violet 23 also?

20 MR. FAULKNER: Well, you have to put them
21 both together to look at the whole U.S. market, but
22 essentially, of course, it's the finished pigment
23 that's going into the end use industries, and that
24 determines what the final market is.

25 It's a market where there have not been any

1 new applications of carbazole violet in many years, so
2 it's one that's going to move with the GNP. The
3 industries where it goes -- ink and plastics and those
4 sorts of things -- are two to three to four percent a
5 year growth industries, so that's the kind of increase
6 we would see in the market.

7 COMMISSIONER PEARSON: Yes. With a product
8 like Violet 23, I try to look at both, and yet we need
9 to avoid double counting and so as we look at the
10 consumption, the ultimate consumption in the
11 marketplace, it's probably most appropriate for us to
12 look at finished pigment?

13 MR. ZAMOYSKI: Yes. I think that's what I
14 would do is look at the finished dry pigment and
15 presscake as one market, and the amount of crude is
16 fed into that. What we're all finally selling to
17 customers is dry pigment or presscake.

18 COMMISSIONER PEARSON: Okay. Looking at the
19 demand for the finished pigment then, what's your
20 perception? Has demand in the marketplace over our
21 period of investigation been rising or stable? How
22 would you see it?

23 MR. FAULKNER: It's been relatively flat,
24 maybe with a slight increase in 2003 as the economy
25 recovered a little bit, but it's been relatively flat

1 over the period.

2 COMMISSIONER PEARSON: Okay. I know our
3 data indicate a noticeable uptick in consumption here
4 during interim 2004. Have you seen that, or would
5 that be driven entirely by rebound in the overall
6 economy?

7 MR. FAULKNER: We certainly haven't seen it
8 in our sales numbers in 2004.

9 COMMISSIONER PEARSON: Do you have a sense
10 of where demand is headed in the coming year?

11 MR. FAULKNER: If the economy continues the
12 way it is, we may see an increase in demand in the
13 range of two to three percent, something like that.

14 COMMISSIONER PEARSON: But this is not a
15 product that historically has had any wide swings in
16 demand?

17 MR. FAULKNER: No. The one area where there
18 could be some would be driven by style in the textile
19 industry, but since the textile industry in the U.S.
20 is so small today, you know, it would be the tail
21 wagging the dog.

22 COMMISSIONER PEARSON: Okay. Fair enough.
23 Is future demand likely to be influenced by whether
24 antidumping duties do or do not go into effect?

25 MR. FAULKNER: I don't think so because

1 there are no real substitutes for carbazole violet
2 either in terms of the color shade or the physical
3 properties that it exhibits, so it's not that someone
4 can switch to another pigment instead of using
5 carbazole violet.

6 COMMISSIONER PEARSON: Okay. That actually
7 leads me to my next question. You've made a
8 compelling case that carbazole violet is a really
9 superior blue pigment and for a number of reasons, but
10 in the hypothetical situation in which carbazole
11 violet simply didn't exist what would the industry use
12 as blue coloring?

13 MR. FAULKNER: It's a violet, not a blue.

14 COMMISSIONER PEARSON: Pardon?

15 MR. FAULKNER: It's a violet, not a blue.

16 COMMISSIONER PEARSON: Thank you. Okay.

17 MR. FAULKNER: You would find something, but
18 you would not end up with the same end result in terms
19 of the color point or in terms of the physical
20 properties. There just isn't anything that has that
21 same clean, blue shade violet. There are redder shade
22 violets, but --

23 We just had a situation where we had a
24 carbazole violet dispersion that we make in our Amelia
25 plant that one of our customer service people made an

1 error and actually shipped another violet called
2 methylviolet, Violet 3, that was going into a printing
3 application for labels on a private label water
4 bottle.

5 Unfortunately, when it got printed the
6 methylviolet didn't have the physical properties
7 necessary to accommodate that application, and we
8 ended up with smeared labels. I think we're going to
9 be serving Kroger water in our facilities for quite
10 some time. It's that kind of a thing that can happen.
11 One is not a substitute for the other.

12 COMMISSIONER PEARSON: Okay. So as a
13 practical matter then, the price of finished carbazole
14 violet would have to rise to quite a high level before
15 customers would look around for some other coloring
16 alternative?

17 MR. FAULKNER: There aren't any
18 alternatives. I mean, it's how much would we pay for
19 a gallon of gas? It's \$2 now or nominally. Will it
20 stop us from driving? I don't think so.

21 The same thing would happen with carbazole
22 violet. They need the pigment in order to get that
23 shade point and physical properties.

24 COMMISSIONER PEARSON: Okay. That's not a
25 situation where you can use a little less carbazole

1 violet if it's getting expensive, or is the price of
2 carbazole violet simply not a large enough price, a
3 large enough component of the cost, that people who
4 are printing stuff are absorbing it?

5 I didn't ask that very well. Is that part
6 of what's going on here? This is just not a major
7 cost if you are labeling water bottles, for instance?

8 MR. FAULKNER: It depends on the end use,
9 but it's certainly not the most expensive component of
10 the ink or the plastic that's being used.

11 COMMISSIONER PEARSON: Well, I think I
12 probably learned about as much on demand as I'm
13 interested in knowing.

14 I think my light has just changed. I'll
15 pass. Thank you.

16 CHAIRMAN KOPLAN: Thank you, Commissioner.

17 I thank you for your testimony and answers
18 to our questions thus far. Let me start with a
19 follow-up to a question Commissioner Lane asked with
20 regard to quality.

21 At the staff conference at page 99 to 100
22 Rick Westrum, vice president of INX International
23 Company, stated, and I quote, "The domestic supply has
24 not been able to qualify products for commercial use
25 in our metal deco product line, which represents 54

1 percent of our total usage of Carbazole Violet 23."

2 Then he goes on, "In addition, there is
3 another product line for liquid inks which represents
4 12 percent of INX's total purchases that have not
5 qualified a domestic supply of Carbazole Violet 23.
6 This makes 66 percent of INX's total purchases not
7 having domestic supply approval of our purchases. The
8 quality issues for qualification encountered have been
9 related to color shade, color strength, rheology,
10 transparency or gloss."

11 Mr. Faulkner, has Sun attempted to qualify
12 Violet 23 with INX for the uses mentioned, metal deco
13 and liquid inks? If so, have you been successful in
14 qualifying your product for these purchases?

15 MR. FAULKNER: Yes, we've tried to qualify
16 our product for INX's applications in those areas, and
17 we've had some success. We have not had 100 percent
18 success.

19 CHAIRMAN KOPLAN: Why is that?

20 MR. FAULKNER: Because it's a difficult end
21 use application. As I said earlier, not every product
22 is going to work for every single application.

23 CHAIRMAN KOPLAN: I appreciate that.

24 Mr. Zamoyski, the same question to you with
25 respect to Clariant's Violet 23.

1 MR. ZAMOYSKI: As far as I'm aware, we were
2 the exclusive supplier of carbazole violet to INX for
3 several decades. We lost the business at INX over the
4 last four or five years.

5 CHAIRMAN KOPLAN: So that was before our
6 period of examination?

7 MR. ZAMOYSKI: Well, part of it was during
8 the period, but as time went on with the imports we
9 lost more and more business with INX.

10 It hasn't been a question of product
11 quality. It hasn't been a question of our product not
12 qualifying in INX's systems.

13 CHAIRMAN KOPLAN: What was the issue?

14 MR. ZAMOYSKI: Price.

15 CHAIRMAN KOPLAN: Price. It was price.

16 MR. ZAMOYSKI: Solely a question of price.

17 CHAIRMAN KOPLAN: Okay. I missed that.

18 Thank you.

19 Let me stay with what transpired at the
20 staff conference, if I could. At page 10, Mr. Perry,
21 who appeared as counsel for the Chinese Respondents,
22 described three alternatives available to purchasers
23 of Violet 23 for the producers for downstream product.

24 Quoting from there, "Use lower cost
25 alternatives such as alkali blue, straight jet black,

1 phthalo cyanine blue or methylviolet, including Violet
2 1 or Violet 3."

3 The second choice is, "Simply change the
4 color. Move to another pigment. Pigments are being
5 used in a very creative industry. Instead of using
6 higher priced Violet 23, companies will simply use an
7 alternative color."

8 The third choice that he lists, and I'm
9 particularly interested in this one, "The third choice
10 and probably the most important is simply go offshore
11 and have the inks, the dispersion, the textiles or the
12 Raisin Bran box produced offshore."

13 Mr. Faulkner, please describe Sun's use of
14 Violet 23 in the production of inks and other
15 downstream products. What is to stop the production
16 of inks from simply moving offshore in response to a
17 price increase?

18 MR. FAULKNER: Well, that's certainly
19 happened in a lot of industries, particularly the
20 plastics industry. The plastics industry has moved
21 offshore. Go to Toys R Us and pick up -- you can't
22 find a toy that doesn't say Made in China or Made in
23 Taiwan on it.

24 So far that hasn't happened to any great
25 extent in the ink industry, but it's starting. There

1 are imports now increasing from India in terms of
2 finished ink. It's likely that at some point that
3 could happen in terms of ink from China, but it's not
4 a reflection of the price of pigments produced in the
5 United States. It's the overall cost of manufacturing
6 the ink and then using it.

7 CHAIRMAN KOPLAN: Thank you.

8 Mr. Dickson and Mr. Schmidt, the Chinese
9 Respondents argued at the staff conference at
10 Transcript 101 and 102, and it was Mr. Wang, and in
11 their post-conference brief at page 15 that, and I
12 quote:

13 "The primary reason for the declining trend
14 in Violet 23 prices was the drastic decline in the
15 pricing of the raw material input for Violet 23 with
16 the price of the four primary raw materials of crude
17 Violet 23 -- carbazole, chloranil,
18 orthodichlorobenzene and triethylene -- declining by
19 50 percent."

20 Don't ask me to repeat those four again.

21 That's the end of the quote.

22 First, do you agree that the prices for the
23 primary raw materials used to produce Violet 23 have
24 declined since 2001? If so, how much of the observed
25 price decline for finished Violet 23 can be attributed

1 to these price declines for the raw materials?

2 Mr. Schmidt? Could you move your microphone
3 a bit closer?

4 MR. SCHMIDT: Surely.

5 CHAIRMAN KOPLAN: Thanks.

6 MR. SCHMIDT: The carbazole -- they
7 mentioned carbazole, chloranil, orthodichlorobenzine
8 and one other product. The primary raw materials are
9 the orthodichlorobenzene, which is a pretty basic
10 chemical made.

11 I'd say the prices have declined somewhat
12 from 2001 to 2003 actually, but the major raw
13 materials --

14 CHAIRMAN KOPLAN: Can you quantify that for
15 me?

16 MR. SCHMIDT: Quantify it? I would say
17 maybe 10 percent in total.

18 CHAIRMAN KOPLAN: Thank you. Go ahead. Did
19 you want to say more on that point?

20 MR. SCHMIDT: No.

21 CHAIRMAN KOPLAN: Mr. Dickson, anything you
22 want to add?

23 MR. DICKSON: Just the point that over that
24 period of time there have been -- this was a
25 deflationary time for chemicals, and a lot of chemical

1 prices went down.

2 Even though we do not have direct buying
3 responsibility for the chemicals and the raw materials
4 that go in, we're pretty much aware of what is
5 happening in the marketplace. The raw materials
6 represent a certain part of the total cost of
7 carbazole violet, probably well less than 50 percent,
8 and if there were a 10 percent reduction in the price
9 of chemicals that would equate out to maybe a five
10 percent reduction in the total cost to manufacture.

11 If we looked at a five percent reduction in
12 cost compared to a 30 percent reduction in price or 40
13 percent reduction in price --

14 CHAIRMAN KOPLAN: Do you mean price for the
15 overall product?

16 MR. DICKSON: For the overall product --

17 CHAIRMAN KOPLAN: Yes.

18 MR. DICKSON: -- as affected in the market
19 price for both the finished and also the crude. Then
20 you see that that relationship just doesn't hold
21 water.

22 Yes, there were savings in raw materials
23 because of the deflationary time in the world that we
24 were in, but it's only a small part of the large price
25 decrease that we had to have, the industry in general,

1 to make an attempt to be competitive with China and
2 India.

3 CHAIRMAN KOPLAN: That was the second part
4 of my question, as I said how much of the observed
5 price decline for the finished Violet 23 could be
6 attributed to these price declines?

7 MR. SCHMIDT: Well, I think going back to
8 what John said, the crude goes into making the
9 pigment, and if the total cost of the crude declines
10 five percent and you have the cost of converting to
11 pigment versus, so it gets diluted as a percentage of
12 the total cost of pigment.

13 Frankly, the value added from crude to
14 pigment because of extreme competition has been a
15 shrinking number, so the actual value added isn't what
16 it used to be. It's less than five percent when
17 you're done.

18 CHAIRMAN KOPLAN: Thank you. Thank you for
19 that.

20 Mr. Faulkner or Mr. Zamoyski, the Chinese
21 Respondents argue in their post-conference brief that
22 any decline in the financial performance of domestic
23 producers of Violet 23 is due to an overall decline in
24 the U.S. economy, which has now been reversed.

25 In particular, they argue at page 1 that,

1 and I quote, "The performance and financial indicia of
2 the domestic industry have improved in partial year
3 2003 as compared to partial year 2002 due to the
4 overall improvement in the U.S. economy despite the
5 presence of increased Chinese imports during this
6 period."

7 Have you seen any increase in demand for
8 finished Violet 23 in the U.S. market in 2003 and
9 interim 2004 over 2001 and 2002? If so, has the
10 increased demand lessened the competition between the
11 domestic and imported subject product?

12 MR. FAULKNER: I think that the overall
13 market has gone up slightly over the last couple of
14 years, but we haven't seen the benefit of that in our
15 sales. I think those numbers are in our submissions.
16 We have not seen that.

17 CHAIRMAN KOPLAN: Mr. Zamoyski?

18 MR. ZAMOYSKI: We've seen a slight increase
19 over the period you've stated in demand in total, but
20 the most striking thing is the amount of business that
21 we've lost and the number of customers that we've lost
22 that we haven't regained, so there is an effect of the
23 economy, but the pricing effect is the major one.

24 MR. FAULKNER: Yes. Even though the market
25 has gone up very slightly, the prices have continued

1 to come down.

2 CHAIRMAN KOPLAN: Thank you. If you can
3 indulge me just for one moment? I have one related to
4 that.

5 Mr. Dorris, what difference does it make to
6 the Commission's decision if increasing imports of
7 subject product take place during a period of
8 increasing rather than decreasing demand?

9 Your microphone?

10 MR. DORRIS: I think you really do have to
11 focus on the price impact of the increasing imports
12 even if demand goes up. I think the increase in
13 demand here is not dramatic, although there was
14 certainly a recession that we were recovering from,
15 which caused the demand to increase.

16 In that time of increasing demand, prices
17 should have risen instead of dropped. Instead, they
18 dropped. I think that's the most telling fact.

19 CHAIRMAN KOPLAN: Thank you.

20 MR. MCGRATH: Mr. Chairman, if I could just
21 add one point to that?

22 It's also important, if we're looking at
23 increasing imports or increasing demand, to take a
24 look again at the increase in market share, increase
25 in share of apparent consumption.

1 I think the numbers are showing that the
2 combined -- the increase in the market share by the
3 subject imports are roughly equal to over the same
4 period the decline in U.S. market share plus the
5 decline in non-subject imports. That equaled together
6 I think is a wash there.

7 CHAIRMAN KOPLAN: Thank you for that, Mr.
8 McGrath. Thank you.

9 Madam Vice Chairman?

10 VICE CHAIRMAN OKUN: Thank you, and thank
11 you also to the witnesses. Let me join my colleagues
12 in thanking you for being here and the information you
13 provide and your willingness to answer our questions
14 this morning.

15 Mr. Schmidt, I wanted to go back to you, one
16 of the responses you gave to Commissioner Lane when
17 you were talking about if you're importing product and
18 you decide to import the crude what that means in
19 terms of being able to sell it to your customers.

20 You had indicated at that point that it
21 would take some time if you were using a different
22 crude than NFC then it takes some time to get a
23 product that I guess meets your customers'
24 specifications.

25 I wondered if you could talk a little bit

1 more about that. I mean, what kind of a process are
2 we talking about in terms of and how long does it take
3 if you have to switch sources? How long does it take,
4 and does it matter which end use it's going into?

5 MR. SCHMIDT: Well, the process is pretty
6 standard for most raw materials we look at. We would
7 take an alternative material, make a laboratory batch,
8 test it through our applications lab in most of our
9 customers' applications so that we knew from a
10 laboratory point of view if it was going to be
11 acceptable.

12 Then assuming it passed that test, then we
13 would bring a quantity in to be able to make
14 significant production in our plant to see if it
15 scaled up in the factory at the same level. Having
16 made that product, back to the same applications lab
17 where they test as many customers' systems as possible
18 to see that the plant production equaled the
19 laboratory production.

20 Then again I would mention if it's a
21 significant customer who requires notification then a
22 sample might go to that customer for them to evaluate
23 to confirm it. Generally speaking, because of lead
24 times and laboratory times and testing, it probably
25 takes at least I'd say three months from the time you

1 start it until the time you had an approval to switch
2 raw material.

3 VICE CHAIRMAN OKUN: When you said some
4 customers required or some large customers required
5 notification or some people -- I didn't catch that.

6 MR. SCHMIDT: Well, some of our quality
7 assurance agreements with customers, if we make any
8 significant process changes, which includes
9 significant raw material changes, we would notify them
10 ahead of time, tell them our evaluations and give them
11 the opportunity, if they wanted to, to evaluate the
12 changed product or the change in the process before
13 they took a commercial shipment in.

14 VICE CHAIRMAN OKUN: Again, does it matter?
15 I mean, if you are making a decision between importing
16 product versus using the domestic crude product, does
17 it matter where you intend to sell it?

18 Mr. Faulkner, you had talked about where the
19 end uses are. Does it matter if you're going to
20 import? You say it's easier to import and use it in
21 ink versus coatings.

22 MR. MCGRATH: Generally, no. It's going to
23 be pretty much the same for the various applications.

24 VICE CHAIRMAN OKUN: Okay. In terms of the
25 same thing, quality assurance? All those different

1 end users would have similar quality assurance tests
2 that you'd have to meet?

3 MR. FAULKNER: Yes, that's right. The only
4 one that would be slightly different if it was in an
5 automotive application that you'd have to do some more
6 severe stability testing for light and weather and
7 those sorts of things. In the general industries of
8 ink and plastics and so forth, that would be pretty
9 much the same.

10 VICE CHAIRMAN OKUN: Okay. The reason I'm
11 spending some time on this question is obviously if
12 you look at our staff report in Chapter 2 and pages 10
13 through 12 where we ask about factors affecting
14 purchasers' decisions, only five of the 24 purchasers
15 reported that they purchased the lowest priced
16 product, rather citing quality and qualifications
17 before purchasing.

18 I mean, that number always strikes me in
19 things like chemicals as a fairly significant number.
20 You have to have a product that meets specifications
21 before your customer is going to buy it, and that's
22 why I'm interested in what you were saying in terms of
23 when you import it.

24 I guess for Clariant, can you talk about
25 that at all in terms of like on the qualification

1 issue and whether you've seen a distinction among the
2 channels of distribution or the end uses, I should
3 say?

4 MR. ZAMOYSKI: Well, I had a different
5 thought as you were asking your question, and that is
6 that when the customer comes to us and asks for a
7 lower price and it's a legitimate lower price in the
8 marketplace, we'll lower that.

9 We'll lower our price so the customer can
10 legitimately answer your question I'm continuing to
11 buy on quality, but they're still getting the effect
12 of the lower price. I think that could explain why
13 the question was answered that way.

14 VICE CHAIRMAN OKUN: Okay. Again, in
15 dealing with your customers you haven't had the
16 situation -- I think this is what I took from one of
17 your answers, but I wanted to explore it again, which
18 is that you haven't had customers who said we get a
19 higher quality product by importing from China.

20 MR. ZAMOYSKI: We've not had that experience
21 at all.

22 VICE CHAIRMAN OKUN: Mr. Faulkner?

23 MR. FAULKNER: No, not really.

24 VICE CHAIRMAN OKUN: Okay. Not really being
25 you think --

1 MR. FAULKNER: No. I think the quality of
2 -- the performance characteristics of the imports are
3 essentially the same as those that are made here in
4 the U.S.

5 VICE CHAIRMAN OKUN: Okay. I appreciate
6 those answers.

7 A couple of things. Mr. Dorris, I think for
8 post-hearing if you could just in terms of with regard
9 to India, as you know, the statute under 19 U.S.C. §
10 1677-7(e)(I), Nature of Countervailing Subsidy, and
11 then the subsequent one on the subsidy threat factors
12 -- well, actually I don't want to ask that one. I
13 might come back to it.

14 The question I want to pose to you -- I may
15 do that one post-hearing -- is again the final numbers
16 on India, questionnaire or official import data.
17 Those numbers are I think in flux.

18 Can you comment again on what we will hear
19 from Respondents a little later in terms of the
20 threshold for developing countries for countervailing
21 duty versus the threshold for dumping and whether you
22 have any disagreement at all on that or whether you're
23 just resting, which I think I took from your brief,
24 which is even if the number comes in under four
25 percent in terms of threat you think there's a threat.

1 Is that your argument? Is there anything
2 you wanted to add to that in light of the comments you
3 heard from counsel this morning in her opening?

4 MR. DORRIS: The only clarification -- I
5 guess there's two. One, of course, is that it is
6 three percent for dumping, four percent for
7 countervailing duty, in the material injury
8 determination.

9 I've always disputed the interpretation of
10 the statute as to being four percent for
11 countervailing duty in a threat determination because
12 I think the statute is clear that you don't -- I'm not
13 going to go into details of why it's clear, but the
14 three percent actually applies in the threat situation
15 for both countervailing duty and dumping cases, and
16 that's just my interpretation of the statute, which I
17 think is accurate.

18 Putting that aside, I think if there was any
19 chance that the Census data actually were going to be
20 embraced, even though I think it's clear now that
21 based on your questionnaire responses that it's just
22 not right, and certainly if it's counted correctly
23 that they'll be well above even the four percent
24 threshold, but I think, you know, if you're going to
25 look at the Census data and embrace it then I think

1 you have to consider the threat case.

2 On a threat case, of course, you have
3 discretion whether to cumulate or not, and it doesn't
4 become an issue of the three percent and four percent.

5 MR. ZAMOYSKI: If you go back to the period
6 of time about six or seven years ago, India was the
7 first to really come into the market with carbazole
8 violet, and then I think about five years ago or so
9 they were swamped by the beginning of the Chinese
10 imports.

11 I believe very strongly that if China only
12 is acted against that India will come back again
13 strongly with material that they can no longer sell in
14 Europe or other places where China will direct their
15 exports.

16 VICE CHAIRMAN OKUN: I guess, Mr. Dorris,
17 that's what had reminded me what the request was as
18 well. I know you made that argument in your brief.
19 If there's any Commission precedent on how we've
20 looked at threat in terms of the numerical threshold
21 that we're looking at, that I think would be
22 interesting.

23 We haven't talked much about non-subjects.
24 Is there anything that you want to discuss in terms of
25 non-subject imports? I mean, we could talk in terms

1 of I know you're getting it from different sources,
2 but, Mr. Dorris, is there anything you wanted to say?

3 MR. DORRIS: Well, clearly there are non-
4 subject imports from Japan and Germany. Again, I
5 think it's obvious that we believe those to be fairly
6 traded at this point or we would have included them in
7 an action.

8 We have no problem competing with fairly
9 traded imports. We've done that. The industry has
10 done that for many years and successfully until the
11 Chinese imports came in to be unfairly traded at such
12 low prices.

13 If there are orders in place, yes, we will
14 continue to compete with those non-subject imports,
15 but I think as they're fairly traded that we will be
16 able to effectively compete.

17 VICE CHAIRMAN OKUN: Okay. Mr. Zamoyski, I
18 wanted to come back to you as well on one of the
19 comments regarding your customers and how they've
20 changed. You were making the note about your top 10
21 customers had changed dramatically.

22 I wanted you to help me understand -- my
23 yellow light is on, but I think if you can just do
24 this quickly -- in terms of was that normal? I mean,
25 do you switch customers that often? Was that

1 something kind of unusual to how the top 10 customers
2 --

3 MR. ZAMOYSKI: It's very unusual. I think,
4 you know, we maintain a pretty stable customer base in
5 general in all the industries we serve, and this was a
6 very, very unique situation for us.

7 VICE CHAIRMAN OKUN: Okay. I appreciate
8 those comments from all of you.

9 Thank you, Mr. Chairman.

10 CHAIRMAN KOPLAN: Thank you.

11 Commissioner Miller?

12 COMMISSIONER MILLER: Thank you.

13 I'd like to ask the representatives of Sun,
14 Mr. Faulkner and Mr. Schmidt. I can't remember which
15 one of you referenced Sun's use of imported crude
16 violet, but I think you did, in the course of our
17 period of investigation.

18 If I could just ask you to elaborate to the
19 best you can publicly, and if need be in the post-
20 hearing submission, both on your reasons why, although
21 I think I've heard a fair amount of that, but also it
22 strikes me that the reasons for your decision to
23 increase or decrease imports of crude affects what we
24 see in the import data. Sun is big enough to have an
25 impact.

1 I think we need to be sure we have that on
2 the record so we understand anything we see in the
3 import volume trends in our data. Does that makes
4 sense?

5 MR. SCHMIDT: The question was why we
6 increased our imports of crude in the period?

7 COMMISSIONER MILLER: And why you decreased
8 them, to the extent you have decreased them as well.

9 MR. SCHMIDT: The reason we increased our
10 imports of crude was that the selling price of our
11 finished pigment had fallen to the point where we
12 could no longer take the tolled Violet 23 crude and
13 convert it in our plant and sell the product above our
14 cost, so one strategy we thought well, if we buy lower
15 cost crude and convert it that would allow us to be
16 competitive.

17 What we found is even though we -- so we
18 went through this qualification process. We bought
19 some significant quantity of imported crude, but what
20 happened is at the same time as we were making those
21 purchases and converting the product, the finished
22 pigment prices continued to fall so we were trying to
23 hit a moving target that kept moving downward.

24 We got to the point where we realized that
25 strategy was hopeless, that we couldn't import raw

1 material cheap enough and convert it in our factory
2 and end up competing. That's when we reversed our
3 decision and said the best thing to do was because of
4 the very low prices on the finished pigment the best
5 strategy was to support the domestic producer.

6 We have a very good plant, and NFC has a
7 very good plant. It's very cost competitive. On a
8 fair basis, we can compete with anybody. That was the
9 decision was to work with NFC to try to even the
10 playing field, and that's why we're here today.

11 COMMISSIONER MILLER: And the timeframe for
12 when you would have decreased your imports of the
13 Chinese crude? Can you give me a sense of when that
14 decision was made and when it's likely to turn up in
15 what we see in the data?

16 If you need to do it in a post-hearing
17 brief, that's fine.

18 MR. SCHMIDT: John reminds me it was 2002.

19 COMMISSIONER MILLER: Okay.

20 MR. SCHMIDT: It occurred over a period of a
21 year.

22 COMMISSIONER MILLER: The beginning of 2002?

23 MR. SCHMIDT: Yes. At the end of 2002.

24 COMMISSIONER MILLER: The end of 2002.

25 MR. SCHMIDT: Is when we switched back to --

1 COMMISSIONER MILLER: Using NFC?

2 MR. SCHMIDT: Yes.

3 COMMISSIONER MILLER: Okay.

4 MR. SCHMIDT: As our major supplier.

5 COMMISSIONER MILLER: Okay. Just so again I
6 understand, to the extent we see fluctuations in our
7 data, Sun is obviously an important player, so we need
8 to understand why we see the fluctuations in the
9 import volume.

10 Okay. There have been obviously numerous
11 references, and, Mr. Faulkner, I think you were just
12 talking about -- or maybe it was Mr. Schmidt; I'm not
13 sure -- the way the Indian product -- actually, it was
14 Mr. Zamoyski who was just talking about India coming
15 in first.

16 When you say that, you're talking about
17 India first coming into the market for finished or
18 crude?

19 MR. ZAMOYSKI: I was talking exclusively
20 about finished product.

21 COMMISSIONER MILLER: Okay. There have been
22 some references -- Mr. Dickson, I think I heard one in
23 your initial statement -- about offers of Indian
24 crude. Am I correct? Did I hear that?

25 MR. DICKSON: Yes. I made references to

1 this, but it was based upon knowledge received from
2 Mr. Schmidt. He's the one who provided the
3 documentation of those price quotes from India.

4 COMMISSIONER MILLER: Okay. I would just
5 like to offer you the opportunity to talk a little bit
6 about whether and to what extent you've seen India
7 offering crude, as opposed to the presscake or dry
8 form, just where they've actually been in the market,
9 where there have been offers to export, that kind of
10 thing.

11 Could you do that, Mr. Schmidt?

12 MR. SCHMIDT: Sure. You know, I travel to
13 India every year and to China and to Japan and all
14 these places to visit, all potential suppliers, to
15 make sure Sun is globally competitive.

16 I visited all of the companies mentioned in
17 India in terms of violet pigment and violet crude
18 production and, to make sure that we're globally
19 competitive, have talked to them about products that
20 they would offer and what prices they would sell them
21 at.

22 Those are price quotations received in the
23 discussion because we don't buy 100 percent of our
24 crude from NFC so that we have the flexibility of
25 talking to people about alternative sources and being

1 able to buy if it's a reasonable price and still meet
2 our commitments at NFC.

3 COMMISSIONER MILLER: Okay. You've said
4 here publicly that you've obviously imported from
5 China. You haven't publicly said that you've imported
6 from India. You have not imported from India?

7 MR. SCHMIDT: We have not.

8 COMMISSIONER MILLER: You've had offers to
9 sell from them?

10 MR. SCHMIDT: We have not imported crude
11 from India.

12 COMMISSIONER MILLER: Crude, yes.

13 MR. SCHMIDT: Yes.

14 COMMISSIONER MILLER: Okay. All right. I
15 listened. I heard your discussion in response to some
16 of the questions from the Chairman regarding changes
17 in cost over the timeframe and how that may or may not
18 have affected your prices.

19 Can you discuss the degree to which changes
20 in your costs may have affected your financial
21 performance over the period and to the extent that
22 there were declines in cost and such?

23 MR. FAULKNER: Well, there's obviously two
24 pieces. There's the raw material piece, which Steve
25 and John have already described what they've been able

1 to do. The other piece is the conversion cost.

2 During the period of the investigation,
3 we've done several things to try to reduce our costs,
4 and we've been successful. We changed the equipment
5 that's used to actually do the attrition process,
6 which is the initial finishing step. We've also
7 changed the drying. I described spray drying. In the
8 past we did it in a very labor intensive, low
9 productivity tray dryer.

10 We've taken steps to try to reduce our cost,
11 but what you have to bear in mind that the market
12 prices don't reflect what costs are. When I was a boy
13 in the business, that's the way it worked. You had a
14 cost, and selling prices were set based on what the
15 costs were. That's not the case anymore. We're in an
16 entirely different marketplace.

17 We've made some attempts, and we've been
18 successful, but we have not been successful at
19 completely being able to offset the decreases in the
20 Chinese and Indian finished prices.

21 COMMISSIONER MILLER: Okay. I appreciate
22 that. I think actually at least for the moment I have
23 no further questions. I appreciate all the answers to
24 those that I have posed. Thank you.

25 CHAIRMAN KOPLAN: Thank you, Commissioner.

1 Commissioner Hillman?

2 COMMISSIONER HILLMAN: Thank you.

3 If I can return again to this issue of
4 trying to make sure I understand what's going on in
5 terms of the prices?

6 We had talked earlier in my earlier round
7 about whether the different applications -- inks,
8 textiles, plastics, coatings -- whether there's much
9 price variation or whether they bid differently.

10 Let me try to understand it from a little
11 bit of a different perspective. If I look in our data
12 in terms of what's happened to the prices, it appears
13 that the prices have fallen much farther in the
14 presscake, as opposed to in the dry product, again
15 just looking at the percentage declines in prices, and
16 yet if I look at where the imports are concentrated,
17 they're concentrated more in the dry than they are in
18 the presscake.

19 I'm trying to understand how that makes
20 sense. If it's the imports that are driving the lower
21 prices, why are we seeing less of a price decline in
22 the dry where the imports are more concentrated?

23 (Pause.)

24 COMMISSIONER HILLMAN: Part of it is if you
25 can start with helping me understand the degree of

1 price competition between the dry and the presscake
2 and then help me understand again why we would see
3 this phenomenon of greater price declines in the areas
4 where there's less concentration of imports.

5 MR. FAULKNER: We'll probably have to go
6 back and look closer at the numbers before I can give
7 you a completely accurate answer, but generally the
8 dry color goes into the plastics and packaging ink
9 part of the end use industries, where presscake tends
10 to be used in making aqueous dispersions, which are
11 then in large part sold into the textile industry.

12 Traditionally that industry has been the
13 most affected in terms of the price of pigments, so
14 it's possible that since that's the major end use for
15 the presscake that that's been impacted more than
16 something like the printing ink or the plastics type
17 applications.

18 COMMISSIONER HILLMAN: Okay. Mr. Zamoyski,
19 would you have a view on this?

20 MR. ZAMOYSKI: Yes. I think another area
21 that wasn't mentioned is flush color. That's one area
22 where we were a significant supplier of presscake
23 where we no longer sell any, so that's one where we
24 had to go down very significantly in price through
25 several steps and then finally exited the market.

1 COMMISSIONER HILLMAN: Okay. All right. I
2 appreciate those. I just am trying to understand if
3 there's anything else that you can help me understand
4 why price pressure might have been greater in the
5 presscake than in the dry color. I think that would
6 be helpful if there's anything further.

7 Again just to understand this issue of the
8 domestic industry's performance, a number of questions
9 have come up. I mean, obviously to some degree we're
10 all trying to understand.

11 It appears from our data that there was a
12 relatively significant improvement in the financial
13 performance of the finished producers in the U.S. into
14 2003, notwithstanding the fact that there was an
15 increase in the toll price, as I understood Mr.
16 Dickson's testimony, in 2003, and yet even though
17 you're paying a higher price on that end there's
18 nonetheless an increase overall in the domestic
19 industry's financial performance in 2003.

20 To what do you attribute that improved
21 performance in 2003 and actually first half 2004?

22 MR. FAULKNER: The prices have continued to
23 drop, and if you actually look at the Sun Chemical
24 data for the first half of 2004, the financial
25 performance has actually deteriorated over what it was

1 in 2003, so I don't think there has been a significant
2 improvement when you look at the whole picture over
3 the course of the investigation.

4 COMMISSIONER HILLMAN: There has not been an
5 improvement in financial performance in 2003 and first
6 half 2004 over 2001 and 2002?

7 MR. FAULKNER: Yes. Actually, 2004 is worse
8 than it was in 2003.

9 COMMISSIONER HILLMAN: Okay. Obviously I
10 understand that there is some significant revisions in
11 the financial data coming, but nonetheless.

12 Mr. Zamoyski, what is your impression? Were
13 things financially better for the industry in 2003 and
14 first half 2004?

15 MR. ZAMOYSKI: They weren't for us in terms
16 of our manufacturing.

17 COMMISSIONER HILLMAN: They were not? I'm
18 sorry. I didn't hear.

19 MR. ZAMOYSKI: They were not --

20 COMMISSIONER HILLMAN: They were not.

21 MR. ZAMOYSKI: -- for us, but, you know, I
22 think we're the flea on the elephant here.

23 COMMISSIONER HILLMAN: Okay. Again to
24 counsel, if there is any -- Mr. McGrath, go ahead.

25 MR. MCGRATH: Yes, Commissioner. It's a

1 little difficult to characterize because there are
2 some differences within the companies.

3 As far as Clariant's performance is
4 concerned, I think at some point in the last three
5 years there was a tiny little uptick, which I think,
6 you know, maybe they broke out the champagne to
7 celebrate that they were in the black temporarily, but
8 the rest of the time it's all red.

9 From my understanding of the numbers and
10 being able to -- what I can characterize of them, I
11 think the industry-wide performance hasn't been. If
12 there has been an upsurge or an uptick or whatever, it
13 hasn't been very significant.

14 COMMISSIONER HILLMAN: Okay. Thank you.

15 Mr. Dorris, I realize that to some degree
16 this is difficult for your clients because they have
17 not seen the confidential industry data, so if there's
18 something in the post-hearing that you could, since
19 you do see the numbers and can look at the actual data
20 that I'm talking about, if there's anything that you
21 would add to this to just help us understand.

22 Again, at a time in which we're seeing
23 increased import competition and, as we've heard
24 testimony, a change in the toll price being paid and
25 yet prices going down, how does that square with what

1 our financial performance data looks like?

2 Since you can see it and it does involve the
3 confidential business financial data, if you want to
4 comment in the post-hearing brief I think it would be
5 helpful.

6 MR. DORRIS: Yes, ma'am. I'll do that. I
7 did look at this issue because it was odd to me too,
8 although of course, as Mr. McGrath pointed out, even
9 though it improved it wasn't like they dramatically
10 improved and are making great returns.

11 One thing I noticed, and Mr. Faulkner
12 already spoke to it a bit, is the improvements they
13 had in other cost savings. Their cost of goods did go
14 down, and I think I've pointed this out in the brief,
15 and it's something I think does have a dramatic impact
16 perversely is because they purchased -- even though it
17 wasn't crude, they also purchased finished product,
18 and that has an effect on their overall financial
19 status.

20 COMMISSIONER HILLMAN: Okay.

21 MR. DORRIS: You have to look at the cost of
22 goods sold not just as a crude issue, but also as a
23 finished. Also, you have to also look at their cost
24 savings that they had in putting in the new spray
25 dryer and those other things that had an incremental

1 impact and improvement on them.

2 COMMISSIONER HILLMAN: Okay.

3 MR. DORRIS: Overall, because of price
4 declines they still haven't recovered completely, but
5 I did see the anomaly you're speaking of.

6 COMMISSIONER HILLMAN: Okay. All right. If
7 there's anything further you want to add in the post-
8 hearing, I'd appreciate that.

9 If I can understand a little bit? You had a
10 discussion to some degree with Commissioner Pearson on
11 this issue of at what point are there price points.
12 I'm just trying to make sure I understand it. Are
13 there price points at which people switch in or out of
14 Violet 23 to something else?

15 I guess as I heard the testimony and as I've
16 understood it, this is, as things go, a relatively
17 expensive color. I mean, if you're looking for violet
18 color, Violet 23 is on the high end of it.

19 First of all let me make sure that you would
20 agree with that. Is that correct?

21 MR. FAULKNER: Well, if you asked me that
22 question five years ago I would say absolutely, but it
23 certainly is not one of the high end violets in terms
24 of price at this point.

25 COMMISSIONER HILLMAN: Okay.

1 MR. FAULKNER: Again, it's not necessarily
2 price driven in terms of why a customer is using it.
3 It's because of their performance and color
4 properties.

5 COMMISSIONER HILLMAN: Okay. Then I guess
6 my question was to try to understand if prices fall
7 are there then new users that come in because, you
8 know, this had previously been too high a price for
9 them, but as the prices have fallen they've now said
10 for all of these other qualities of it gee, I can now
11 move into using Violet 23 because the price is now
12 affordable for me?

13 MR. FAULKNER: No. It's used in the same
14 type of applications that it has been for many years.
15 It hasn't opened up new opportunities for using it
16 because of the lower prices.

17 COMMISSIONER HILLMAN: Okay. Mr. Zamoyski,
18 would you agree with that?

19 MR. ZAMOYSKI: I would say that's correct.

20 COMMISSIONER HILLMAN: Okay. I appreciate
21 that.

22 I think at that point those are all the
23 questions. The yellow light has come on as well.
24 Thank you, Mr. Chairman.

25 CHAIRMAN KOPLAN: Do you have another

1 question?

2 COMMISSIONER HILLMAN: No.

3 CHAIRMAN KOPLAN: Okay. Thank you,
4 Commissioner.

5 Commissioner Lane?

6 COMMISSIONER LANE: I want to go back to a
7 follow-up of the question I asked during the first
8 round.

9 I asked I think Mr. Schmidt and Mr. Dickson
10 that both as a practical matter and as a contractual
11 matter how quickly could Sun shift to alternate crude
12 Violet 23, and Mr. Schmidt explained the practical
13 problems.

14 However, I also want an answer as to from a
15 contractual point of view how quickly could you
16 switch?

17 MR. DICKSON: Yes. Essentially it's meet or
18 release, so practically it could be from having
19 business in December and having no business as far as
20 crude production in January.

21 There's nothing in the contract that
22 requires that we be a continuing supplier if we're not
23 competitive on price. That can happen immediately at
24 our shop.

25 COMMISSIONER LANE: Okay. Now, Mr. Dickson,

1 in another question you indicated that the notice
2 requirement under the agreement may be for one or
3 three years or whatever. Could you be specific in
4 that answer? If you need to do it post-hearing, that
5 would be fine.

6 MR. DICKSON: I think I can be specific. As
7 I mentioned, this is an evergreen contract, but the
8 fact is that under the contract, which provides a
9 broad structure of the overall understanding, when you
10 get into the specific details of supplying there's no
11 requirement that they purchase from us if we're not
12 competitive in any given year.

13 It's entirely possible that the contract
14 would continue to exist, but for periods of time in
15 which we supplied nothing under the contract.

16 COMMISSIONER LANE: Okay. Mr. Dorris, the
17 next question is for you. You stated in your
18 prehearing brief on page 20 that the unfairly traded
19 imports from China and India are causing material
20 injury to the domestic industry. You specifically
21 address volume increases of the imports on page 20,
22 and you discuss price decreases at page 21.

23 I don't find any discussion of the financial
24 condition of the industry as indicated by net
25 operating income, net cash flows, net income or return

1 on investment. The staff report shows these factors.

2 Do you believe that the Commission should
3 look at these factors both on an absolute basis and as
4 a trend to see how net operating income, net cash
5 flow, net income or return on investment are trending
6 over the period of investigation?

7 MR. DORRIS: Well, there's really two
8 answers to that. One was they were so self-evident I
9 didn't see a need to go through each and every one of
10 them in the brief, although I think I can highlight
11 the ones that are there in the post-hearing brief.

12 The second was that I knew that there was
13 some data that was still in flux, so, you know, giving
14 you hard numbers from the data which was going to be
15 changed from the questionnaire responses, I just
16 didn't see the point to go into all those details.

17 I do think, you know, you are looking at the
18 trends overall, so I think you need to at least
19 consider that, but I think there is a point here where
20 the Chinese and Indians were in the market already in
21 2001 so that the trends, even though the volume trends
22 continue to increase because their prices are so low
23 that they continue to gain market share, perhaps in
24 some of the financial data it's not as clear.

25 Back to the anomaly Ms. Hillman pointed out,

1 Commissioner Hillman pointed out, I think you have to
2 consider the attempts by the industry to compete, to
3 improve their cost structure and try to get back to a
4 profitable level.

5 I think Sun in particular is very impressive
6 at doing that. Unfortunately, I think a lot of that
7 comes from purchasing unfairly traded imports in order
8 to do so, but they have done equipment changes and
9 other changes to become more competitive, so the
10 trends are a little bit misleading I think in that
11 sense, but still overall I think the trends show the
12 downturns in the financial data, and certainly in 2004
13 for the interim data they are not profitable.

14 COMMISSIONER LANE: Okay. I would like for
15 you in your post-hearing to provide an evaluation and
16 analysis of those factors if you would, please.

17 MR. DORRIS: Yes, ma'am.

18 COMMISSIONER LANE: Thank you.

19 Mr. Chairman, that's all the questions I
20 have.

21 CHAIRMAN KOPLAN: Thank you, Commissioner.
22 Commissioner Pearson?

23 COMMISSIONER PEARSON: Thank you, Mr.
24 Chairman.

25 Mr. Dorris, I have a question about

1 negligibility. We've talked a little bit about this,
2 but I'm wondering if perhaps you could be more
3 specific.

4 For the purpose of our negligibility
5 determination, should the Commission use the official
6 statistics or, second possibility, the questionnaire
7 import data or, the third possibility, the
8 questionnaire export data?

9 MR. DORRIS: I think you cannot use
10 questionnaire export data for China, so you will have
11 to use import questionnaire data.

12 I think, given the totality of the
13 questionnaire responses, if you want to use final
14 questionnaire data for India then you should use the
15 export data. I don't think there's a problem in using
16 the foreign exporters' responses to calculate that
17 number in terms of any sort of apples to oranges
18 comparison, which I think I mentioned in a footnote in
19 my brief.

20 I don't think you can use the Census data
21 not just because of the presscake issue, but also
22 because of the fact the Indian data clearly is
23 understated based on your own questionnaire data,
24 which on the assumption that it was given candidly and
25 honestly then it is what it is.

1 I think if you are going to try to use the
2 import data for India then you have to include at
3 least some of the preliminary questionnaire
4 information because you don't have, and I have to be
5 careful here, but you don't have complete, final
6 questionnaire responses from all parties that
7 participated in the original preliminary investigation
8 for the importers' questionnaires for India.

9 Bottom line, you can't use the Census data
10 because there's already been shown to be discrepancies
11 in that information.

12 COMMISSIONER PEARSON: Okay. If I
13 understand what you're saying --

14 MR. DORRIS: I did bounce around.

15 COMMISSIONER PEARSON: -- it's kind of a
16 suggestion that we pick and choose among various
17 sources of data for various countries.

18 MR. DORRIS: Certainly.

19 COMMISSIONER PEARSON: My question is,
20 because I'm relatively new here and still very
21 ignorant of certain things. Has the Commission done
22 that before?

23 MR. DORRIS: I'm not new here, and I'm still
24 ignorant.

25 Yes. In fact -- well, I say yes. I say

1 that it's clear from the court cases that the
2 Commission has the flexibility and the discretion to
3 use any data it chooses to use and to modify and
4 adjust official data in any way it chooses. I think
5 the courts have been very clear on that point.

6 In terms of whether you've actually mixed
7 questionnaire data either from a preliminary
8 investigation to a final investigation or from, you
9 know, importers' questionnaire with foreign producers'
10 questionnaires, I'm not sure I know that. Maybe I'm
11 not as experienced as I should be. I'm not sure I
12 could even find that in terms of precedent, given how
13 difficult it is to read an opinion and find something
14 like that in the data.

15 Certainly the courts give you the
16 flexibility to do that, and I think in this particular
17 case when the Indians, especially the Indian producers
18 that have not come forward, especially the Chinese
19 producers that have not come forward, they're forcing
20 you into the situation of having to pick and choose as
21 to maybe having to use a foreign exporter's
22 questionnaire from India combined with an importer's
23 questionnaire from China.

24 I think there you're resorting to a
25 different statutory interpretation, which is adverse

1 facts available or the best information available
2 based on the failure of parties to respond to
3 questionnaires.

4 It's not your fault that you might have to
5 mix the data. I think in the sense that if you are
6 forced to mix the data you certainly have the
7 authority to do so.

8 COMMISSIONER PEARSON: In your post-hearing
9 brief, after all the data is there on the record, I
10 trust that you will address this issue with as much
11 specificity as possible?

12 MR. DORRIS: I will, and I think we did do a
13 lot of that in our prehearing brief as best we could.

14 I'm not sure there's going to be new data
15 coming forward other than the denominator with respect
16 to the importers' questionnaires for China and all
17 others. Not just China. Non-subject imports as well.

18 MR. MCGRATH: Commissioner if I could just
19 add one point to that?

20 COMMISSIONER PEARSON: Please.

21 MR. MCGRATH: Matt McGrath for Clariant.
22 There is, and I don't profess to have the answer to
23 this because I don't know what all these various data
24 sources are saying, but there's certainly some
25 symmetry in taking a look at the reported Indian

1 export data for purposes of deciding whether you're
2 meeting the negligibility standard since I think the
3 Indian data, the reported Indian data, are going to be
4 a very important source for you to be looking at to
5 make the decision if you choose to use your discretion
6 as to whether or not there is a threat of injury posed
7 by those Indian exports to the United States.

8 There's a lot of information there
9 concerning unused capacity, alternative export
10 markets, the factors that you would want to take a
11 look at in deciding whether or not there is threat of
12 injury by the Indian product. There is certainly some
13 logic to also looking at their reported export data to
14 the United States.

15 COMMISSIONER PEARSON: Okay. Thank you.

16 I have a question about displacement of non-
17 subject imports. I think the record indicates that at
18 least some of the increase in U.S. imports of finished
19 Violet 23 from subject countries has displaced non-
20 subject imports and perhaps to a greater degree than
21 it's displaced U.S. production.

22 Could you comment on that? Is it really the
23 non-subject imports that have been hurt more so than
24 the domestic industry?

25 MR. DORRIS: In my analysis of the data, I

1 think again I come back to the fact that in my opinion
2 at least it's a price case, and even though there's
3 been some displacement in terms of quantity by the
4 non-subject imports, certainly there's been a large
5 displacement of also the U.S. production and sales,
6 and I think you see that in the increased market
7 share, and overall in the sales value you certainly
8 see the price impact more than the volume impact. I
9 agree.

10 Part of that, of course, is because Sun does
11 make internal transfers that are somewhat not
12 protected from imports. They're certainly not
13 protected from the price of the imports. It's really
14 more of a price impact despite some displacement of
15 the non-subject imports.

16 COMMISSIONER PEARSON: Okay. A question
17 about capacity utilization. If this is confidential,
18 please reply in the post-hearing.

19 I'm wondering if you could advise what is a
20 typical capacity utilization rate both for the
21 production of crude and finished? Maybe we should
22 think in terms of what rate does one need to run at in
23 order to make some money or to break even? Is it
24 possible to specify that?

25 MR. DICKSON: I think we're best to cover

1 that in the post-conference brief because it has to do
2 with proprietary information relative to the --

3 COMMISSIONER PEARSON: Fair enough.

4 On page 14 of the petition you had mentioned
5 that there may have been transshipments of products
6 from China or India through Mexico or the United
7 Kingdom. What's the basis for this contention?

8 MR. DORRIS: John can speak to this more,
9 but, as we understand, there is no crude production in
10 these countries and so some of the Chinese crude
11 products would be shipped over and finished in these
12 countries, but in terms of the finished product I'm
13 not sure we had evidence on that.

14 MR. SCHMIDT: I'm not familiar with finished
15 violet or crude production in, for instance, the U.K.
16 Sun has a big operation in Europe, as well as in the
17 U.K.

18 COMMISSIONER PEARSON: Okay. So that's an
19 issue that we can ignore. We'll let that one drop.

20 One other threat question. On page 14 of
21 your prehearing brief you have asserted that an order
22 solely against China would shift Chinese imports to
23 Europe, Asia and other world markets, causing
24 significant Indian import volumes to shift from these
25 third countries to the United States.

1 What evidence is there to back that up?
2 Have we seen that sort of thing going on in response
3 to trade remedies that other countries might have
4 applied?

5 MR. DORRIS: You've seen it with respect to
6 other products. You haven't seen it with respect to
7 this one because there's no trade remedy that I'm
8 aware of for this particular product.

9 Since they're competing on a dollar basis
10 and already competing in those markets, if they don't
11 have the U.S. market to sell to they're going to try
12 to put the product somewhere. I'm not sure it's
13 necessarily an evidentiary issue as much as a logical
14 issue.

15 COMMISSIONER PEARSON: And the global market
16 is sufficiently flexible that those sorts of trade
17 flows could trade quickly?

18 MR. ZAMOYSKI: Yes. I'd like to comment to
19 that. I think the pigment market is a global market,
20 and we've seen where you see pressure in one area it's
21 relieved in another area, so it is a logical thing.
22 We've seen it happen in the past not because of issues
23 specifically like this one, but say supply and demand
24 situations.

25 COMMISSIONER PEARSON: Mr. Schmidt?

1 MR. SCHMIDT: No. I agree. The market is
2 very transparent as to what people are doing in
3 different places in the world. Affecting one place
4 always boomerangs somewhere else.

5 COMMISSIONER PEARSON: Okay. Thank you. My
6 time has expired.

7 Mr. Chairman, I have no further questions.

8 CHAIRMAN KOPLAN: Thank you, Commissioner.

9 I just have one question remaining. Mr.
10 Faulkner and Mr. Zamoyski, at the staff conference in
11 response to a question from Ms. Alves of our Office of
12 General Counsel you stated at pages 52 and 53 of the
13 transcript that Clariant and the Bushy Park facility
14 operated by Sun utilize a dissolution and
15 reprecipitation process to produce finished Violet 23
16 that is different from the soft grinding process
17 utilized in Sun's Cincinnati plant. That's page 23
18 from Mr. Faulkner.

19 Mr. Faulkner testified today that the
20 product produced by dissolution and reprecipitation is
21 primarily for the automotive coatings industry, if I
22 remember correctly.

23 Are subject imports from China and India
24 closer substitutes for finished Violet 23 produced by
25 the soft grinding process or the dissolution and

1 reprecipitation process?

2 MR. FAULKNER: The salt grinding process.

3 CHAIRMAN KOPLAN: Do you agree, Mr.
4 Zamoyski?

5 MR. ZAMOYSKI: I don't fully agree. We sell
6 our product out of Rhode Island to all industries, not
7 only the niche market that Ed refers to. That was one
8 of the big products that we sold, for example, into
9 the ink industry. I think that the products are much
10 closer than what Ed seems to be saying.

11 CHAIRMAN KOPLAN: Okay. Anything you want
12 to add back to that, Mr. Faulkner?

13 MR. FAULKNER: No, other than the process is
14 a more expensive one that we run in Bushy Park as
15 compared to --

16 CHAIRMAN KOPLAN: I appreciate that.

17 MR. FAULKNER: -- the one in Cincinnati.

18 CHAIRMAN KOPLAN: Okay.

19 MR. FAULKNER: Of course, that process was
20 -- we only acquired that just under two years ago, so
21 it's an area where we haven't concentrated our
22 efforts.

23 CHAIRMAN KOPLAN: Thank you both for your
24 response to that question, and I want to thank all of
25 you for your responses to our questions today.

1 I'll turn to Vice Chairman Okun.

2 VICE CHAIRMAN OKUN: I just have one final
3 question, which I guess I would direct to Sun. The
4 one thing that strikes me through listening to all
5 this is I heard, Mr. Schmidt, you say that one of the
6 reasons -- or I guess talking about the reasons why
7 Sun wants to have a domestic supply.

8 I could look at this and say for Sun what
9 does it matter whether you're bringing in the imports
10 really? Bring them in cheaper and compete in the
11 finished market. Is it really about that the Chinese
12 can beat you in the finished market? I guess it's
13 that part.

14 Mr. Dorris, you're shaking your head. Maybe
15 you could talk about that a little bit because that's
16 the thing that I'm trying to fit it all together where
17 everything plays, and I'm seeing Sun could bring it in
18 cheaper. I don't know. What's the story?

19 MR. DORRIS: That's the first question I
20 asked myself when I got involved because John is a
21 friend, and I'm thinking it's nice to have NFC around,
22 by why does Sun care?

23 I think the answer is, as we've tried to
24 explain as best we could, that Sun first wants an
25 alterative source of supply other than just the

1 Chinese. I mean, that's obvious for a lot of
2 companies, of course.

3 At the same time, you know, at some point
4 the Chinese are going to figure it out, and they would
5 just start shipping finished. Why sell crude to Sun?
6 I mean why sell crude to Sun at some point when they
7 can just sell finished into the U.S. market and take
8 all the shares away from Sun?

9 I think Sun recognized that at some point
10 and realized that, you know, going it alone and giving
11 up on NFC was a quick solution and maybe a temporary
12 solution for a short period of time, but it wasn't
13 going to solve their problem.

14 VICE CHAIRMAN OKUN: Okay. I appreciate
15 that. Thank you very much, and I thank you for all
16 your answers.

17 CHAIRMAN KOPLAN: Thank you, Commissioner.

18 Let me see if there are any other questions
19 from the dais. Yes, Commissioner Hillman?

20 COMMISSIONER HILLMAN: Just to go back on
21 this negligibility issue, Mr. Dorris, just to make
22 sure I understand your response.

23 I listened to the earlier exchange that you
24 had with respect to this issue of whether the number
25 for countervailing duty for developing countries is or

1 isn't four percent, but let's assume that the
2 Commission, because the issue I'd like you to address
3 and/or to point us to any precedent.

4 Let's say the figure comes in for India
5 somewhere between three and four percent and that we
6 determine that the threshold is three percent for
7 dumping cases and four percent for countervail cases.
8 What then do we do? Do we dismiss the countervail
9 case as negligible but leave in place the dumping case
10 or not? Is there any Commission precedent that would
11 point us to what we should do?

12 I suppose, Mr. McGrath, as long as we're at
13 it you might want to take a look at that issue as
14 well.

15 MR. DORRIS: We'll look at that issue. I
16 hate hypotheticals because they can obviously be
17 complicated.

18 I think obviously if you do determine all
19 those facts then you still have the opportunity to go
20 through on the countervailing duty case, so you don't
21 have to abandon the case or the determination.

22 I think the facts are there to make that
23 determination, especially given that those are fairly
24 high export subsidies they're receiving, so certainly
25 they're getting this government handout to make

1 shipments to the U.S. at unfairly low prices and will
2 always be competitive into the future. You could
3 still cumulate or make whatever determination you
4 wanted to based on threat regardless of negligibility
5 concepts at your discretion.

6 Precedent? I can't tell you right now. I'd
7 have to look.

8 COMMISSIONER HILLMAN: Okay. All right.

9 Mr. McGrath?

10 MR. MCGRATH: I would echo that. The final
11 numbers that came out on the dumping margins and the
12 subsidy margins for India were very substantial both,
13 and even if it is in that range I think you have the
14 discretion to take a look at it.

15 If it's between three and four and you
16 decide it's four for countervail, you have the
17 discretion to look at threat, and I think that you
18 should. It's obviously an industry that is built for
19 export, and the possibility of the likelihood of
20 shifting the Chinese product to India as the new
21 supplier is very high.

22 Just to add one other point to what we've
23 been talking about with the price margins and how that
24 relates to the underselling margin and to the dumping
25 margin, Clariant is in a situation now where, I mean,

1 the facts are pretty plain. It's not just blowing
2 smoke to say that they're on the verge of just
3 deciding to pull the plug. It is very close.

4 Without having some kind of an assessment of
5 the level that has come out from the final at Commerce
6 on the dumping and the countervailing duty rates, it
7 really makes no sense for them to stay in business.
8 It's a big company. They can do other things, and
9 they may just simply have to decide to cease producing
10 this product in the United States.

11 COMMISSIONER HILLMAN: All right.

12 MR. MCGRATH: Thank you.

13 COMMISSIONER HILLMAN: I appreciate those
14 answers, and I appreciate all the answers to my
15 questions this morning. Thank you very much to the
16 panel.

17 CHAIRMAN KOPLAN: Thank you, Commissioner.

18 Let me just check one last time. I see
19 there are no additional questions from the dais.

20 Mr. Deyman, does staff have questions of the
21 panel?

22 MR. DEYMAN: The staff has no questions.

23 CHAIRMAN KOPLAN: Thank you.

24 Ms. Levinson, before I release the panel, do
25 you have any questions of this panel?

1 MS. LEVINSON: I do not.

2 CHAIRMAN KOPLAN: Thank you.

3 That being the case, I want to thank the
4 witnesses for the answers to our questions.

5 (Panel excused.)

6 CHAIRMAN KOPLAN: I understand from Ms.
7 Levinson that she's estimating her direct presentation
8 will run about 10 to 15 minutes. I'm not going to
9 hold you to that, but if that's the ballpark I would
10 go forward now and move to our second panel.

11 MS. LEVINSON: Good morning again. I'm
12 Lizbeth Levinson representing Alpanil and Pidilite,
13 and our witness today is Marketing Director of
14 Pidilite, Mr. N.K. Parekh. He is going to speak a
15 little bit about our views on negligibility, but
16 negligibility is not the end of the case.

17 There are other facts in which our view of
18 the industry is quite different from that presented by
19 the Petitioners. In particular, the Petitioners would
20 have you believe that the inks market is one market
21 and that all product destined for that market is
22 alike. Mr. Parekh is going to describe his views,
23 which are quite different.

24 CHAIRMAN KOPLAN: Thank you.

25 MR. PAREKH: Good morning. I am N.K.

1 Parekh, Joint Managing Director of Pidilite
2 Industries. I am pleased to have the opportunity to
3 discuss this investigation with you today.

4 My background is in the technology of dyes
5 and -- which colors pigments, and I'm also a chemical
6 engineer. I am associated with the business for
7 almost 40 years. I look after a lot of the products
8 and even marketing. I'm very familiar with the range
9 of products you are investigating from both a
10 technical and end use perspective.

11 The first point I would like to discuss is
12 negligibility. You might have noticed from the
13 statistics that imports from India is very, very less
14 compared to China or other countries. Based on this
15 data, imports from India accounted for just about 2.8
16 percent of all imports in 2003 under both the three
17 percent threshold for negligibility in antidumping
18 cases and four percent threshold in countervailing
19 duty cases.

20 Of course, there will be argument whether
21 that data published is correct or not, but I would
22 request to verify again and see.

23 CHAIRMAN KOPLAN: Excuse me. It might be
24 helpful if you move the microphone a little bit away
25 from you.

1 MR. PAREKH: Okay.

2 CHAIRMAN KOPLAN: It might be a bit too
3 close.

4 MR. PAREKH: Okay. Thank you.

5 In the preliminary determination, the
6 Commission indicated that for the purpose of that
7 determination the Commission provisionally agreed with
8 the Petitioners' argument regarding Indian
9 negligibility.

10 The Commission explained that, "Petitioners
11 argued that the Commission could reasonably conclude
12 that the possibility of adjustments to the official
13 import statistics warrants a preliminary finding that
14 India's imports are not negligible for purposes of its
15 present material injury analysis." This is the
16 prehearing staff report at V-4.

17 While the Commission might have extended the
18 benefit of the doubt to Petitioners in that earlier
19 phase of this investigation based on "the possibility
20 of adjustments to the official import statistics," now
21 10 months or so later there have been no such
22 adjustments to the data.

23 No party has presented evidence to the
24 Census Bureau that its statistics should be adjusted.
25 It would be patently unfair for the Commission to now

1 go behind and second guess the validity of these data
2 when the possibility of adjustment by the competent
3 U.S. Government agency has been proven by the
4 intervening months not to be realized.

5 Based on the negligibility of imports from
6 India under the statute and on the sharp differences
7 between the products sold by Indian and U.S.
8 producers, I am truly mystified as to why imports from
9 India were included in the petition.

10 It seems to have been a precautionary, but
11 entirely speculative, preemptive strike on the part of
12 Petitioners on the supposition that India might
13 hypothetically serve other market segments in the
14 future. My lawyers tell me that it is improper to use
15 the antidumping and CVD laws for such a purpose.

16 Now second is about the lost sales and lost
17 revenues by the Petitioners. Because Indian imports
18 are so small, it is not surprising to find that
19 Petitioners have not been able to cite a single
20 instance of a lost sale or lost revenue by reason of
21 imports from India This is the prehearing staff
22 report at V-11.

23 I would like to take this opportunity to
24 describe India product and where it is sold in the
25 United States. You should understand, essentially all

1 imports from India originate from my firm, Pidilite,
2 and a second firm, Alpanil, the two main exporters of
3 India.

4 You should also know that the subject
5 products that Indian producers sell in the United
6 States are extremely limited and do not compete
7 practically for the same merchant market customers
8 with the U.S. product. There was a lot of discussion
9 about the quality and price. There are some letters
10 as to how quality is a very, very important issue in
11 selecting the violet product, Violet 23.

12 Both Alpanil and Pidilite market a quality
13 of finished product that is only suitable for use in
14 water-based press inks, which is a low-end market
15 where high prices cannot be realized. It is not
16 suitable and has not been approved for use in plastic,
17 solvent ink, paints, et cetera, which are the uses to
18 which U.S. and China manufactured products are
19 devoted.

20 To the extent that U.S. producers make
21 product destined for water-based ink, it has been
22 mostly used captively. This is our understanding.
23 Pidilite and Alpanil never competed for these
24 transactions.

25 Indian product sold in the United States

1 cannot be used for other purposes. We have a lot of
2 correspondence with the users not approving our
3 product for their use. That is for solvent or for
4 plastic or for other use.

5 In other words, our U.S. customers were not
6 using U.S. product before we entered the market.
7 Therefore, there is no loss of sale as a result of our
8 imports. Here what we want to say is our customers
9 are using a very important product, but they're not
10 replacing Petitioners' product in their use, so
11 Petitioners are not affected by our selling products
12 to American customers.

13 The differences in end use demonstrate that
14 Indian and U.S. producers do not compete for the same
15 accounts in the U.S. market and that the imports from
16 India therefore are incapable of harming the U.S.
17 industry. Moreover, the technical differences and
18 differences in application explain entirely the
19 pricing differences between the U.S. and Indian
20 products reported in the prehearing staff report.

21 This is a very, very technical subject
22 according to me. I studied the subject at the
23 university. What would have been better is to ask
24 some learned people, some professors from the
25 university or the people with the background because a

1 lot of the argument by the Petitioners is one-sided
2 opinion. It is not a neutral person giving the
3 opinion about the uses of pigment, whether one
4 pigment, one product, is suitable for plastic or
5 solvent or for paint or for lower end aqueous ink.

6 As noted in the prehearing staff report,
7 India has a great difficulty meeting minimum quality
8 requirements of U.S. customers. This I am quoting
9 from the prehearing report on IV-213. Indian quality
10 is not as good as quality manufactured by American
11 manufacturers or ones imported from Germany or Japan
12 or from other countries.

13 Indian products have not been approved for
14 use in solvent, ink, plastic, paint, et cetera. The
15 quality of the violet pigment is the main factor that
16 customers examine in determining where to purchase.

17 Now I am coming to antidumping a little bit.
18 On paper it may appear that Indian producers are
19 dumping their products in the U.S. market. This is
20 seen by the Department of Commerce because of price
21 differences in product sold in India and price
22 differences of what is sold in the USA.

23 In reality, the Indian exporter has to meet
24 the market conditions in the USA. Prices of Violet 23
25 from India are comparable to prices of Violet 23

1 imported from Germany, Japan and Korea. What I'm
2 trying to tell you is the products are imported from
3 Korea or Japan or Germany, and their price is quite
4 comparable with what is imported from India. India is
5 not as low as China. This is given in Chart D-3 in
6 the report.

7 In India, we were the first to manufacture
8 Violet 23, and all customers have standardized their
9 end products on our product. We are thus able to
10 charge a premium for our products. You see, there is
11 a difference because of market conditions, being also
12 a pioneer, and we were the first to introduce violet
13 in India.

14 Customers have standardized their product on
15 our product, so we are able to command a premium
16 there. By contrast, in the U.S. market we are not
17 recognized as a premium product supplier, but rather
18 as a low-end market supplier.

19 Suppose for argument's sake we accept that
20 India is dumping this product in the USA. Then sales
21 of Indian product should have gone up like the Chinese
22 product. If you see year 2002, 2003, 2001 and compare
23 the imports of product from India, it has not gone up.
24 Otherwise it should have gone much higher like China.

25 Figure are available. In 2001, it was

1 59,000 pounds; in 2002, it was 61,000 pounds; in 2003,
2 it was 25,000 pounds. The figures suggest that India
3 is not dumping. Dumping would have definitely
4 increased the sales.

5 One other request that I would like to make
6 is the margin of antidumping duty, which the
7 Department of Commerce knows, is so high that it
8 becomes non-competitive for not only manufacturers in
9 the USA, but even importers from Germany, Japan or
10 Korea, so now Indian product will become costlier than
11 what is imported from Japan, Germany and Korea. I
12 don't think that is the intention of the Commission
13 there should not be competition. I think there should
14 be a competition with all the countries.

15 There is one other point also I would like
16 to say. Unfortunately, we were not in the preliminary
17 investigation, but crude violet and pigment violet are
18 chemically the same chemical constitution, but in
19 physical properties both are very, very different.

20 Any neutral person, technical person, they
21 would clearly say crude violet cannot be used for any
22 use because it doesn't have any coloring value. To
23 get the color value, you have to further process it.
24 That processing is also many proprietary secrets.
25 There are lots of patents, almost 30 patents out there

1 on converting finished product from the crude product.

2 I would like to give an example. It is like
3 a crude diamond. When you get a crude diamond it has
4 no value unless it is cut and polished. If done
5 properly, it fetches more price. If not done
6 properly, it doesn't fetch more price. Like this
7 product, the finished product is very, very important,
8 and there are many patents.

9 In this case, particularly in this
10 investigation, unfortunately crude violet, violet in
11 powder form, pigment violet in powder form and pigment
12 violet in presscake all are combined together. In
13 reality, it should have been separated. Then the
14 picture would have been very, very clear. Very
15 clearly, Petitioners have combined together so that
16 India also comes in the picture.

17 Now, take the example of crude violet.
18 There is only one manufacturer, NFC, in the USA.
19 During the period of investigation, India has not
20 exported one kilo of crude violet, so my request is
21 the crude violet should not be clumped together with
22 this whole thing, and India should be allowed to sell
23 crude violet. After checking if there's any dumping
24 issues, then the case should be considered separately.

25 Pigment in powder form and presscake can be

1 combined together because physically and chemically
2 the product remains the same except in one case there
3 is water.

4 Thank you very much.

5 CHAIRMAN KOPLAN: Thank you.

6 MS. LEVINSON: That concludes our direct
7 presentation. I think we met our 10 or 15 minute
8 limit.

9 CHAIRMAN KOPLAN: Yes.

10 MS. LEVINSON: Okay.

11 CHAIRMAN KOPLAN: Thank you. I wasn't going
12 to hold you to that. You know that?

13 MS. LEVINSON: Of course.

14 CHAIRMAN KOPLAN: You were free to keep
15 going.

16 Are you going to distribute that, Madam
17 Secretary?

18 MR. BISHOP: Also as a preliminary matter,
19 Mr. Chairman, we would like to state for the record
20 that these witnesses have been sworn.

21 CHAIRMAN KOPLAN: Thank you, Mr. Secretary.

22 I'm going to just take a brief moment so
23 that the Secretary can reproduce the direct testimony
24 and distribute it on the dais so each of us has that,
25 if that would be helpful. Otherwise I'll go forward.

1 Do you want to start? Okay. We'll go ahead
2 then and begin while that's being done. Commissioner
3 Hillman?

4 COMMISSIONER HILLMAN: Thank you. I would
5 like to thank you for taking the time to be with us,
6 Mr. Parekh. Ms. Levinson, welcome. We thank you.

7 Let me start, if I could, with this issue of
8 negligibility. I guess what I'd like to do, if I
9 could, is just read a little bit of the Commission's
10 preliminary opinion, and tell us whether you think
11 anything that we've gotten in terms of data or
12 arguments would suggest that we should change our view
13 on this.

14 As you know, we decided to use import data
15 for both subject and non-subject imports from importer
16 questionnaires for a number of reasons in terms of
17 determining the negligibility.

18 We said first that there was a distinct
19 possibility that the quantity of imports was
20 overstated because the imports were reported on a wet
21 rather than dry basis. That was one of the reasons
22 why we said we were reluctant to use the official
23 data.

24 Is there anything about that issue that is
25 different now than it was in the prelim in terms of

1 reliance on official import statistics?

2 MS. LEVINSON: Yes. I think that it has now
3 been established that from India there's only dry
4 color that's being imported, so the presscake does not
5 affect the numerator in any way.

6 Now, in terms of affecting the denominator,
7 the presscake that comes in is mostly destined, as I
8 believe one of the Petitioners' witnesses said, for
9 the textile market, and the people mostly supplying
10 the finished product for the textile market -- in
11 other words, the presscake -- are the Chinese.

12 If you look at the questionnaire responses,
13 you'll see that there's really only one exporter from
14 China who is indeed providing the presscake, and it
15 constitutes a very low percentage of total Chinese
16 imports so that the bulk of the imports are dry color
17 from the world. They are exclusively dry color from
18 India.

19 COMMISSIONER HILLMAN: Okay. All right.
20 Second factor that the Commission cited in terms of
21 its reluctance to rely on official data and its use of
22 importer data was that the data from India may suffer
23 from underreporting, the official data, and certainly
24 if we look at the data we've got to date it would
25 suggest that that continues to be the case.

1 In other words, the official statistics from
2 India are quite low. Either importer data or exporter
3 questionnaire data from India are significantly higher
4 than the official import statistics.

5 MS. LEVINSON: I don't believe that's true,
6 Commissioner. I think if you look at the prehearing
7 staff report you'll see that the imports reported in
8 the importer questionnaires for India are still less
9 than the official statistics reported from India.

10 Now, in all honesty there is one importer
11 missing. However, we don't know what the facts are
12 for that importer. We have done our best to get in
13 touch with that importer. I think the staff can tell
14 you that we recently on Friday -- Thursday or Friday
15 -- were able to track them down, got phone numbers to
16 the staff, and we're hoping they will participate.

17 At the moment, as the record stands, there's
18 no concrete reason to suspect that the reported data
19 in the questionnaire responses for India is
20 understated.

21 COMMISSIONER HILLMAN: All right. I
22 appreciate that. Thirdly, the Commission said that we
23 viewed non-subject dispersions are also included in
24 the same HTS subheading as crude and finished Violet
25 23 is another reason why we were concerned about using

1 official import statistics.

2 MS. LEVINSON: Again I think, although it
3 hasn't been established on the record, that that is a
4 very small number. However, what I would say is if I
5 had been on the petitioning side I would have made an
6 attempt to quantify some of these numbers, and I don't
7 believe Petitioners have done that.

8 If they really believe -- they have the
9 Piers data. They've submitted it to you. They could
10 have sat down with the Customs Service and gone over
11 that data, tried to get an explanation if they believe
12 the statistics are understated, tried to get an
13 explanation for how much there are dispersions.

14 I don't believe that has been done, so I
15 don't think there's anything besides speculation that
16 somehow these statistics are not reliable.

17 COMMISSIONER HILLMAN: Okay. The last
18 factor that the Commission cited in this opinion is
19 one that we've already touched on, which is the
20 coverage from questionnaire data.

21 Obviously then I take it from both your
22 opening comments and from the responses to this
23 question that you're suggesting that we should be
24 using official import statistics?

25 MS. LEVINSON: Yes, I am, although I want to

1 note that based on the current data that even if you
2 use import questionnaire statistics you do come below
3 the four percent threshold.

4 COMMISSIONER HILLMAN: Okay. I appreciate
5 that.

6 Mr. Parekh, I want to make sure I understand
7 your argument in terms of the way in which the Indian
8 product competes in the U.S. market. As I heard your
9 testimony, you're saying that India is competing only
10 in the sort of lower end market, that you're not in
11 the more expensive formulations for certain solvents.

12 MR. PAREKH: Well, yes.

13 COMMISSIONER HILLMAN: Is that correct?

14 MR. PAREKH: I follow you.

15 COMMISSIONER HILLMAN: Okay. When I look at
16 the data, clearly it looks to me as though the Indian
17 product, while it's concentrated in the dry product,
18 that there is certainly some or had been some imports
19 in both the dry and the presscake and that the sales
20 ultimately are competing in both of those segments.

21 MS. LEVINSON: I don't believe they were
22 importers of presscake, but I may be mistaken.

23 MR. PAREKH: No, no. No import to the USA
24 from India of presscake. It is only powder, dry
25 powder the majority.

1 COMMISSIONER HILLMAN: It is only powder.

2 Okay.

3 Therefore, the powder competes, and again I
4 just want to make sure I understand it. I mean, I'm
5 thinking that from our data that you're selling into
6 the ink market. Is that right?

7 MR. PAREKH: Yes. Aqueous ink. That is
8 water-based ink. Solvent-based ink requires different
9 properties. Our product cannot be used in solvent
10 ink.

11 COMMISSIONER HILLMAN: Okay. So even though
12 we're describing it as an ink use, what you're telling
13 me is from your view that ink use has different
14 ranges, the water-based ink being a lower value, if
15 you will, than --

16 MR. PAREKH: Yes. Solvent ink or plastics.

17 COMMISSIONER HILLMAN: -- petroleum-based
18 inks of some kind?

19 MR. PAREKH: Yes.

20 COMMISSIONER HILLMAN: And is it fair to say
21 that your sales are concentrated in the water-based
22 inks?

23 MR. PAREKH: Yes. We are concentrating.
24 Actually, we tried to sell it in solvent ink and
25 plastic, but it is still not approved so we have to

1 upgrade our product to that stage.

2 COMMISSIONER HILLMAN: Now, how about
3 textiles?

4 MR. PAREKH: Textiles? As per my knowledge,
5 nobody is using for textile dispersion. They are
6 using it for aqueous ink, which is used for printing
7 on corrugated paper, corrugated box.

8 COMMISSIONER HILLMAN: Okay. So you're not
9 in the textile --

10 MR. PAREKH: Yes.

11 COMMISSIONER HILLMAN: So you're not in
12 textiles. You're not in coatings. You're not in
13 plastics.

14 MR. PAREKH: Yes, the majority. It may be
15 isolated, one or two kilos, but 90 or 95 percent will
16 be only in aqueous ink.

17 COMMISSIONER HILLMAN: Ms. Levinson?

18 MS. LEVINSON: I just wanted to add that for
19 the textile industry it's the presscake imports that
20 are destined for the textile industry.

21 COMMISSIONER HILLMAN: Okay. You heard
22 before a description of sort of the price competition
23 that occurs. I wondered if you could comment on that.

24 Are your sales presumably made on the same
25 kind of a spot, one-time purchase order kind of a

1 basis? How do you go about setting prices for your
2 product in the U.S. market?

3 MR. PAREKH: Not a spot. The customer will
4 approve our product and they continue to buy, but
5 whenever there is a price reduction mainly from the
6 Chinese pressure comes that now China is supply at a
7 lower price, so you have to reduce your prices. In
8 that case we have to reduce to meet the competition.

9 COMMISSIONER HILLMAN: Okay. And it's
10 solely to compete with the Chinese?

11 MR. PAREKH: Mainly Chinese.

12 COMMISSIONER HILLMAN: Okay. Others? U.S.
13 or others?

14 MR. PAREKH: No, no. No U.S. As I told you
15 earlier, U.S. supplies -- we're not giving to those
16 customers. They were not using U.S. produced product.
17 It was either Chinese or maybe some other imported
18 product.

19 COMMISSIONER HILLMAN: Okay.

20 MR. PAREKH: We do not replace the U.S.
21 manufactured product.

22 COMMISSIONER HILLMAN: Okay. I appreciate
23 that.

24 In terms of this issue of qualification, you
25 mentioned that you're not able to sell to a number of

1 producers because you're not qualified there.

2 MR. PAREKH: Yes.

3 COMMISSIONER HILLMAN: Does everybody --
4 textiles, ink, plastics, coatings, everybody --
5 require a qualification of the product?

6 MR. PAREKH: Yes, everybody requires, but
7 there are low-end producers of plastic or low-end
8 producers of textiles. They may get our product
9 approved if we can know them.

10 Maybe in plastics there are producers who
11 use only high-grade product, but maybe we are not
12 aware or nobody has approved so far, so we are facing
13 a quality problem.

14 It is mentioned in here also. When the
15 questionnaire was sent to the purchasers and
16 distributors, India has become number one having
17 difficulties in getting approval. Quality.

18 COMMISSIONER HILLMAN: Okay. So your only
19 qualifications are for this water-based ink product?

20 MR. PAREKH: Yes. Yes.

21 COMMISSIONER HILLMAN: But you've been
22 trying to be qualified elsewhere?

23 MR. PAREKH: Yes. Yes, we were trying, but
24 we have so far not been able to be successful.

25 COMMISSIONER HILLMAN: Okay. I appreciate

1 those answers.

2 MR. PAREKH: Thank you.

3 COMMISSIONER HILLMAN: Thank you very much.

4 CHAIRMAN KOPLAN: Thank you, Commissioner.

5 Commissioner Lane?

6 COMMISSIONER LANE: I have a follow-up
7 question about your using the product for water-based
8 ink and that you are therefore not competing for
9 certain market uses.

10 Do you know to what extent on a percentage
11 basis is all Violet 23 both in domestic subject
12 imports and non-subject imports used in water-based
13 inks?

14 MR. PAREKH: About the percentage? I'm not
15 aware how non-subject importers use or other local
16 products are used, but I am aware that the main
17 Petitioner is using captively their own product for
18 water-based ink. In the market there are other
19 suppliers also who are selling to these aqueous ink
20 customers. Even Chinese products are sold.

21 Did I follow your question properly or not?

22 COMMISSIONER LANE: I'm not sure. I was
23 having a hard time understanding and following what
24 you said.

25 MS. LEVINSON: Perhaps it would be helpful

1 if you repeat the question, Commissioner.

2 COMMISSIONER LANE: Okay. The question was
3 to the extent that you know, and if not you can
4 provide it in post-hearing brief, what extent on a
5 percentage basis is all Violet 23, both in domestic
6 subject imports and non-subject imports, used in
7 water-based inks?

8 (Pause.)

9 MR. PAREKH: I don't have that data
10 available to me. I'm sorry.

11 MS. LEVINSON: We'll try to answer that in
12 the post-conference brief.

13 COMMISSIONER LANE: Okay. Thank you.

14 Ms. Levinson, maybe you can answer this or
15 your witness. Do you agree with Petitioners that the
16 Commission should disregard any post-petition filing
17 beneficial changes in the impact of subject imports on
18 the domestic industry as related to the pendency of
19 this investigation?

20 MS. LEVINSON: I'm sorry. I'm going to have
21 to ask you to repeat that again. I was having a
22 little trouble hearing.

23 COMMISSIONER LANE: Okay. Do you agree with
24 the Petitioners that the Commission should disregard
25 any post-petition filing beneficial changes in the

1 impact of subject imports on the domestic industry as
2 related to the pendency of this investigation?

3 MS. LEVINSON: No, I don't agree with that.
4 I think you should look at those changes, especially
5 given the fact that there have been very few imports
6 since the preliminary determination in this case, and
7 as a result we're seeing what the market looks like
8 without the presence of imports.

9 COMMISSIONER LANE: Okay. Now, do you agree
10 with the Commission's finding in the preliminary phase
11 of this investigation of one domestic like product co-
12 extensive with the scope of these investigations that
13 include crude Violet 23, presscake and dry color?

14 MS. LEVINSON: We believe, and this is
15 something I'm going to have to address in the post-
16 conference brief, but we believe that there should be
17 at least two like products; that crude should be a
18 different like product from the finished violet
19 pigment.

20 In the post-conference brief we will discuss
21 both the semi-finished analysis and the other
22 traditional emission analysis of like product.

23 COMMISSIONER LANE: Okay. Thank you. Those
24 are all the questions I have.

25 CHAIRMAN KOPLAN: Thank you, Commissioner.

1 Commissioner Pearson?

2 COMMISSIONER PEARSON: Thank you, Mr.
3 Chairman, and thank you for being at the hearing.
4 You've obviously come a long way to be here, and I
5 appreciate it. It's probably not every day you find
6 yourself in Washington, D.C., so I hope you're able to
7 have a little fun here as well as doing all this work.

8 MS. LEVINSON: It's been too cold.

9 COMMISSIONER PEARSON: I suppose, yes.
10 Just a word on negligibility, Ms. Levinson.
11 Rather than going into great detail now on what seems
12 to be a somewhat fluid situation, I trust that you
13 will brief that issue thoroughly in the post-hearing?

14 MS. LEVINSON: Yes, I will. Absolutely. It
15 is a fluid situation, and it smacks a little bit of
16 cherry picking, I think. I think Petitioners see that
17 we are negligible under the official statistics.
18 Therefore, they're saying you shouldn't use that.

19 Even under the import questionnaire
20 statistics we're still negligible on the CBD side, so
21 you shouldn't use that. They say well, you should use
22 exports then. They keep going further and further
23 from what the statute requires, which is imports, and
24 there's a reason for that because everybody knows that
25 there are timing issues that would distinguish exports

1 from imports, so export data is not reliable.

2 Moreover, they make allegations that the
3 Indian statistics are understated, and yet there's
4 nothing apparent in the prehearing staff report that
5 would lead you to believe that because the statistics
6 reported in the Indian questionnaires are less than
7 the official statistics for total imports during the
8 relevant period.

9 Yes, I will be treating this. It's
10 obviously a very important issue to us, but I think if
11 you look at this in the framework of the entire case
12 because Indian imports are negligible they've had
13 almost no impact on injury. Also, they're not the
14 subject of any Petitioners' allegations of lost sales
15 or lost revenue because they're barely present in the
16 same markets as the Petitioners are present in.

17 COMMISSIONER PEARSON: Okay. Mr. Parekh,
18 I'm curious about the price for Carbazole Violet
19 Pigment 23 within India. Is the Indian price higher
20 than the world market price or the U.S. price?

21 MR. PAREKH: Yes. I think the Indian prices
22 are higher because certain import duties are levied by
23 India for the import of pigments and other chemicals,
24 though it is coming down now.

25 So, in India, it is -- you will see that all

1 the products, even utility requirement like diesel oil
2 -- oil, diesel, petrol, all are having very high duty
3 so all the utilities are very costly. Even
4 electricity is costlier than Germany and the USA.

5 The Indian manufacturers' cost goes up.
6 Definitely prices are higher than exports to any
7 country. It is not only for the USA. Even in Europe.
8 Even in Australia. We are not able to get a higher
9 price because the local environment is such that we
10 cannot get the higher price.

11 We are not considered here suppliers with
12 outstanding performance like Clariant or Sun or Ciba,
13 so we are put up like in the next grade, a little
14 lower grade.

15 Thank you.

16 COMMISSIONER PEARSON: Okay. Do you know
17 what India's import tariff is currently for Violet
18 Pigment 23?

19 MR. PAREKH: Yes. It is 25 percent.

20 COMMISSIONER PEARSON: Thirty-five?

21 MR. PAREKH: Yes.

22 COMMISSIONER PEARSON: Thank you.

23 MR. PAREKH: Twenty-five.

24 MS. LEVINSON: Commissioner, 25.

25 MR. PAREKH: Twenty-five.

1 COMMISSIONER PEARSON: Twenty-five. Excuse
2 me. Okay.

3 I have a threat question. How do you
4 respond to the argument made by NFC and Sun on page 12
5 of their prehearing brief that Indian imports are
6 "lower than typical only because of the low prices at
7 which Chinese imports are being sold."

8 Can you point to any evidence to rebut that
9 assertion?

10 MR. PAREKH: Indian products are lower
11 because Chinese products are lower? Is that the
12 question?

13 COMMISSIONER PEARSON: That the volume of
14 imports from India into the United States are lower
15 than they otherwise would be because of the quite low
16 prices at which China offers its product for sale.

17 MR. PAREKH: Yes. I think if China is not
18 competing with the price then India may be able to
19 increase their exports, so it is correct that China is
20 a competitor for Indian product.

21 COMMISSIONER PEARSON: And it's difficult
22 for India to compete on a price basis?

23 MR. PAREKH: Right. It is difficult. We
24 cannot go to that extent, to the Chinese extent.

25 MS. LEVINSON: I'd also like to add that

1 Indian exports would not increase necessarily because
2 the Indian exports are designated for the water ink
3 market only.

4 They haven't been approved for other uses,
5 so Petitioners' contention that you don't put an order
6 on India and all of a sudden there's going to be a
7 flood of imports from India doesn't ring true to me
8 unless Indian exports can start getting approved, and
9 they haven't been to date. There's no indication on
10 the record that they will be any time in the imminent
11 future.

12 COMMISSIONER PEARSON: Okay. NFC and Sun,
13 on page 14 of their prehearing brief, also argue that
14 an order that would be put in place solely against
15 China would shift Chinese imports to Europe, Asia and
16 other world markets, thus creating the opportunity for
17 a significant increase of Indian imports into the
18 United States.

19 What do you think about that? Would that
20 likely happen? If the Chinese were restricted from
21 bringing Carbazole Violet Pigment 23 into the United
22 States, would imports into the United States from
23 India increase?

24 MR. PAREKH: Yes, it can increase if the
25 Chinese imports is restricted to the U.S. market.

1 MS. LEVINSON: He's having a little trouble
2 hearing me.

3 I just wanted to repeat what I was saying
4 before that the Indian product is not qualified for
5 many uses, so what is it going to come into the United
6 States for?

7 MR. PAREKH: Yes. I would like to make one
8 point clear. What she's telling is our market share
9 in aqueous ink will increase. It is not that we will
10 increase in solvent ink or plastic or anything.

11 The group in which we are selling -- that is
12 aqueous ink -- the Chinese are also selling, so if
13 China's imports are restricted then our imports for
14 that particular use, end use only, will increase.

15 Otherwise we have to improve our quality and
16 other things to be at par with the quality.

17 COMMISSIONER PEARSON: Okay. Thank you for
18 that clarification.

19 MR. PAREKH: Yes. It is not only price.
20 Quality is very important.

21 COMMISSIONER PEARSON: When dealing with a
22 case like this, it's a real opportunity to have
23 someone from a country like India who actually knows
24 the domestic industry in that country.

25 The Commission staff have sent

1 questionnaires to at least nine possible producers of
2 Violet 23 in India. Only three firms replied to that.
3 Do you have any information about the non-responding
4 producers in India? What's going on that would
5 explain why they have not responded?

6 MR. PAREKH: Yes. According to me, all are
7 not manufacturers. Those nine names given, there are
8 two or three maybe exporters buying here and there and
9 selling. They are not in a big company or even having
10 to stop to fill out the forms.

11 The only known customers or manufacturers
12 are three only at present, and they replied.

13 COMMISSIONER PEARSON: Okay. So you are
14 aware of only three manufacturers?

15 MR. PAREKH: Yes.

16 COMMISSIONER PEARSON: And all three of them
17 have participated?

18 MR. PAREKH: All three. I think one is
19 remaining. Maybe four are there. The fourth fellow
20 has not replied.

21 COMMISSIONER PEARSON: Okay. The other
22 companies --

23 MR. PAREKH: They are insignificant. Most
24 probably they are traders.

25 COMMISSIONER PEARSON: Okay.

1 MR. PAREKH: Yes. They are not
2 manufacturers.

3 COMMISSIONER PEARSON: Distributors or
4 traders?

5 MR. PAREKH: Yes. Yes. Small time trader.

6 COMMISSIONER PEARSON: Are there any
7 companies that received the questionnaire that have
8 the capability to manufacture carbazole violet but are
9 not doing so at this time?

10 MR. PAREKH: I don't think those who have
11 not replied, they are capable of doing that.

12 COMMISSIONER PEARSON: Okay. Obviously it's
13 not a simple thing to manufacture this product.

14 MR. PAREKH: Yes.

15 COMMISSIONER PEARSON: I mean, you indicated
16 you have 40 years involved in it.

17 MR. PAREKH: Yes.

18 COMMISSIONER PEARSON: It takes a
19 substantial amount of expertise.

20 Okay. That concludes my questions. Thank
21 you very much.

22 MR. PAREKH: Thank you.

23 CHAIRMAN KOPLAN: Thank you, Commissioner
24 Pearson.

25 I think this first question that I'm going

1 to ask is probably better done by you, Ms. Levinson,
2 in the post-hearing, and that is are there domestic
3 producers that are related parties by virtue of their
4 direct imports, their purchasing activity and/or their
5 corporate relationships with foreign producer or
6 importers of the subject product?

7 If so, do circumstances exist to exclude
8 them from the domestic industry? Unless that's a
9 simple yes or no now --

10 MS. LEVINSON: No. I'd prefer to treat that
11 in the post-conference brief.

12 CHAIRMAN KOPLAN: Okay. I say that because
13 you've got access to the BPI information. Okay.
14 Thank you for that.

15 I have another one that you could either
16 answer now or do it in the post-hearing. If the
17 Commission finds that subject imports from India are
18 negligible but that they are likely to exceed the
19 applicable thresholds in the imminent future, please
20 discuss whether there's a threat of material injury by
21 reason of subject imports under two different
22 scenarios.

23 First, the Commission exercises its
24 discretion to cumulate subject imports from China and
25 India for purposes of its threat analysis or, second,

1 that the Commission declines to cumulate subject
2 imports from China and India.

3 If you could, I think it would probably be
4 best for you to do it post-hearing.

5 MS. LEVINSON: I think that's a complex
6 question, and I will take care of that in the post-
7 conference brief.

8 CHAIRMAN KOPLAN: You understand the
9 question though?

10 MS. LEVINSON: Yes, I do.

11 CHAIRMAN KOPLAN: Okay. All right. Then
12 let me stay with you.

13 Petitioners argue at pages 13, 14, 26 and 28
14 of their prehearing brief and Clariant argues at pages
15 21 and 22 of its prehearing brief that the Commission
16 should use surrogate information or apply adverse
17 inferences because of missing foreign producer
18 questionnaire responses from certain Chinese producers
19 and missing importer questionnaire responses.

20 Garvey Schubert filed an entry of appearance
21 and APO application on behalf of several Chinese
22 producers during the preliminary phase of these
23 investigations and has not withdrawn either
24 application.

25 Please comment on behalf of both your

1 Chinese clients and your Indian clients. Do you agree
2 that the criteria for application of adverse
3 inferences has been met here?

4 MS. LEVINSON: Commissioner, I'm sorry to
5 say I'm not in a position to respond to that because
6 my partner -- we are, of course, both at Garvey
7 Schubert, but Bill Perry has been representing the
8 Chinese. I represent the Indians, and I really am not
9 privy. We've had somebody of a wall between us. I'm
10 not privy to his position on this.

11 CHAIRMAN KOPLAN: Is there anything that you
12 can provide post-hearing?

13 MS. LEVINSON: Sure. I will certainly
14 provide that, yes. Yes, I will.

15 CHAIRMAN KOPLAN: All right. I look forward
16 to getting that. With that, I have no further
17 questions. Thank you.

18 VICE CHAIRMAN OKUN: Are you recognizing me,
19 Mr. Chairman?

20 CHAIRMAN KOPLAN: I always recognize you,
21 Commissioner. Let me call on you. Vice Chairman
22 Okun?

23 VICE CHAIRMAN OKUN: Thank you, Mr.
24 Chairman. It gets thrown off if it's not always the
25 same, right?

1 Welcome to both of you. Mr. Parekh, let me
2 join my colleagues in saying indeed it is good for you
3 to be with us, and we appreciate you making the effort
4 to travel a long distance and to attempt to answer our
5 questions. We much appreciate that.

6 If I could, I just wanted to get some
7 clarification on one of the answers you gave to
8 Commissioner Hillman regarding whether you were
9 attempting to get qualified. You had said you were
10 trying to get qualified, if I understood your
11 testimony, beyond where you're qualified currently for
12 U.S. customers?

13 MR. PAREKH: Yes. We are trying, but we are
14 not successful.

15 VICE CHAIRMAN OKUN: Okay. In terms of when
16 you are trying, are you trying to get qualified at
17 customers beyond the water-based ink?

18 MR. PAREKH: Yes. We are in the water-based
19 ink.

20 VICE CHAIRMAN OKUN: But are you trying to
21 qualify beyond that?

22 MR. PAREKH: Yes, beyond that so that we can
23 sell our product to other customers also if it is
24 approved.

25 VICE CHAIRMAN OKUN: Okay. In just the ink,

1 or in other categories where violet pigment is used?

2 MR. PAREKH: Apart from ink, also plastic or
3 for some paint.

4 VICE CHAIRMAN OKUN: Okay.

5 MR. PAREKH: We are attempting, but we are
6 not successful so far.

7 VICE CHAIRMAN OKUN: Okay. If you could,
8 the staff report talks about the qualification process
9 generally, but if you could kind of give me your
10 perspective on when you're attempting to qualify in
11 the U.S. market how long you think that takes. What's
12 been your experience thus far?

13 MR. PAREKH: It takes a lot of time to get
14 approval because, as I told you, it's a very, very
15 technical matter and lots of patents are there where
16 big companies like Ciba, Clariant and Sun are working.
17 They have a big budget of R&D to pursue the issue
18 compared to what we have.

19 It is still not known how much time we will
20 take to come to that standard. It may take three
21 years or four years.

22 VICE CHAIRMAN OKUN: Three or four years?

23 MR. PAREKH: Yes.

24 VICE CHAIRMAN OKUN: That's how long it
25 took?

1 MR. PAREKH: Yes. Yes. It is very
2 difficult, as far as I know. It is not a simple
3 solution that we can come up with a good product which
4 is approved by this industry because they have the
5 standard of these three companies, which is a pioneer
6 in this product.

7 VICE CHAIRMAN OKUN: Okay. Just so I
8 understand that, the three or four year estimate, is
9 that based on that's how long it took you to get
10 qualified with U.S. customers for the applications in
11 which you --

12 MR. PAREKH: That's right. That is my
13 experience is that it takes a long time.

14 VICE CHAIRMAN OKUN: Okay. If there's
15 anything for post-hearing, Ms. Levinson, that can be
16 put on the record regarding how long it's taken to get
17 qualification, I'd appreciate seeing that.

18 In terms of export markets in other
19 countries, Commissioner Pearson had talked to you
20 about what prices were in India. Looking at the
21 record, it appears to me, and I'd like your thoughts
22 on this, that India has an export orientation. The
23 Indian producers are exporting to markets beyond the
24 United States.

25 MR. PAREKH: Right.

1 VICE CHAIRMAN OKUN: Okay. And your company
2 is included in that?

3 MR. PAREKH: Yes.

4 VICE CHAIRMAN OKUN: Okay. In terms of the
5 other markets, are you selling only the water-soluble
6 ink product in other markets, or are you selling into
7 other applications?

8 MR. PAREKH: Yes. In the other markets we
9 are selling for textile also.

10 VICE CHAIRMAN OKUN: For textile?

11 MR. PAREKH: Which is also water-soluble.
12 Only a slight difference in the water-soluble ink and
13 water-soluble dispersion for the textile.

14 VICE CHAIRMAN OKUN: Okay.

15 MR. PAREKH: There is not a big difference
16 in one. Raw material is different in both products.

17 VICE CHAIRMAN OKUN: Okay. So for where
18 you're selling in other markets, you're talking about
19 water-soluble inks and water-soluble textile uses?

20 MR. PAREKH: Yes.

21 VICE CHAIRMAN OKUN: Okay.

22 MR. PAREKH: There also we are still not
23 successful in other applications.

24 VICE CHAIRMAN OKUN: You are or you're not?

25 MR. PAREKH: Not. We are not.

1 VICE CHAIRMAN OKUN: In other applications?

2 MR. PAREKH: Yes.

3 VICE CHAIRMAN OKUN: Okay.

4 MR. PAREKH: Even in Europe we are not
5 having a customer who can use our product for other
6 applications.

7 VICE CHAIRMAN OKUN: Okay. Just so I
8 understand how you view yourself vis-a-vis the
9 Chinese, I know there were a couple of questions on
10 it, but I was just trying to make sure that I
11 understood what you said, which is in terms of the
12 applications where you're competing, the water-soluble
13 inks, do you view the Chinese as competing in similar
14 products to you, or do you view them as being in a
15 higher -- you described you were kind of in the low
16 end. Where do you see the Chinese?

17 MR. PAREKH: According to my information,
18 the Chinese are better than our product in their
19 application also, so China is already there in water-
20 based ink, but they are in other applications also
21 like solvent ink or plastic or somewhere. They're
22 ahead of us in that category.

23 VICE CHAIRMAN OKUN: Okay. So you see them
24 competing in the same, but also having achieved the
25 higher --

1 MR. PAREKH: Higher, yes.

2 VICE CHAIRMAN OKUN: Okay. I wanted to make
3 sure that I understood what those comments were.

4 I believe that you were requested post-
5 hearing to cover the legal issues, Ms. Levinson, that
6 I was interested in as well, so I don't think I need
7 to make any -- well, I guess, although I don't know if
8 anyone has asked on critical circumstances, although I
9 assume it would also go.

10 MS. LEVINSON: I don't know if the
11 Commission will permit, but Mr. --

12 VICE CHAIRMAN OKUN: If you could just bring
13 your microphone down, Ms. Levinson? There you go.

14 MS. LEVINSON: Sorry. If you will permit,
15 Mr. Parekh has brought one piece of paper that
16 demonstrates the quality differences. I can kind of
17 hold it up and see if you're interested in seeing
18 this.

19 It is his product versus the U.S. product,
20 and it shows the difference in quality, the difference
21 in shade.

22 VICE CHAIRMAN OKUN: Mr. Chairman?

23 CHAIRMAN KOPLAN: I'd like to have you
24 tender that to the other side as well.

25 MS. LEVINSON: Yes, of course.

1 CHAIRMAN KOPLAN: All right.

2 VICE CHAIRMAN OKUN: Is it something we can
3 touch? I can't see what it is. Can you see the
4 quality by touching it?

5 MR. PAREKH: No, no. By viewing. By
6 visual.

7 VICE CHAIRMAN OKUN: Visual.

8 MR. PAREKH: You can see the color
9 difference very well.

10 CHAIRMAN KOPLAN: Okay.

11 VICE CHAIRMAN OKUN: Ms. Levinson, what I
12 was saying, and we'll obviously take a look and maybe
13 if you need to explain anything about that maybe Mr.
14 Parekh could explain what we're going to see, but in
15 terms of critical circumstances for the Chinese I
16 guess the question is whether your partner, Mr. Perry,
17 is prepared to provide information on critical
18 circumstances.

19 MS. LEVINSON: Actually, since we just had
20 the critical circumstances determination yesterday for
21 the Chinese and, as Mr. Perry is in China, I have been
22 retained to deal with critical circumstances.

23 VICE CHAIRMAN OKUN: Okay.

24 MS. LEVINSON: Yes. I have been retained by
25 a company, Hanchem, and we will be submitting a post-

1 conference brief to demonstrate under the ITC's
2 statutory criteria for determining critical
3 circumstances that there should not be a finding of
4 critical circumstances here.

5 VICE CHAIRMAN OKUN: Okay.

6 MS. LEVINSON: Thank you for asking about
7 that.

8 VICE CHAIRMAN OKUN: Okay. We will see that
9 in the post-hearing then. Thank you very much.

10 Mr. Parekh, is there anything with regard to
11 the document that's coming around that we should be
12 looking at? It's just the color? Is that what you're
13 saying, the visuals?

14 MR. PAREKH: Yes. See, the customer is an
15 American customer that is quoting an ink manufacturer.
16 He is testing our product versus other product,
17 company product, and he finds that our shade and our
18 color value is very less, and it is not useable in his
19 determination.

20 VICE CHAIRMAN OKUN: Okay. So the darker
21 one is the higher quality.

22 MR. PAREKH: The left is ours. He has
23 written on top. You can see.

24 VICE CHAIRMAN OKUN: Okay. Thank you very
25 much.

1 I don't think I have any further questions
2 at this time, Mr. Chairman. Thank you very much.

3 MR. PAREKH: Thank you.

4 CHAIRMAN KOPLAN: Thank you, Commissioner.
5 Commissioner Miller?

6 COMMISSIONER MILLER: Thank you, Mr.
7 Chairman. Let me join in welcoming you, Mr. Parekh.

8 MR. PAREKH: Thank you.

9 COMMISSIONER MILLER: We appreciate your
10 being here and helping us understand the role of
11 Indian products in the market, so thank you very much
12 and to you, Ms. Levinson, as well.

13 One question I wanted to just make sure I
14 understand. What you've been saying about the Indian
15 industry, we do have responses from three producers,
16 Indian producers of Violet 23.

17 MR. PAREKH: Right.

18 COMMISSIONER MILLER: Your comments, for
19 example, about being in the water ink market and such,
20 does that apply as well for the other Indian
21 companies?

22 MR. PAREKH: Yes.

23 COMMISSIONER MILLER: Are they similarly
24 situated in terms of what they produce?

25 MR. PAREKH: Yes, almost similarly. Almost.

1 COMMISSIONER MILLER: Okay. To your
2 knowledge, are they qualified for any of the other
3 kinds of uses of the Chinese products?

4 MR. PAREKH: I don't think they're qualified
5 for other end uses.

6 COMMISSIONER MILLER: Okay.

7 MR. PAREKH: Because a simple test would
8 have been our sales would have increased every year if
9 we were approved for other applications. The exports
10 from India to the USA has not grown to the level like
11 the Chinese.

12 Our growth is not 10 percent even, so if our
13 scope of sale for other industry then our exports will
14 increase, and imports to the USA will be more. It is
15 not there, so that is what I'm trying to highlight.

16 COMMISSIONER MILLER: Okay. Ms. Levinson, I
17 know you represent both Pidilite and Alpanil, correct?

18 MS. LEVINSON: That's correct.

19 COMMISSIONER MILLER: Perhaps you could
20 confirm for us, if you know, if that's your
21 understanding, or if you want to confirm post-hearing
22 just whether the company is similarly situated in
23 terms of its participation in the market.

24 MS. LEVINSON: Yes. It is my understanding
25 that they are only in the water-based inks, but I will

1 get information and put it in the post-conference
2 brief.

3 COMMISSIONER MILLER: Okay. Mr. Parekh,
4 could you give us any sense of how large a part of the
5 U.S. market the water-based ink market is? How big of
6 a segment?

7 MR. PAREKH: Yes. It is not very big. I
8 don't think it is of total pigment sale, this water-
9 based ink may be about five to 10 percent.

10 COMMISSIONER MILLER: Five to 10 percent --

11 MR. PAREKH: Yes.

12 COMMISSIONER MILLER: -- you would estimate?

13 MR. PAREKH: Other applications are more --
14 the solvent ink, plastic, paint.

15 COMMISSIONER MILLER: All right. I
16 appreciate that.

17 MR. PAREKH: There are many applications.

18 COMMISSIONER MILLER: Okay. You heard me
19 perhaps this morning ask questions about how companies
20 are integrated in terms of producing the crude and the
21 finished violet.

22 MR. PAREKH: Yes.

23 COMMISSIONER MILLER: Your company?

24 MR. PAREKH: Yes.

25 COMMISSIONER MILLER: You are vertically

1 integrated?

2 MR. PAREKH: Vertically integrated, yes.

3 COMMISSIONER MILLER: Are the other India
4 producers as well?

5 MR. PAREKH: Yes. All three are integrated.

6 COMMISSIONER MILLER: Okay. Do you see a
7 separate market for crude violet at all?

8 MR. PAREKH: See, that is what I was trying
9 to tell you. The crude market -- in India, there is
10 no market for crude because all are integrated because
11 to be economical it is better that you are integrated.

12 In foreign countries also, the crude violet
13 sold by India is so low that India cannot compete, so
14 we are not selling a single kilo to the U.S. market or
15 even other European markets.

16 COMMISSIONER MILLER: Okay. Now, you may
17 have heard suggestions from the U.S. producers this
18 morning that there had been suggestions that India
19 would sell a crude product.

20 MR. PAREKH: A proper price is realized, so
21 they will not be selling at the price at which China
22 is selling. If they are doing so, they could have
23 done so already. Why the wait?

24 COMMISSIONER MILLER: Okay.

25 MR. PAREKH: Being business people, they

1 would not wait. They would export crude to the USA --

2 COMMISSIONER MILLER: Okay.

3 MR. PAREKH: -- if the price was workable.

4 COMMISSIONER MILLER: All right. Now,
5 another comment you may have heard was just some sort
6 of history of the India participation in the market;
7 that in fact India participated in the U.S. market
8 before China.

9 Do you have more history of participating in
10 the U.S. market? Were you here before the Chinese
11 essentially and things have changed? You've said
12 yourself you have a hard time competing against the
13 Chinese.

14 MR. PAREKH: Yes. I think there is not much
15 difference in our level of the Chinese products and
16 the Indian products. There may be a one or two year
17 difference. Not much.

18 COMMISSIONER MILLER: Okay. So maybe a
19 little bit before, but not very much before?

20 MR. PAREKH: Maybe one or two years. One
21 year.

22 COMMISSIONER MILLER: Okay. All right.
23 You've answered my questions quickly.

24 MR. PAREKH: Thank you.

25 COMMISSIONER MILLER: And I don't know that

1 I have any others or others that at least my
2 colleagues haven't covered already. I'll look through
3 and make sure that I don't, but otherwise I appreciate
4 your answers very much.

5 MR. PAREKH: Thank you.

6 CHAIRMAN KOPLAN: Thank you.

7 Commissioner Hillman?

8 COMMISSIONER HILLMAN: Thank you. One of
9 the things that we obviously look at in trying to
10 assess how much more product from India might come
11 into the market if a dumping order or countervailing
12 duty order is not put in place is how much capacity
13 you have and the utilization of that capacity.

14 In looking at the numbers that we have, you
15 know, I'm trying to make sure I understand what you
16 would make of it. I mean, how do you feel? Are you
17 operating at pretty close to what you can produce, or
18 do you think if there would be a lot of demand for
19 your product could you produce a lot more? Could you
20 ship a lot more if there were the demand for it?

21 MR. PAREKH: I will tell you about capacity
22 utilization. At present, our capacity utilization is
23 about 80 to 90 percent of our installed capacity, so
24 we don't have that excess capacity to export too much
25 to the USA.

1 COMMISSIONER HILLMAN: Is your capacity
2 limited by your ability to produce the crude product?

3 MR. PAREKH: No, it is not. No. It is a
4 limitation with our plant size. Initially when we put
5 up a plant we put up that capacity.

6 COMMISSIONER HILLMAN: Okay.

7 MR. PAREKH: If we want to expand, we have
8 to increase the capacity.

9 COMMISSIONER HILLMAN: Okay. Again, I'm
10 just trying to understand. The plant capacity you're
11 referring to is on the crude side, on the finishing
12 side, or are they the same?

13 MR. PAREKH: It is the same. From whatever
14 crude we make, we can work to the finished product.
15 It is related to the final product totals.

16 COMMISSIONER HILLMAN: Okay. In this plant
17 and using this equipment, do you produce other
18 products besides the Carbazole Violet 23?

19 MR. PAREKH: No. This particular plant is
20 dedicated for Violet 23. We don't make any product,
21 but in the factory, each of the different plants, we
22 make different pigments, other pigments. We make
23 pigment dispersion, but they are independent plants.

24 COMMISSIONER HILLMAN: Okay. Are they also
25 sold in the U.S. market?

1 MR. PAREKH: No. At present, yes, some
2 azure pigments are sold.

3 COMMISSIONER HILLMAN: All right. I
4 appreciate that.

5 MR. PAREKH: I would like to make it clear
6 that we are not going to be any threat to the USA
7 producers. The size of our production capacity and
8 the use which the U.S. has, our 100 percent
9 utilization also will not make an impact.

10 Again, I would like to make it clear. Like
11 China, it is not that we ever put up a very high
12 capacity.

13 COMMISSIONER HILLMAN: Okay. Where else? I
14 mean, the U.S. Where else do you see as your real
15 markets outside of the United States?

16 MR. PAREKH: Outside the USA?

17 COMMISSIONER HILLMAN: Yes.

18 MR. PAREKH: We are selling to Europe. In
19 Europe, Germany, Italy, Australia, like that, other
20 countries.

21 COMMISSIONER HILLMAN: Asia?

22 MR. PAREKH: In Asia, yes. Malaysia. We
23 are selling Malaysia, some to Bangladesh.

24 COMMISSIONER HILLMAN: Okay. Tell me a
25 little bit about the Indian market for your product.

1 MR. PAREKH: Yes. In India, as I tell you,
2 we are the pioneer. We started the first, so we are
3 still the leader in the Indian market.

4 COMMISSIONER HILLMAN: And how is demand in
5 India for the product?

6 MR. PAREKH: Demand in India is not doing
7 very much. It is now almost increasing by say five
8 percent or something like that.

9 COMMISSIONER HILLMAN: Now, in India do you
10 sell into all segments of the market -- plastics,
11 coatings, solvent inks, others -- or are you also only
12 in the aqueous inks?

13 MR. PAREKH: No. In India, we are able to
14 sell some in plastics, some in the paint, but in India
15 I would like to make clear the ink industry is not
16 sophisticated like the USA ink industry.

17 Only recently some solvent ink businesses
18 started, but we have the advantage because we were
19 being the pioneer. They have standardized the final
20 product on our product, so they like to see that
21 whatever the result they are getting they are happy.

22 In the future, we are worried, In the
23 future when the duty goes down, maybe we will have
24 competition and will have to reduce the prices there
25 to meet the competition.

1 COMMISSIONER HILLMAN: Okay. In Europe, are
2 you selling into all segments of the market?

3 MR. PAREKH: No, no, no, no. There also we
4 are selling only water-based product which is used for
5 textiles and used for ink also, so textile and ink,
6 water-based. There is not much difference. Only one
7 raw material is different.

8 COMMISSIONER HILLMAN: Okay. All right. I
9 appreciate those answers.

10 MR. PAREKH: Thank you.

11 COMMISSIONER HILLMAN: Thank you very much.

12 I think with that I have nothing further,
13 Mr. Chairman. Thank you.

14 CHAIRMAN KOPLAN: Thank you, Commissioner
15 Hillman.

16 Let me see if there are any other questions
17 from the dais.

18 (No response.)

19 CHAIRMAN KOPLAN: Seeing that there are
20 none, let me ask staff. Does staff have questions of
21 this panel?

22 MS. ALVES: Good afternoon. This is Mary
23 Jane Alves from the Office of the General Counsel. I
24 have several very brief questions that I'd like you to
25 address, if you would, in your post-hearing briefs.

1 The first is directed both at Clariant and
2 at the Respondents. If you would respond to the
3 Petitioners' arguments on pages 5 and 6 of their
4 prehearing brief that the production of crude Violet
5 23 and the conversion of crude Violet 23 into finished
6 Violet 23 each involves sufficient production-related
7 activities to constitute domestic production if they
8 are done here in the United States.

9 The second question is also directed to
10 Clariant and both Respondents. Do you agree with
11 Petitioners at prehearing brief page 19, Footnote 45,
12 that the criteria for application of the statutory
13 captive production provision are not met in this case?

14 Third, and this is also directed to
15 Clariant, as well as the Respondents. I'm not going
16 to repeat the entire argument here, but if you could
17 respond to the argument contained in Footnote 30 on
18 page 12 of Petitioners' prehearing brief pertaining to
19 the issue of negligible imports and how to interpret
20 the statutory provision in threat circumstances?

21 Finally, if you would also address the
22 negligibility issue in the event that the Commission
23 were to find two domestic like products rather than
24 one.

25 MS. LEVINSON: We will certainly do that.

1 MS. ALVES: Thank you.

2 MS. TRAINOR: Cynthia Trainor, Office of
3 Investigations.

4 Earlier in the day a question was posed on
5 transshipment of --

6 CHAIRMAN KOPLAN: Is your microphone on?

7 MS. TRAINOR: Yes, it is.

8 CHAIRMAN KOPLAN: Okay.

9 MS. TRAINOR: Was asked on transshipment to
10 NFC and Sun, that there may have been transshipment of
11 products from China and India through Mexico or the
12 United Kingdom.

13 I'd like to expand on that if I might and to
14 ask if an order went into effect on China would anyone
15 foresee transshipment of Chinese material through
16 other Asian countries? For example, even though
17 there's crude production in Japan, if Japan were to
18 purchase Chinese product and then ship it to the
19 United States. Could that be addressed in post-
20 hearing briefs?

21 Thank you.

22 MS. LEVINSON: Ms. Trainor, could I just ask
23 for a clarification on that?

24 You're asking whether if there were an order
25 on China and shipments from China, but of finished

1 product or crude or both?

2 MS. TRAINOR: Of any, but basically crude is
3 where I'm going with that.

4 MS. LEVINSON: Crude. Right.

5 MS. TRAINOR: Yes. Staff has no further
6 questions.

7 CHAIRMAN KOPLAN: I want to thank staff for
8 those questions. The information they'll get will be
9 quite helpful. Thank you.

10 Mr. Dorris, do you have any questions?

11 MR. DORRIS: No, Mr. Chairman.

12 CHAIRMAN KOPLAN: Okay. Thank you.

13 If not, Mr. Parekh, I want to thank you very
14 much for coming in and testifying today. With that,
15 we can move to the next phase, and I release you as a
16 witness.

17 (Panel excused.)

18 CHAIRMAN KOPLAN: Let me go through the time
19 remaining if I can. Petitioners have 36 minutes
20 remaining from their direct presentation plus five
21 minutes for closing. Respondents have 45 minutes
22 remaining from their direct presentation plus five
23 minutes for closing.

24 How do you wish to proceed, Mr. Dorris?

25 MR. DORRIS: Mr. McGrath will --

1 CHAIRMAN KOPLAN: Yes.

2 MR. DORRIS: I don't think it will take 36
3 minutes.

4 CHAIRMAN KOPLAN: Is this rebuttal? Are you
5 moving into rebuttal then?

6 MR. DORRIS: We were moving to closing.
7 Closing remarks.

8 CHAIRMAN KOPLAN: Closing remarks are five
9 minutes.

10 MR. DORRIS: Yes.

11 CHAIRMAN KOPLAN: Yes. Okay. You had me
12 worried there for a minute.

13 MR. MCGRATH: Five minutes. We don't have
14 any rebuttal remarks.

15 Again, thank you very much to the
16 Commission. I'm Matt McGrath of Barnes Richards &
17 Colburn representing Clariant.

18 I wanted to start by acknowledging once
19 again, as always, the staff work has been very
20 thorough and has provided -- we're always aware of
21 when the staff is being thorough because that's when
22 they harass us the most, and all of us on both sides I
23 guess get contacted a lot. You can quote this back to
24 me the next time I stand here and complain about how
25 terrible the report is. I frankly haven't seen a bad

1 report.

2 This case, the investigation that you have
3 before you, I think presents a very, very clear case
4 of injury. We've spent a lot of time today talking
5 about some very narrow issues, but we don't want to
6 lose sight of the fact that the thrust of the case
7 here is that under your traditional criteria on import
8 share, price underselling, profitability of the
9 domestic industry, the main components of injury are
10 all here, and there's a very strong showing.

11 The import penetration for the finished
12 product, as we discussed during the hearing, of the
13 subject merchandise has doubled and increased
14 significantly over the period. The margin of
15 underselling by both the Chinese and the Indian
16 product has been significant in all quarters,
17 averaging 49 percent for China and 44 percent for
18 India. That's significant in that we now have the
19 final margins on dumping and subsidies for both
20 countries, and the Indian combined margin for dumping
21 and subsidization is 44 to 70 percent.

22 The financial results for the industry. I
23 know there have been some adjustments that are being
24 made, but overall they're very poor, and I do want to
25 highlight once again with respect to Clariant they're

1 at the point where they have to make a decision as to
2 whether to stay in this business or not. It has not
3 been profitable. Without the assessment of dumping
4 duties, it doesn't make sense to stay in this
5 business.

6 Production of the finished product -- again,
7 that's the focus certainly that Clariant has -- has
8 fallen. The domestic production has fallen throughout
9 the POI, and Clariant's sales of the finished product
10 have continued to fall to their lowest level now. As
11 you heard in testimony, the top 10 customer list has
12 changed completely since the preliminary
13 investigation.

14 With respect to whether or not the Indian
15 imports should be considered, I know that there will
16 still be some adjustments to the data. We did hear
17 that perhaps we should be somehow working with the
18 Census Bureau or with Customs to change the data.

19 There's only a limited amount that can be
20 done in working with them anyway. It's not an
21 exchange where we can sit down and exchange
22 confidential information with each other. I think the
23 most that can be done is that the point can be made,
24 requests can be sent asking for them to adjust the
25 data. If they adjust the data, fine. If not, it

1 stays the same.

2 If we continue to look at at least the
3 reported export figures that have been reported to the
4 Commission, and we think that that makes sense, we're
5 above negligibility, but even considering that we
6 might not be we think it is fair and appropriate under
7 the circumstances to consider India in connection with
8 the threat analysis.

9 In looking at threat, I think it's very
10 clear from the data the staff has assembled that the
11 Indian industry is built for export. We heard some
12 testimony about high capacity utilization, but we ask
13 you to look at the entire industry's capacity
14 utilization, and you'll find there's plenty there to
15 send to the United States.

16 The exports to third countries are at levels
17 vis-a-vis the United States where product could be
18 shifted quite easily. The fact that there has been a
19 history of importing from India means that very
20 clearly that is a supplying country which has
21 knowledge of the markets in the United States and is
22 prepared to supply the markets.

23 As Mr. Schmidt explained earlier, pricing
24 from India into Europe, in his experience and
25 competing there, despite currency values which are

1 more favorable to U.S. exports, has seen Indian
2 pricing into Europe displacing some sales there, so it
3 is possible for the Indian industry to be shifting its
4 focus if it feels there is a more lucrative market
5 available here due to a sudden loss of volume in the
6 United States.

7 Now, we also heard Mr. Parekh testify about
8 the possible interchangeability or lack of
9 interchangeability and his claim that there are
10 certain markets that are simply not served by the
11 United States and only served by India, but there is
12 no clear dividing line. I think the Commission always
13 looks for that. This is a continuum. There is no
14 place at which you can say this is certainly divided
15 off and only India supplies it.

16 With all of the factors that you are usually
17 taking into account, we would urge you to make an
18 affirmative finding and to take a look at the data and
19 Petitioners' information, and again we urge you to
20 find affirmative so that certain companies, perhaps
21 all the industry, can remain in business.

22 Thank you.

23 CHAIRMAN KOPLAN: Thank you, Mr. McGrath.

24 Ms. Levinson, how do you wish to proceed?

25 MS. LEVINSON: I have some closing remarks.

1 CHAIRMAN KOPLAN: Okay. You can either do
2 it from there or the podium.

3 MS. LEVINSON: Somehow it seems more
4 official up here.

5 My remarks are very brief. I want to point
6 out that a couple of Petitioners' witnesses made
7 statements that are fully consistent with our view and
8 others that are different, but the Petitioners have
9 not presented any evidence to rebut what Mr. Parekh
10 stated that the Indians are actually in a very, very
11 small sub-sub-submarket of this industry that
12 constitutes only about five to 10 percent of total
13 uses of the product and that the statistics reflect
14 that.

15 Mr. Schmidt of Sun stated that the Indians
16 will do anything to gain market share, but we don't
17 see evidence of that because they're not gaining
18 market share. They have a very small market share.

19 Mr. Parekh has told you that in all honesty
20 of course any businessman would like to export more,
21 and anybody would like to increase their market share,
22 but there is no evidence at any imminent time that the
23 Indians can do that. They haven't done it to date.
24 They are striving to qualify. They haven't been
25 qualified for the majority of uses to which this

1 product is destined.

2 The lack of competition. The Petitioners
3 have not dealt with the fact that there's almost no
4 competition between U.S. product, or I believe I could
5 even go out on a limb and say no competition between
6 U.S. product and Indian product or Chinese product for
7 that matter because the United States industry just is
8 not in the merchant market for water-based ink.

9 Mr. Parekh believes that to the extent that
10 the Petitioners do produce product that's destined for
11 water-based inks, they use their own product
12 captively. They don't participate in the merchant
13 market.

14 A number of Petitioners' witnesses said that
15 if you place an order in China and not on India that
16 India will suddenly fill the gap, and their statistics
17 will resemble more that of China than they do today.
18 There's no evidence of that. Again, logic says
19 otherwise. I feel like I'm repeating myself, but it's
20 an overriding fact that really bears emphasis that
21 India is not approved. No company from India is
22 approved for the majority of uses to which this
23 product is destined.

24 The Petitioners have admitted and the
25 prehearing staff report confirms that Indians have

1 generally priced higher than the Chinese, even though
2 there is some overlap in usage between the Indian and
3 the Chinese since they're both in the water-based
4 industry.

5 In fact, when one of the Sun witnesses
6 talked about the pricing pressures that Sun is
7 feeling, I noted that he said from China only, and he
8 never mentioned India at all. I think there is a good
9 reason for that. He is not competing with India.

10 As part of our post-conference brief, we'll
11 be submitting documents from customers of Indian
12 exporters who will explain that they've never
13 purchased from Sun for these uses. They've purchased
14 from other importers.

15 I guess I'll conclude with what is our
16 overriding theme, and that is that we are negligible.
17 We are negligible based on the official statistics.
18 We're negligible based on your questionnaire responses
19 to date.

20 There are a number of complex issues about
21 how you apply negligibility, but it's clear that if
22 we're negligible you don't have to look at cumulation.
23 You don't have to look at competition with the
24 Chinese. We're just out of the case, and that's why
25 we urge you to vote that exports from India are

1 negligible and, therefore, not causing material injury
2 to the domestic industry.

3 Thank you.

4 CHAIRMAN KOPLAN: Thank you very much, Ms.
5 Levinson.

6 Post-hearing briefs, statements responsive
7 to questions and requests of the Commission and
8 corrections to the transcript must be filed by
9 November 17, 2004; closing of the record and final
10 release of data to parties, December 3, 2004; final
11 comments by December 7, 2004.

12 With that, this hearing is concluded.

13 (Whereupon, at 1:06 p.m. the hearing in the
14 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Carbazole Violet Pigment 23
INVESTIGATION NO.: 701-TA-437, et al.
HEARING DATE: November 10, 2004
LOCATION: Washington, D.C.
NATURE OF HEARING: Commission 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: November 10, 2004

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: Renee Miskell-Katz
Signature of Court Reporter