UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation No.:
LIQUID SULFUR DIOXIDE	)	731-TA-1098 (Preliminary)
FROM CANADA	)	

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Thursday,
October 20, 2005

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

The preliminary conference commenced, pursuant to Notice, at 9:30 a.m., at the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

ROBERT CARPENTER, DIRECTOR OF INVESTIGATIONS
DOUGLAS CORKRAN, SUPERVISORY INVESTIGATOR
RUSSELL DUNCAN, INVESTIGATOR
KAREN DRISCOLL, ATTORNEY/ADVISOR
STEVEN TROST, ECONOMIST
JOHN ASCIENZO, AUDITOR
PHILIP STONE, INDUSTRY ANALYST

APPEARANCES: (cont'd.)

In Support of the Imposition of Antidumping Duties:

On behalf of Calabrian Corporation:

CHARLES COGLIANDRO, President, Calabrian
HELENE OPPERMANN, Vice President, Calabrian
DEBRA WUELLER, Comptroller, Calabrian
TIM RICKERT, Director, Sales and Marketing, Calabrian

RONALD WISLA, Esquire
ELIZABETH LEVINSON, Esquire
Garvey Schubert & Barer, PPC
Washington, D.C.

In Opposition to the Imposition of Antidumping Duties:

On behalf of ChemTrade:

MARK DAVIS, President and CEO, ChemTrade
SUSAN H. MANNING, Vice President, The CapAnalysis Group

JULIANA M. COFRANCESCO, Esquire
MICHAEL A. HERTZBERG, Esquire
Howrey Simon Arnold & White, LLP
Washington, D.C.

On behalf of Tech Cominco:

STEVE PAOLONE, Manager for Industrial Chemicals Sales, Tech Cominco
DANIEL W. KLETT, Economist, Capital Trade

SPENCER GRIFFITH, Esquire
Akin Gump Strauss Hauer & Feld, LLP
Washington, D.C.

I N D E X

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P R O C E E D I N G S

(9:30 a.m.)

MR. CARPENTER: Good morning, and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of Antidumping Investigation No. 731-TA-1098 concerning imports of liquid sulfur dioxide from Canada.

My name is Robert Carpenter. I'm the Commission's Director of Investigations, and I will preside at this conference. Among those present from the Commission staff are, from my far right, Douglas Corkran, the supervisory investigator; Russell Duncan, the investigator; on my left, Karen Driscoll, the attorney/advisor; Steven Trost, the economist; John Ascienzo, the auditor; and Philip Stone, the industry analyst.

I understand that parties are aware of the time allocations. I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphones. We also ask that you state your name and affiliation for the record before beginning your presentation.

Are there any questions?

(No response.)

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

MR. WISLA: Good morning. I'm Ronald M. Wisla of Garvey Schubert Barer, and we represent Calabrian Corporation, the Petitioner in this investigation.

Calabrian, although a small player in this industry as recently as 1998, now stands as the largest U.S. producer in a greatly diminished U.S. industry that once boasted nine independent chemical companies with 11 plants operating throughout this country.

At present, there are only four remaining U.S. producers, one of which is owned by ChemTrade, the Canadian exporter of the subject merchandise and which was, prior to mid 2004, also a Canadian producer of the subject merchandise.

A second U.S. producer, PVS Chemicals, is also now an importer of the subject merchandise, and Petitioner understands that PVS has marketing arrangements with ChemTrade.

The remaining U.S. producer, Olin Chlor Alkali Division, the second largest producer in the U.S., manufactures SO_2 primarily for its own captive production of sodium hydrosulfite and markets

commercially only a small portion of its output.

Consequently, Calabrian remains the sole domestic producer that is primarily dedicated to selling in the merchant market that is not in some way involved or controlled by the producers or exporters of the subject merchandise.

Perhaps this is Calabrian's problem. During the past year and a half, Calabrian has been the sole subject of targeted predatory and merciless competition from both Tech Cominco and ChemTrade. Importantly, such competition has been fueled by the dumping of the subject merchandise at horrificly low prices to each of Calabrian's accounts as they come up for contract renewal.

By massive underselling, so far in 2005, which is only three-quarters finished, they have succeeded in cutting the 2004 sales volume by 25 percent. In the face of falling sales volume, declining returns on its remaining sales and the unprecedented rise in transportation and energy costs, Calabrian's financial position is facing a complete collapse.

Because the cause of the situation is predatory dumping by its Canadian competition, Calabrian has been forced to bring this petition to

seek import relief under the antidumping duty laws. The future of the U.S. sulfur dioxide industry is at stake. Calabrian cannot remain in this business in the face of mounting and continued losses.

The record before the Commission establishes that there is a reasonable indication that the domestic industry has been materially injured by dumped imports. The margin of dumped imports is very high, well over 100 percent, some margins close to 200 percent, and the volume of dumped imports is significant.

Throughout the period of investigation, Canadian imports have accounted for at least 25 percent of U.S. consumption. Moreover, as shown in the import statistics and questionnaire responses, the absolute volumes have increased during the period of investigation.

Annualized 2005 import levels are greater than 2002, 2003 and 2004 levels. As a percentage of total U.S. consumption, 2005 imports have increased their market share to over 30 percent of the total U.S. market and 40 percent of the merchant market. Moreover, increase in absolute imports and relative to U.S. consumption has accelerated in 2005 as compared to previous years.

Most telling is the effect of dumped Canadian imports on the prices of liquid sulfur dioxide. Due to the presence of dumped imports, domestic prices have virtually collapsed. This is one of the clearest examples of price depression ever presented to the Commission.

Published pricing information established that in early 2002 the price of this product was $230 per short ton with spot prices still well above $200 a ton. By 2004, the spot prices had decreased to as low as $100 per short ton, a decline of 50 percent in two years.

The precipitous decline is also reflected in average unit values of U.S. import statistics from Canada. Average unit values declined throughout the period of investigation from $156 per short ton in 2004 to $129 per short ton in the first half of 2005. Declines of this magnitude are also reflected in the questionnaire responses.

The prices of Canadian imports undersell the domestic product by huge margins of underselling. Calabrian has alleged a multitude of lost sales as a direct result of Canadian exporters targeting each of Calabrian's existing customers upon the expiration of their contracts. These instances of lost sales and

revenues were detailed in the petition and will be confirmed by the Commission.

On certain occasions the Canadian exporters have even attacked Calabrian's customers under contract, resulting in some customers requesting to be released from their contractual obligations with Calabrian.

In order for the U.S. industry to survive, rational pricing must return to the industry. The increased volumes of dumped imports, coupled with ever declining price levels which have only accelerated in 2005, have had a devastating impact not only on Calabrian, but on the entire U.S. industry as a whole.

Industry capacity, production and shipments have decreased. Capacity utilization has languished, and employment levels have dropped as production workers have lost their jobs. Since 2000, approximately 214,000 tons of annual capacity has been lost. In 2004 alone, 82,000 tons of capacity were lost. As you will hear shortly, Calabrian itself has suffered declines in output and employment.

Calabrian has also experienced rapidly deteriorating financial performance. Due to pricing pressure from Canadian imports, net revenues have declined at a greater pace than the aforementioned

declines in production, yet while revenues and sales have been declining Calabrian and the U.S. industry have been caught in the classic price squeeze as the cost of goods sold has increased attributable to sharply higher raw material, energy and transportation costs.

Because Calabrian has been unable to pass these increased expenses on to its customers, net income from liquid sulfur dioxide operations have declined, and the second quarter 2005 profit margins have turned negative. If Calabrian is unable to operate profitably, it will be forced to cease its merchant market production.

Calabrian is not a company that shrinks from competition, be it from domestic or foreign sources. However, in light of the targeted and predatory pricing attacks on Calabrian's customer base achieved solely by means of dumping and massive margins of underselling, Calabrian had no choice but to file this petition in the hope to remain an active participant and leader of the domestic industry.

Thank you.

MR. CARPENTER: Thank you, Mr. Wisla.

Mr. Griffith and Ms. Confrancesco, if you would come forward, please?

MS. COFRANCESCO: Good morning, Mr. Carpenter and members of the staff. My name is Juliana Confrancesco. I'm with the Howrey law firm representing Chemtrade.

The record of this preliminary investigation will provide the Commission with clear and convincing evidence that the U.S. sulfur dioxide or SO_2 industry is neither materially injured nor threatened with material injury by reason of Canadian imports. This is so even giving Petitioner the benefit of the doubt on legal issues such as like product. The record will be well developed for a preliminary investigation, so there is no issue as to whether further information might come to light later.

The Commission will find, and as we will show, the domestic industry as a whole is healthy. The picture that Petitioner paints in its petition stands in stark contrast to the real story here. In reality, the record and the testimony today will confirm that there is no injury to the domestic industry in this case.

In fact, there is only one company that we know of which has publicly complained of any injury at all. That company is Petitioner, Calabrian Corporation, which in the words of its own counsel

this morning is a "small player" in their own words.

As the record will show, any alleged problems faced by the Petitioner are self-inflicted. Taking a look at the Commission's traditional indicia of industry performance, the public admissions of Calabrian in its petition show improvements over the period of investigation. This applies to Calabrian's capacity expansions, production increases, sales increases, market share increases, capital investments and so on.

Published data also shows U.S. prices are increasing. This is not the typical profile of domestic industries that have petitioned successfully before the Commission.

Nor is there any showing that Petitioner or indeed the industry as a whole faces any threat from Canadian imports. Canadian imports have declined over the 2002 to 2004 period, and any increase in 2005 was entirely for internal consumption, not in the merchant market and not in competition with Calabrian.

There's been no announcement of any capacity increases for Canadian production, and there's no excess inventories of any significant volume nor are there any forecasts that we are aware of that would tend to diminish the outlook for favorable conditions

and healthy performance in 2005 and 2006.

In short, as we will show today and further in our post-conference submission, Petitioner has not met the preliminary injury standard. The Commission should reach a negative determination.

Thank you.

MR. GRIFFITH: Good morning, Mr. Carpenter and members of the staff. My name is Spencer Griffith of the law firm Akin Gump here today on behalf of Tech Cominco.

This unusual case should never have been brought in the first place. Calabrian comes before you today alone. Calabrian is the only Petitioner and could not get a single other U.S. producer to even appear before you at the hearing today.

You will also hear today that this case is unusual due to the import volume trend. In most cases, the Commission will see substantially rising imports over the POI, but that is not the case here as import volumes actually declined from 2002 to 2004.

While imports were up slightly in the first half of 2005, you will hear today those imports were pulled in as a result of the closure of U.S. capacity. Also, imports from Mexico in the first half of 2005 went up faster than did imports from Canada.

You will also hear today that customers have approached Canadian suppliers because Calabrian, this Petitioner, has proven unable to reliably supply committed volumes. Also, again unusually, you will hear that U.S. prices are rising over the POI, not falling as Petitioner has alleged.

The Petitioner's injury case rests largely on the closure of some U.S. capacity, but you will hear today that the closure of U.S. capacity had nothing to do with Canadian imports. U.S. capacity closed because suppliers for independent business reasons decided to exit the market.

You will also hear that the causal link in Petitioner's theory falls apart. The closure of U.S. capacity could not have been caused by imports given that import volumes declined from 2002 through 2004 at the same time as U.S. capacity likewise declined.

Finally, you will hear today and Petitioners admit that Calabrian's feedstock prices for sulfur and oxygen have increased dramatically in the last few years further putting significant pressure on Calabrian.

In short, this case should never have been brought in the first place, and it should be ended now. Thank you.

We look forward to presenting our case to you today.

MR. CARPENTER: Thank you very much.

Would the petitioning panel please come forward at this time?

MR. CARPENTER: Once again I just wanted to remind the panel first to try to identify yourselves for the record before speaking. That would make it easier for the court reporter to follow things.

Welcome.

MR. COGLIANDRO: Thank you. Good morning. I'm Charles Cogliandro, president of Calabrian Corporation. I am accompanied today by our vice president, Helene Opperman; our comptroller, Debra Wueller; and our director of sales and marketing, Tim Rickert.

For the past month we have supplied the Commission with detailed information and facts about the production and marketing of liquid sulfur dioxide as well as the state of the U.S. industry producing liquid sulfur dioxide which is the subject of this petition.

Numbers while constituting an extremely important factor in determining the outcome of this case do not nearly tell the complete story for what

has been occurring in the U.S. market with regard to the dumping of sulfur dioxide, nor do they adequately address the predatory business practices and tactics of Canadian producers and exporters of this product.

So today we will attempt to give you a better understanding for what has happened to the U.S. industry producing sulfur dioxide. Calabrian Corporation is a family-owned company which has been in the chemical business since 1971. I have personally been in the business for 29 years, all of those years with Calabrian.

We began making sulfur dioxide derivatives in the mid-1980s and in 1989 began work on a new process to make sulfur dioxide a raw material we were buying at the time from U.S. manufacturers. Calabrian began producing liquid sulfur dioxide in 1990. We use SO2 liquid for the manufacture of other products and require a steady and continuous source of inventoried liquid.

By 1990 we had developed a process to produce high-quality liquid SO2 from sulfur and oxygen, a process that is still maintained today as a trade secret. Sulfur dioxide is a chemical composition of 50 percent sulfur and 50 percent oxygen by weight.

At normal ambient temperature sulfur dioxide is a colorless nonflammable toxic gas with a characteristic pungent smell; however, it is supplied and sold commercially only in its liquid form as a waterwide compressed liquid with a purity of at least 99.98 percent.

It is shipped in rail cars or tank trucks as a liquid under pressure. Sulfur dioxide is a hazardous product labeled by the U.S. government as a personal inhalation hazard, a PIH, and a toxic inhalation hazard, a TIH. It is costly to manufacture and because of its extreme toxicity requires special handling, special transportation equipment and is very costly to ship.

Sulfur dioxide liquid is used in many applications including but not limited to water treatment, bleaching, as a raw material for other sulfur chemicals, for soap manufacturing, sulfinations and as a food preservative.

Calabrian began commercial sales of liquid SO2 in 1996. At that time there were nine U.S. companies including a Calabrian licensee manufacturing SO2 at 11 different plant locations all across the United States. Today there are four plants remaining, one of which is wholly-owned by Chem Trade, a major

Canadian SO2 exporter.

When Calabrian entered the business in 1996 the list price of SO2 was $230 per short ton, FOB plant, a price that had been in effect ever since Calabrian had begun using SO2 in the late 1980s. The price today has been reported to us by at least one former customer to be as low as $120 per short ton delivered -- I repeat, delivered -- equivalent to an FOB Texas price of $45 per short ton.

Since calendar year 2000 the Canadian producers of liquid sulfur dioxide have systematically sought to control the entire North American market for this product.

They have done so by first purchasing and idling substantial portions of U.S. production, entering into exclusive marketing agreements with producers outside of Canada, most prominently the only existing Mexican producer of sulfur dioxide, and then through predatory pricing they have eliminated U.S. producers from the U.S. market.

Specifically, in 2000 Marsulex shut down a 45,000 ton SO2 plant in Copper Hill, Tennessee, which it had purchased two years earlier from Inner Trade Holdings. The drop in U.S. liquid sulfur dioxide prices directly attributable to dumped Canadian prices

caused several other U.S. production facilities to close their liquid sulfur dioxide production operations.

In 2000 Rhodia shut down its Hammond, Indiana, plant with an annual capacity of 12,000 short tons per year. In that same year Rhodia sold one of its remaining plants in Baton Rouge with 25,000 short tons per year capacity to PVS Chemicals.

In 2001 Clariant shut down its liquid sulfur dioxide plant in Bucks, Alabama, with an annual capacity of 65,000 short tons, and Hy Dry Chemical shut down its liquid sulfur dioxide plant in Waterloo, Iowa, with an annual capacity of 10,000 tons.

In 2004 Rhodia shut down its two remaining U.S. liquid sulfur dioxide production facilities closing its other Baton Rouge, Louisiana, plant and its Houston, Texas, plant with combined annual capacity of 68,000 short tons. Finally in 2004 Thatcher Company discontinued manufacture of liquid sulfur dioxide with an annual capacity of 14,000 short tons.

All totalled, between 2000 and 2004 approximately 214,000 tons of annual U.S. capacity have been shut down since the Canadian producers began to dump sulfur dioxide. Sulfur dioxide pricing has

been driven down by dumped Canadian imports whose export prices have declined by almost 20 percent since 2002.

The steady erosion of pricing has forced the exit of many U.S. sulfur dioxide producers. This has allowed the Canadian producers and exporters to become dominant U.S. participants. If allowed to continue unchecked Calabrian will be forced to exit the liquid sulfur dioxide market as well as it can ill afford to sell and transport a hazardous specialty chemical at the prices being offered by the Canadians.

Why can and do the Canadians sell liquid sulfur dioxide at such a low price? Two reasons. The majority of SO2 produced in Canada is a waste product of Canadian smelting operations and the long-term strategy of Canadian producers and exporters is to entirely eliminate the U.S. manufacturing liquid industry.

Undoubtedly the Canadians will inundate you with numbers prepared by their experts that will tout their superior production economics for sulfur dioxide. What they most likely will fail to tell you particularly in the cases of the two largest exporters, Chem Trade and Tech Cominco, is that the majority of liquid SO2 they import to the U.S. is a

waste product of Canadian smelting operations.

As a consequence they will dispose of it at any cost. This point was made strikingly clear to me in a recent meeting with a representative from Tech Cominco who needed to buy sulfur dioxide from us because of a strike at their plant. At that meeting I bitterly complained about the tactics being employed by both Cominco and Chem Trade which I told him were predatory.

He responded that Cominco was committed to selling SO2 in the U.S. market, that it had excess capacity and would sell at whatever price necessary not only to maintain market share, but to grow it.

It is important to point out that Calabrian, Olin, PVS and Chem Trade's Ohio plant as well as the eight other manufacturing plants that exited the U.S. market are and were primary producers of liquid sulfur dioxide supplying the market with a constant steady supply of product.

Sulfur dioxide is not a waste product to us. As primary producers we are dedicated to the business of sulfur dioxide. We purchase raw materials on the open market and must deal not only with the operating costs of manufacture and transportation, but also the risks associated with handling a hazardous chemical.

In the absence of any special arrangements or understandings primary producers such as Calabrian cannot realistically compete with product that is being sold at unfair and unrealistic price levels.

That said I am particularly struck by the remarks made by our competitor, Mr. Mark Davis, president of Chem Trade, in his declaration to the Department of Commerce and I quote "Chem Trade believes that the imposition of an anti-dumping duty order in this case would be harmful and disruptive to the sulfur dioxide market in the U.S."

"This concern is based on the fact that diverse security supply is essential to the sourcing decisions of U.S. purchasers of sulfur dioxide." He goes on to state and I quote "U.S. producers must of necessity be able to continue to supply their U.S. customers pursuant to their supply agreements without restriction in order that those customers can avoid shut downs in their operations."

Ladies and gentlemen, this is exactly why we filed this petition. The actions of Mr. Davis' company and the other Canadian producers have reduced U.S. industry to such a point that the U.S. customer is forced to rely on and in many cases be at the mercy of Canadian supply.

The Canadian producers have systematically eliminated major portions of U.S. industry which now makes it imperative that not only U.S. industry survive, but that it also be healthy. Mr. Davis speaks as though his company is a major U.S. producer, but in fact the vast majority of Chem Trade sales originate from Canada.

Most importantly a duty will not "constrain supply choices for U.S. producers" as indicated by Mr. Davis, it would only make the prices U.S. producers receive more equitable and enable U.S. industry not only to compete, but to survive.

The imposition of a duty would not be harmful and disruptive to the U.S. market it would only be more fair, and in the long run that *is* in the best interest and health of the U.S. market.

Mr. Davis mentioned in his declaration that Calabrian was forced to shut down as a result of Hurricane Rita, but what Mr. Davis failed to tell you is that within four days of the devastating hurricane we were once again shipping SO2 to our customers.

In fact our employees did everything that was necessary including living in hastily arranged trailers on the plant site to avoid letting our customers down and that is because Calabrian is

committed to servicing the U.S. market because sulfur dioxide is its main business.

The fact of the matter is that the two major Canadian suppliers are unreliable. The major suppliers of SO2 from Canada, Chem Trade and Tech Cominco, obtain SO2 as a waste from smelting operations. The smelters main businesses are metals, and in the case of Tech Cominco metals and the sales of power from its hydroelectric plant.

The smelters have no real economic interest in SO2, they are only interested in disposing of it. Moreover because their operations mainly concern the sales and production of products other than SO2 they are not reliable as suppliers to the U.S. market. On numerous occasions they have declared force majeure on shipments to the U.S.

Mr. Davis failed to mention to you that Chem Trade's main SO2 source at the Sudbury Smelter was shut down from May to July of this year causing supply disruptions of SO2, or that Chem Trade's Kid Creek facility that produces SO2 went on strike two weeks ago, or that Tech Cominco was on strike from July to mid-October of this year and Tech Cominco is still not shipping SO2 from its facilities in trail, or that Tech Cominco idled its SO2 plant three years ago in

order to sell power from its hydroelectric plant resulting in missed deliveries to U.S. customers, or that the smelters have extended shut downs every year for maintenance.

What he also failed to mention is that between 1999 and 2001 Marsulex, the Chem Trade predecessor of which he was president, bought nearly 4,000 tons of SO2 from Calabrian when its facilities were shut down for various reasons, and yes, he neglected to explain that Calabrian has never purchased one pound of product from any of its competitors.

So yes, we whole-heartedly agree that U.S. producers must of necessity be able to continue to supply their U.S. customers especially when the material being sold from Canada is unavailable because of plant disruptions or shut downs. In the end U.S. industry must survive for even that to be a reality.

It is apparent the long-term strategy of the Canadian producers and exporters is to entirely eliminate U.S. industry manufacturing liquid sulfur dioxide in the United States. In fact as evidenced by the number of U.S. plants that have been shut down they are succeeding. In so doing they will be able to sell at much higher prices in the U.S. market in the

long run.

This is evidenced by the high prices that presently exist in Canada because all competition in that market has been eliminated. This is also evidenced by the fact that they will do anything necessary to retain and grow market share in the U.S. This future would not only be injurious to the U.S. market, it would also be potentially dangerous to the U.S. consumer.

Liquid SO2 is a critical and strategic product for many U.S. companies and municipalities as well as an important raw material used by certain companies to manufacture products for the U.S. military. A primary use of liquid SO2 is for the decoronation of municipal and industrial wastewater.

EPA has mandated that wastewater be essentially chlorine free before it is discharged to the public water supply. Many of the distributors to whom we sell package sulfur dioxide into smaller cylinders for use at municipal and industrial wastewater treatment plants.

Any serious disruption of supply could force the treatment centers to either shut down or discharge chlorinated water into the rivers and lakes, a major violation of EPA's regulations and a dangerous hazard

for U.S. residents. Finally I would like to discuss the conditions of competition that currently exist in the liquid sulfur dioxide industry.

As the Commission conducts this investigation the statute requires it to consider the conditions of competition under which the U.S. liquid sulfur dioxide industry operates. The first condition relates to the product itself.

Sulfur dioxide is a hazardous chemical subject to strict government regulation. Due to the abnormally high transportation and storage costs attributable to legitimate safety and insurance concerns a high return is necessary on this product to offset the inherent risks involved in producing, storing, transporting and selling this product.

Second the sulfur dioxide market is at best stagnant and is most likely a declining market. Although there has been some expansion in certain applications in the food, and pulp and paper industries due to purchasers concerns with government safety regulations, particularly customers located in populated areas, customers are increasingly being forced to seek more expensive substitutes for SO2.

Consequently the increased presence of dumped imports directly displaces domestic production.

This is simply not the case in which imports share in or have otherwise created a growing domestic market. A third condition of competition is that all parties in this case are selling an identical chemical product with comparable transport services and sales terms.

This is not the case of a highly differentiated product with various commercial grades and quantity levels. As established in the testimony provided today the driving force is the price of this commodity product, and the Canadian producers and exporters have driven the prices so low that if Calabrian attempted to compete it would have to sell the product well below production costs.

A fourth condition of competition is that a large and substantial segment of the domestic production is destined for captive use. Although the captive production provision is not applicable to this industry and the Commission should analyze the domestic industry as a whole it is indisputable that market-based competition is focused entirely on the merchant market segment of this industry.

As determined by the Commission in the Dispersion Pigment case import competition is focused in the domestic merchant market and is more harmful to the domestic industry than imports sold to captive

markets which are not subject to open competition. I will return shortly, but first I would like you to hear from other members of our corporation. Thank you.

MS. OPPERMANN: Good morning. My name is Helene Opperman, and I am vice president of Calabrian Corporation. I too have been in the company for 29 years, a family-owned company, and I joined -- and I started in sales before moving into transportation, purchasing, and corporate sales. From the start, we have always been hard-working and ethical businesspeople and have always supported legitimate competition.

It has become apparent, though, that this no longer exists in the SO2 market with the onslaught of dumped Canadian imports. The market for sulfur dioxide had a long history of stability. Today, the pricing is rapidly decreasing due to the predatory practices of the two major Canadian producers who are dumping sulfur dioxide into this market at unimaginably low levels and at targeted Calabrian accounts.

It is beyond belief, especially in these times of severely escalating energy, transportation, and raw material costs that prices today are less than

50 percent of what they were just a few years ago. There can be no other reason for the actions other than to systematically either control or destroy U.S. production to allow total dominance by Canadian producers. In the absence of competition, they will no doubt raise prices to high levels that exist in Canada today.

The prices of dumped Canadian imports in the United States have relentlessly declined in each succeeding year of the period of investigation with a noticeable acceleration in price declines in the first half of 2005.

Because dumped Canadian imports undersell the traditional pricing levels of this industry by such a substantial degree, the dumped Canadian imports have caused a spot market of liquid sulfur dioxide in the United States to plummet, resulting in severe price depression.

These price declines have come at a time when both energy and transportation costs have increased substantially due to rising fuel costs. Thus, instead of being able to raise its prices to offset these increases, Calabrian has been forced to absorb these rising costs in the face of decreasing sales revenues.

In 2000, the price of sulfur dioxide was in the range of $200 per short ton on an FOB plant basis. That price range has been in existence since 1996, the year when Calabrian first entered the merchant market for liquid sulfur dioxide.

Since then, the pricing for this product has deteriorated because of dumped Canadian imports. In 2004, the spot prices had declined to as low as $100 a short ton FOB plant, a decline in spot market prices of approximately 50 percent.

This price decline is also reflected in official U.S. import statistics. In 2002, the average unit value of Canadian imports was at $156 per short ton. In 2003, the average unit value had declined to $151 per short ton. The price declines continued into 2004 when the average unit fell further to $142 per short ton.

The decline not only has continued this year but has accelerated, dropping to $129 per short ton. All told, between 2002 and the first half of this year, Canadian import prices have declined by 17 percent.

The impact of these ever-continuing price average declines has been devastating to Calabrian business. To demonstrate this point, I would like to

share with you discussions I had that took place with two of our former customers, each of whom had at one time purchased between 4,000 and 5,000 tons per year of sulfur dioxide from Calabrian.

Both of these accounts are located in Texas, relatively close to our facilities and a very great distance from the major Canadian SO2 plants, which should have given Calabrian a distinct price advantage due to the difference in transportation costs. We lost both of these customers to the Canadians at extremely low prices, accounting for nearly 10,000 tons of lost sales per year to Calabrian.

The first of these was a customer of Calabrian's for well over five years. We regionally renewed their annual commitment prior to the start of each year. In December 2004, tonnages for 2005 were discussed, and the customer committed to us at least the same tonnage they had purchased during 2004.

In years prior, we had already made price adjustments to meet competitive numbers that were being offered by the Canadians. But at this annual meeting, they advised all was going well, there were no problems or concerns, and that pricing would remain the same.

We spoke about the current state of the

market and about the longer term positions of Cominco and Chemtrade in the sulfur dioxide business given their connection to the smelters. Specifically with regard to Cominco, who supplied some of their northern locations, they acknowledged that Cominco had very little economic incentive in selling SO2 as compared to disposing of the waste it generated from its extremely profitable metals and energy business. He acknowledged that he knew little of Chemtrade.

In the end, Calabrian, in their words "an excellent supplier," would retain its majority position at its two Texas locations and a second supplier's position at its other Gulf location.

Then, in May of this year, without any warning or prior discussion, I received a phone call from the customer advising that effective immediately, Calabrian would no longer be their SO2 supplier.

Frankly, I was shocked. In fact, I had two separate meetings as well as several phone conversations with the customer to try to understand what had happened and ask that they please reconsider their position.

When I asked why the sudden change, particularly in light of the fact that we were selling to them in accordance with the annual commitment they

had made to us, I was advised that they had received a proposal from Chemtrade at much lower pricing and the pricing disparity was so large they could not turn it down.

However, in order for them to accept the deal being offered, they would have to act immediately. Chemtrade's offer was only valid for 100 percent of the business at locations being supplied by Calabrian. Chemtrade did not make the same offer to the locations being supplied by Cominco. That is outrageous.

As this customer always insisted on having a minimum of two suppliers at their locations, I asked them why we wouldn't contend to remain a minority supply position. He said he was very sorry, that he just couldn't do that. He said he recognized that we had been an excellent supplier and we had helped them on many occasions when they needed the product on short notice, but the economic benefits being offered by Chemtrade were just too great to turn down.

Based upon conversations with this customer, we believe the prices quoted by Chemtrade were at least 20 percent lower than the price at which Calabrian had been selling. We estimated freight. With the estimated freight, this would equate to a net

sales price of $65 per short ton FOB-Sudbury, Ontario.

Had Calabrian been given a chance to meet the price being offered, the net sales price would have been approximately 27 percent lower than its average net selling price as reported in 2005. Hence, in 24 hours, we went from having a dominant position with our large customer to having on position at all.

Given the location of this account and Chemtrade's insistence on an all or nothing position at extremely low pricing to this particular account, we viewed this practice as predatory with the clear intention of eliminating Calabrian as a supplier.

The other former customer bought from us under contract three -- for three years, but in 2002 signed a new long-term contract with Cominco when Cominco offered a price nearly 30 percent lower than Calabrian's then contract price. Although we were not even given an opportunity to meet the price because of the large differential, had we done so, the net FOB selling price would have been less than $90 per short ton.

We estimate the FOB trail British Columbia price was $45 per short ton based upon those estimated freight costs. This past August, the customer called us to ask if we could supply SO2 to them on a spot

basis as Cominco had gone on strike and they had declared force majeure on all SO2 shipments.

The customer was somewhat desperate, as they were told that whatever material they had onsite from Cominco was the last material they would be receiving until the strike was settled.

We could not supply the customer on a spot basis. Shortly thereafter, they requested a personal meeting to discuss reinstating Calabrian as a contract supplier. We explained that SO2 was a critical raw material and that Calabrian had never failed to supply them during the term of our previous contract, even when there had been problems with Canadian supply, which they had not seen.

We explained that we could not compete against such low pricing, especially considering the handling and transportation costs associated with sulfur dioxide. And we believed Cominco was simply dumping material on the U.S. market when they had it and declaring force majeure when they couldn't supply.

Moreover, we told them the U.S. customers were having trouble seeing past this extremely low pricing and their current problems were a direct result of the Canadian business practices. They stated that they knew, I repeat they knew that Cominco

was dumping and selling at a price that wasn't realistic for sulfur dioxide given its hazards. But their management had insisted that their company take advantage of the substantial savings.

Thank you very much.

MR. RICKET: Good morning, ladies and gentlemen. My name is Tim Ricket, and I am the director of sales and marketing for Calabrian Corporation. I have been involved in the SO2 business for 22-plus years and have extensive experience and knowledge of the SO2 business and the markets it services.

I begin today by telling you we have filed this petition not as advocates of trade barriers but as an avenue of last resort. We as a company have never shied away from a fight when it comes to competing in the marketplace.

The chemical industry is a tough marketplace, and we constantly face the pressures of ever-increasing costs, sharp and obstinate buyers who deal with the demands of their own management, and aggressive U.S. and international competition. But there comes a time when even we as major supporters of free trade are prepared to say enough is enough.

Upon the exit of numerous producers from the

domestic industry, Calabrian filled the void in U.S. capacity and by 2003 became the largest U.S. producer and seller of liquid sulfur dioxide. However, despite the shutdowns of an additional 82,000 tons of capacity in 2004, Calabrian's sales to the merchant market began to decline.

The decline was a direct result of the increase in dumped Canadian imports at prices significantly lower than Calabrian's existing contractual levels. This trend has continued in 2005, with Calabrian losing even more long-term contract tonnage because of continued targeted underselling of our major accounts. In the first half of 2005, Calabrian was forced to cut production even further.

It is important to understand the market dynamics for sulfur dioxide sold in the United States to fully appreciate the sudden and dramatic sales and revenue losses that have occurred since the start of 2005 and hence the extreme threat to the future of the SO2 industry.

SO2 is sold primarily in rail cars which are specifically designed for that service. Those cars are normally leased on a three- to five-year basis, so the contracts in SO2 tend to be longer term, three to five years, to correspond to the lease terms.

In late 2001 and early 2002, Calabrian was able to finalize a number of major contracts with expiration dates of the second half of 2004 and the first half of 2005. As those contracts began to expire, the Canadian manufacturers, specifically Chemtrade and Teck Cominco, became extremely aggressive, and as a result, sales volumes declined by 24 percent between 2004 and 2005 on an annualized basis and we have lost nearly 50 percent of our contract business by June, 2005, as has already been detailed in the petition before the Commission.

Calabrian has never been able to activate the 50,000 short ton per year capacity put in place in 2003. In fact, because Calabrian was unable to increase production to anticipated levels in light of the exit of numerous other U.S. producers from the domestic industry, Calabrian has been operating at less than half of its production capacity.

With declining sales in 2004 and substantial unused capacity in 2005, Calabrian has had to lay off a significant number of production workers in its liquid sulfur dioxide operations. With the shutdown of the other U.S. plants, we estimate that at least 100 jobs have been lost since 2001 in addition to the job losses at Calabrian. The declines in employment

have been accompanied by a rapid deterioration of the financial condition of Calabrian's operations producing liquid sulfur dioxide.

Thank you.

MS. WELLER: Good morning, ladies and gentlemen. My name is Deborah Weller, and I am a controller of Calabrian Corporation. I have been with the corporation for 12 years.

While both production and net sales were decreasing in the first half of 2005, the cost of good sold has been sharply increasing, attributable mainly to increasing raw material, energy, and freight costs. Because Calabrian has been unable to pass these expenses on to its customers, net income on liquid SO2 operations have virtually disappeared and formerly positive profit margins have turned negative.

In addition, we would like to point out some of the factors that have and will continue to have a major impact on the cost of manufacturing and shipping SO2 in 2005 and beyond, costs which have been unrecoverable because of the pricing pressure being exerted by the Canadian imports.

First, in 2005, the price we pay for natural gas has risen by more than $8 per MMBtu, an increase of over 133 percent since January. We are large

consumers of natural gas.

Second, in 2005, the price we pay for electricity has risen by nearly 20 percent since January. We are large consumers of electricity.

Third, in 2005, the price of diesel fuel has risen to nearly $4 per gallon, forcing our carriers to raise prices by at least 15 percent and in some cases by as much as 30 percent.

Fourth, in 2005, the railroads reclassified SO2 in accordance with new rules and regulations being issued by the Office of Homeland Security. Upon renewal, in addition to rate adjustments for fuel, we are experiencing freight rate increases of between 30 percent and 50 percent on rail movement of SO2 in the United States.

Fifth, in 2005, nearly every Calabrian vendor has instituted an energy surcharge or price increase as a result of escalating energy costs. As these costs continue to rise, we will continue to experience losses in SO2 operations, particularly if there is no relief from the continued dumping of the product from Canada.

Consequently, from operating with modest profit margins in 2004, Calabrian's liquid sulfur dioxide operations became unprofitable in the second

quarter of 2005, and I say modest considering the nature of the product we are producing and handling.

In some cases, not only have we been unable to meet pricing being offered by the Canadians, we have been unwilling to do so considering the risks associated with handling this product. In many cases today even where the gross profit is marginally positive, the returns do not justify the risk.

In the face of continued losses of key accounts, Calabrian anticipates that its operating margins and profitability will continue to plunge. If these trends continue, Calabrian will be forced to consider exiting the liquid sulfur dioxide industry.

Thank you.

MR. COLIANDRO: Thank you, Debbie. Although we believe we have overwhelmingly established that a reasonable indication of material injury to the liquid sulfur dioxide industry exists by reason of dumped Canadian imports, I would also like to discuss factors relating to the threat of material injury.

Due to the exit of so many U.S. producers from the domestic industry during the period of investigation, Canadian capacity to produce sulfur dioxide is now greater than the total production capacity of the U.S. industry. Whereas U.S. capacity

has sharply decreased during the period of the investigation, Canadian producers have increased their capacity. Teck Cominco's website establishes that it has increased its liquid sulfur dioxide production capacity in 2004 by an additional 15,000 short tons per year, from 85,000 to 100,000 short tons per year.

Because the U.S. market for liquid sulfur dioxide is substantially larger than the Canadian market, much of this capacity and production will necessarily be directed to the U.S. market. Indeed, the United States is the traditional export market for Canadian liquid sulfur dioxide. The trends in recent import volume further establish that Canadian imports threaten the U.S. industry with material injury. In 2005 Canadian imports surged to their highest levels during the period of this investigation. On an annualized basis, half-year 2005 Canadian imports are more than 21 percent greater than full-year 2004 imports.

Moreover, Canadian imports have increased during the period of investigation relative to total U.S. consumption. Whereas by Calabrian's estimate, dumped Canadian imports accounted for 27 percent of U.S. consumption in 2004. In 2005, dumped imports from Canada account for over 31 percent of U.S.

consumption. Thus, in the most recent period, the Canadian share of total U.S. consumption has increased by over 13 percent. Continuation of these trends in import volume and market share establish that the U.S. industry producing liquid sulfur dioxide is threatened with additional material injury by reason of dumped imports from Canada.

In addition, continuation of current pricing trends of dumped imports from Canada, threatens the U.S. industry producing liquid sulfur dioxide with additional material injury. Dumped imports have depressed the price of sulfur dioxide in the U.S. market. The trend in import prices as reflected in official import statistics show that the decline in Canadian import prices has accelerated throughout the period of investigation. The average unit value of Canadian imports declined by over three percent between 2002 and 2003, an additional six percent between 2003 and 2004, and nearly an additional nine percent, additional nine percent, by June 2005.

Continuation of this accelerating decline in Canadian import values threatens the U.S. industry producing liquid sulfur dioxide with additional material injury.

On behalf of myself, my colleagues, and my

company, I would like to thank you for your time and your attention this morning. Finally, I would like to share with you one final part of a conversation I had with a customer who recently bought some SO2 from us at a list price of $230 per ton, FOB our Texas plant. They were extremely short of product, and were very appreciative of the fact that we would sell to them considering they were not a regular customer. When I quoted the price the customer looked at me and said, and I quote, "That is a very fair price." The customer, ladies and gentlemen, was Teck Cominco.

Now I would like to turn this over to Ron, who will conclude the presentation.

MR. WISLA: Yes, I get the honor of doing a brief discussion on the like product issue. The like product in this case corresponds to the scope of this petition, that is liquid sulfur dioxide. Sulfur dioxide in its 17 percent purely gaseous state constitutes separate like product. With regard to physical characteristics and uses, even though liquid sulfur dioxide and gaseous sulfur dioxide share the same chemical formula, they have different and distinct physical characteristics. First, liquid and gas are distinct by their physical state. Liquid sulfur dioxide is a compressed product that must be

stored under pressure. Sulfur dioxide in a gaseous state cannot be stored, shipped or sold commercially.

Second, the two like products are different with respect to their purity. Liquid sulfur dioxide is virtually pure with a minimum 99.98 percent assay. The production of sulfur dioxide gas in a furnace results in sulfur dioxide gas of 17 percent purity which is mixed with the inert gases naturally found in air such as nitrogen, oxygen, argon, neon and water vapor. In order to produce pure liquid sulfur dioxide from its gaseous state, the inert gases present must first be removed, then compressed under refrigeration to produce liquid sulfur dioxide. This is a complex and a costly manufacturing operation.

Third, as a compressed liquid sulfur dioxide can be stored and transported. It can be inventoried for captive consumption, or sold commercially for use in all applications requiring sulfur dioxide. Because of its low purity and its inability to be stored, there is no commercial market for gaseous sulfur dioxide. Sulfur dioxide gas must be immediately absorbed or used in situ in the application for which it was produced. Moreover, whereas liquid sulfur dioxide can be used in any application that requires sulfur dioxide, sulfur dioxide gas of 17 percent

purity may be used in situ only in certain applications. It can be used in applications that do not require scrubbing or a high purity of product, such as chemical, mechanical, thermal pulping and corn steeping. Thus, only certain large producers for whom it is economical to purchase and run a sulfur burner, will produce their own impure sulfur dioxide gas.

However, in more demanding applications where pure and uncontaminated product is required, such as industrial municipal waste water treatment, manufacture of liquid soaps, production of sodium hydrosulfite, bleaching, food preservation, and cylinder repackaging, only liquid sulfur dioxide can be used. Even in those applications where use of gaseous sulfur dioxide is possible, most consumers cannot justify the costly operation of a burner to produce and consume gaseous sulfur dioxide in situ and therefore they continue to rely upon purchased liquid sulfur dioxide.

Given the noted differences in physical states and purity, liquid and gaseous sulfur dioxide are not interchangeable, particularly with regard to commercial sale. Relating to channels of distribution, liquid sulfur dioxide is a merchantable product which as we said before can be stored, sold

and transported. It can either be stored for later captive use, or sold commercially. Gaseous sulfur dioxide cannot be stored and is not, therefore, sold commercially. Consequently, there is no commercial market or channels of distribution for sulfur dioxide gas.

With respect to customer perception, because liquid sulfur dioxide is a merchantable product, customers have perceptions based upon buying a product that is 100 percent virtually pure to be used in their downstream applications. Moreover, because they are purchasing a liquid under pressure, customers are prepared to receive the product in pressurized tank cars or rail cars, and have prepared for the proper storage, use and handling of a hazardous, pressurized chemical product. Because sulfur dioxide gas is not merchantable, there are no customer perceptions because there is no product available for purchase.

With respect to producer perceptions, producers of liquid sulfur dioxide intend to create a product virtually 100 percent pure that can be inventoried, used captively or sold downstream to chemical customers. Provisions must therefore be made for the proper storage and shipment of the subject merchandise in tank trucks or rail cars. On the other

hand, producers of sulfur dioxide gas intend to create a product of 17 percent purity for instantaneous captive use. Consequently no provision is made for the storage or transportation, and there is no intent to sell the product to a customer.

With respect to common manufacturing facilities, production processes, and production employees, the production processes of liquid and gaseous sulfur dioxide are completely different. With respect to gaseous sulfur dioxide, sulfur is burned in air to produce sulfur dioxide of 17 percent purity. Companies that produce 17 percent sulfur dioxide gas use it, incorporate it at that stage. The production of liquid sulfur dioxide on the other hand requires a separation and removal of the inert gases. Once separated the pure sulfur dioxide gas must then be compressed through cooling under refrigeration, and stored under pressure. Liquid manufacture is made difficult by the presence of inert gases which are costly and process intensive to remove. Once produced, liquid sulfur dioxide is costly and capital intensive to store and transport.

Moreover, it is commercially feasible to compress and store pure sulfur dioxide as a liquid because it is compressible at 55 degrees Farenheit.

It is not commercially feasible to compress 17 percent sulfur dioxide gas due to the high percentage of inert gases which are present in that mixture. The impure gas can only be compressed at sub-zero temperatures. Liquid sulfur dioxide is produced by one of a number of complex chemical and manufacturing processes, all of which are capital intensive and costly to undertake.

There are three steps in any of the commercially available processes: the manufacture of the SO2 gas, separation of the SO2 gas from any other gases present in the air, and compression and storage of the resultant liquid under pressure. As a toxic liquid stored under pressure, sulfur dioxide is costly and capital intensive to store and transport. Specifically designed valves must be outfitted on storage containers and specifically designed rail cars and tank trucks are necessary to reduce the risk of release and corrosion through transport. The in situ production and use of 17 percent sulfur dioxide gas does not undergo any further manufacture. There is no storage or transport of the product.

Consequently, the two products do not share the same production processes or production workers. A review of the like product factors establishes that

liquid and gaseous SO2 are separate like products.

And that is our testimony. Everyone here is available for questioning.

MR. CARPENTER: Thank you ladies and gentlemen for your testimony. At this point I think we'll begin the questions with Karen Driscoll.

MS. DRISCOLL: Good morning. I want to thank everyone for coming. I've got some questions, some general questions and then I also have some questions that were brought on by your testimony this morning which I found very informative.

First of all, Mr. Wisla, are there any other companies in the United States that commercially sells liquid sulfur dioxide at a lower assay than 99.98? Or Mr. Cogliandro.

MR. COGLIANDRO: No, there are not.

MS. DRISCOLL: There are not. Okay.

MR. COGLIANDRO: I'm sorry. There are any others that sell at a lower assay?

MS. DRISCOLL: Yes.

MR. COGLIANDRO: No, there are not.

MS. DRISCOLL: That's it. In other words --

MR. COGLIANDRO: That is it.

MS. DRISCOLL: If you've got liquid sulfur dioxide it's going to be at 99.98. That's really the

question.

MR. COGLIANDRO: Or greater. Correct.

MS. DRISCOLL: Or greater. Okay. Are you a chemist or trained in chemistry?

MR. COGLIANDRO: Both.

MS. DRISCOLL: Okay. I figured you would be.

MR. COGLIANDRO: Yes.

MS. DRISCOLL: I just wanted to ask; I have some experience with hydrochloric acid and how it hurts. What actually happens when somebody touches -- how toxic is it, just so I sort of have --

MR. COGLIANDRO: It is both a hazardous irritant; it's not only an irritant, basically it's stored under pressure so if the liquid, if you're exposed to the liquid, it will destroy your skin, basically. The major toxicity, though, is in the release of the gas. Once the liquid decompresses, it, like chlorine if you're familiar with chlorine or ammonia, it's a suffocant. It can basically suffocate you in a closed air space, so it's extremely dangerous to handle.

MS. DRISCOLL: All right, thank you for that. Mr. Wisla, in your petition on page 7, you mentioned in related proceedings, you mentioned an

anti-dumping order revoked earlier this year against sodium thiosulfate. Can you explain what the relationship is between sodium thiosulfate and how the revocation of that order affected the market for sulfur dioxide and whether it was a factor in your filing the petition at all.

MR. WISLA: Well, it was not a factor in the filing of the petition.

MS. DRISCOLL: Okay. What is sodium thiosulfate in terms of sulfur dioxide.

MR. WISLA: It's a downstream product.

MR. COGLIANDRO: It's a substitute. It's a potential substitute. It's a substitute for SO2; actually sodium thiosulfate is one of the derivatives that we make that consumes SO2. So we make sodium thiosulfate and other substitutes with SO2 liquid.

MS. DRISCOLL: Okay. That was the another question I had. I wanted to make sure, when you're talking about captive production, you have the gas that can be used in the same way as you would use liquid sulfur dioxide, but you also have then captive production of the liquid in other applications in your company. Is that --

MR. COGLIANDRO: Yes, we don't manufacture a 17 percent gas at all. Is that clear?

MS. DRISCOLL: Yes.

MR. COGLIANDRO: We produce only a 100 percent pure liquid product by direct reaction of sulfur and oxygen, so we never see that, we never have to deal with the inert gases. We have to deal with other factors, other expensive factors to refrigerate and compress the material, and separate -- we have to separate sulfur from the product as an example, which other producers don't have to do.

MS. DRISCOLL: All right. So you have competitors then who use the gas in situ if you will in their production operations.

MR. COGLIANDRO: Not competitors in the SO2 business that do that. We have competitors in the sodium thiosulfate business and we have competitors in the sodium bisulfite business as an example, who consume SO2. Either they buy it or in some cases they may produce it in situ, but if they produce it in situ, it is a 17 percent gas.

MS. DRISCOLL: So, if they don't have that capability, then they will buy it from you or from Canadian producers or the Mexican producers.

MR. COGLIANDRO: That is correct. We sell to a number of people who use SO2 downstream to make other chemical products.

MS. DRISCOLL: And then, Mr. Wisla, in your brief if you could comment on why you don't think the production provision applies directly in the case, but I know you want it to be a condition of competition.

MR. WISLA: Right, it's the third factor; does not apply because the main use of sulfur dioxide is the manufacture of sodium hydrosulfite. So that's both used -- that's produced captively and it's also used in the merchant market, so the third provision does not apply.

MS. DRISCOLL: So it's the same use.

MR. WISLA: Same use.

MS. DRISCOLL: You mentioned in your petition that there are different production processes for SO2. How do those quality differences -- how do those production processes; do they have any effect on quality of the product?

MR. COGLIANDRO: There is virtually no quality difference in any of those production processes to produce the liquid.

MS. DRISCOLL: Okay. I guess I can ask Mr. Cogliandro. Do you know why Thatcher left the industry?

MR. COGLIANDRO: I do not know. But I know that they buy at a very low number from Cominco. They

buy liquid at a very low number from Cominco.

MR. DUNCAN: Also, on that note, can you discuss a little bit about Thatcher's capacity before it shut down operations?

MR. COGLIANDRO: It's published capacity was 14,000 tons, and that's the only capacity I am familiar with. That was its published capacity for liquid SO2.

MS. DRISCOLL: In talking about other domestic producers in their opening statement, Respondents talked about sort of the relationships between the domestic producers. You're the only one of the four here. Do you have an idea of why PVS and Olen aren't here in response to that, or do you have a comment on that?

MR. COGLIANDRO: Olin wrote a letter to the Commission, which is part of the petition, which states the reason they're taking a neutral position is that they are primarily an internal consumer, and sell very small amounts to of liquid to the U.S. market.

So they're not really available as a producer in the merchant market, which points out how critical this product really is in the U.S., too. Because there are really a very small number of producers available in the U.S. who produce the liquid

available for merchant sale.

PVS, through various discussions that we've had in the market place and other information which we have available to us -- it has been indicated to us that they have a very close working relationship with ChemTrade. I believe that that's the reason why they're not here.

MS. DRISCOLL: Well, on that topic, it does seem like you may have some interest in making some related party arguments. So I just encourage you to go ahead and put that in your post-conference brief, as well. You don't import -- Calabrian doesn't import?

MR. COGLIANDRO: No, we do not, and I hope it's clear for the Commission. This product is merchantable in the North American continent. It is very difficult to ship this product by vessel. That's why it doesn't come in from other parts of the world. It's an extremely hazardous product, and it would be very difficult to ship from overseas.

MS. DRISCOLL: So essentially, due to the toxicity of the product, it moves in the North American Continent, and that's it, essentially.

MR. COGLIANDRO: That's correct, because it's a hazardous compressed liquid.

MS. DRISCOLL: Okay, not so much for the cost, but simply because of the toxicity.

MR. COGLIANDRO: Well, it would be an extreme cost.

MS. DRISCOLL: Right.

MR. COGLIANDRO: There's an extreme cost to ship it on a vessel.

MS. DRISCOLL: Because of that reason.

MR. COGLIANDRO: That's correct.

MS. DRISCOLL: Okay, Mr. Wisla, on page 24 of your petition, you stated that more demanding applications require liquid sulphur dioxide. Why would that be the case?

MR. WISLA: In the more demanding applications, a pure product is needed, because an impure product would gum up the production processes. So in the high demand like manufacturing a down stream chemical product, you would definitely need pure sulphur dioxide. You couldn't use a 17 percent gas. Even if you had your own burner, you would still need pure gas.

MS. DRISCOLL: You're talking about air impurities?

MR. WISLA: Yes, the impurities in the product, yes.

MS. DRISCOLL: You discussed, I believe, in your testimony -- and perhaps it was Ms. Opperman -- that the contracts go for about three to five years or something along those lines. Is the spot market used at all?

MR. COGLIANDRO: We wouldn't really term it a spot market, per se. There are customers who do not buy on contract, who prefer not to. As an example, some of the distributors prefer not to buy on longer term contract, for whatever reason. But they normally buy on what we call open purchase orders or annual commitments.

There's a very good reason for that. Because the material has to be shipped in specialized containers. So we, as producers, have to enter into costly lease agreements to be able to ship this product on a regular basis.

Hence, when we mentioned the fact that we could not sell to this customer that approached us earlier this year on a spot basis, the major reason for that was because we didn't have a lot of excess equipment available to ship to them. The rail cars that we would be required to ship it in -- we don't keep a large fleet of extra cars, strictly to ship SO2. The leases are extremely costly.

So it is not typically the type of product that is bought spot. Because it requires such special handling, it normally doesn't sell spot.

MS. DRISCOLL: I was intrigued, Mr. Opperman. You have a contract. Obviously, according to your testimony, the terms of the contract were broken by the particular customers you were talking about. Does that happen often?

Again, if you want to talk about this in your post-conference brief, I fully understand, because it could involve your BPI. But if you want to comment either here or in your post-conference brief about, was there a penalty for that? Was that difficult for them to do? Was it onerous for them to do?

MS. OPPERMANN: I don't know. I can't speak for them, how onerous it was for them. I do know that it was very difficult for me personally and for the company, because it represented a large, large amount of material that we had been selling to them.

As I said, we had been selling to them for very many years. So as this came up, you know, every year, we had an annual commitment with them. We discussed it openly. This particular customer liked to discuss market trends, competitors, every such

thing. Of course, as the economy had been in a slight down turn a few years ago, they had asked us for some price relief and we granted it.

But I made that comment in the testimony about them not asking us for any pricing decreases this year, going into this year, when we did our commitment agreement together at the end of 2004 in December. They understood, as we had talked very many times, as we had a very close relationship with them.

In the chemical industry, right, and in the commodities particularly, such as I'm sure you may have heard or read it on the other commodity chemicals, prices have escalated, I mean, unbelievably, both in the organics and the inorganics chemical. Sodium chlorine, SO2, is very similar in the respect of a chlorine type situation, because it is a very hazardous compressed gas.

In our economy today, because of the surging fuel costs, really everything else has just escalated unbelievably. I think I understood from them when we discussed it, they understood that we needed to have more realistic pricing on sulphur dioxide. I mean, if you look at sulphur dioxide, it's $230 a ton for a commodity that requires such special handling. I do a lot of the costing on the handling side with the rail

cars and tank trucks.

First of all, even with tank trucks, it's very, very limited equipment. It's very, very expensive equipment. It's the same thing with the rail cars.

Now the Government, of course, has really put the clamps on our products. Particularly, it's on the list of the PIH/TIH list, which is one of, I think, 20 chemicals of very, very high up there in hazard nature. Because, you know, if it is transported and something happens with the rail cars, I'm sure you all heard about the South Carolina incident with chlorine, where the railroad did it and caused that accident. It's a very costly situation and costs have escalated so much.

So to me, it's actually incredible that we have a discussion of costs, not even staying at the same level, but going down by as much as they've gone down in these last few years.

MR. COGLIANDRO: I want to add something on contracts, because also you asked a question about contracts. Our first reaction, when this happened with this customer, our gut reaction -- and we tend to be sometimes emotional -- but our gut reaction was, we're going to sue them, okay? But then we basically

go home, think about it, and wake up the next day. Because these are long-term customers. We've had long-term relationships in the past. It is possible that we'll have a relationship with them in the future.

In this particular case, this was an oral contract. It was an annual, verbal commitment. We weren't about to get legal with them. In another case, in the Northwest, we actually did a five year contract, written agreement, with the customer, in the Northwest. In January of this year -- it was actually December of 2004 -- January of this year, they asked us if we would allow them out of the contract, because of the price that had been offered by Tech Cominco.

Now we had sold to them at an exceedingly low number, in reaction to Tech Cominco taking away our business in Texas, the other contract that Ms. Opperman talked about. We had reacted and gone to one of their customers in their back yard and matched their pricing that they had previously received from Cominco, which was exceedingly low.

One year into that contract, Cominco cut the price by what they told us was nearly 50 percent. I don't think it was that low, as what it actually turned out. But it was probably 30 percent lower. We

had a five year written contract. But this is an exceedingly large customer for us in other areas, and we have relationships with them in other areas.

They asked us if we would let them out of the contract. We agreed, because we felt like we would be impeding their economic position. They're a producer of derivatives -- for a lot of reasons. But mainly because we wanted to preserve a relationship with them in the future.

Were we happy about it; absolutely not. Could we have taken legal action; absolutely. In fact, we could have stuck it to them. We could have basically held that contract up to them and said, you will comply. But it was not in the best long-term interest of this company. That's the position that we have.

MS. DRISCOLL: Thank you; I want to go back to Ms. Opperman's testimony for a moment. I just want to clarify if I understood what you were saying that happened. I believe it was Cominco; that you had two customers in Texas, supplied by both you and Cominco -- wait a minute. Let's see if I got mixed up. The other, ChemTrade, went after that customer, but only as to you, but not as to Cominco. Is that your testimony? In other words, your testimony is, they're

trying to cut you out as supplier, but not Cominco.

MS. OPPERMANN: That's correct.

MS. DRISCOLL: All right, I just wanted to make that clear.

MS. OPPERMANN: In other words, they had multiple locations where they purchased SO2. In the Texas locations, we had always been the supplier; had traditionally been the supplier there. Cominco had been supplying some of the more geographically closer locations to Cominco. But when a deal was made by ChemTrade, it was made specifically at our Texas locations -- only at the Texas locations. Nothing changed. I was advised by the customer, nothing was changing at their other locations.

MS. DRISCOLL: Oh, I see, at the other locations.

MS. OPPERMANN: In fact, we had even asked. You know, they had said many times, what a great supplier we were. So we said, well, are you sure you want to do this, because you know what goes on with the Canadians annually, you know. They have situations where they have to shut down the plants, do maintenance, with power situations and such. They said, no, they didn't want to change anything else at any of their other locations, and nothing else was

going to change.

MS. DRISCOLL: So then at any one location, if you will, for your customers, do they usually just buy SO2 from one supplier -- liquid SO2 from one supplier?

MS. OPPERMANN: Well, this particular customer -- and I can't speak about all the customers -- but this particular customer probably has between five and seven locations, I think, and so geographically around the United States. So I suppose that they would purchase from Cominco, per se, because those locations are closer to Cominco's sites, plant site and trail. But with the locations in Texas, obviously, we are the closest geographically.

MS. DRISCOLL: So that geographic proximity -- obviously, it's a positive. But I guess what I'm saying is that in general -- and I don't want to get into specifics -- but in general, at one location, where your customers need liquid SO2, do they only go for one supplier; whether it's due to geography or price or whatever, or do they mix it up.

MS. OPPERMANN: Not necessarily -- it depends really on the size of the customer and the buying policies of the customer. For example, this customer had always wanted to have two suppliers at

each location. We have other customers that really commit -- you know, they desire to only have one supplier. I think it has a lot to do with their size, also -- their requirement size.

MS. DRISCOLL: All right, I just have two more -- well, actually, I'll make it three, if Mr. Carpenter will indulge me.

Do you know what the Canadian prices are? Are they transparent? Do you know how transparent prices are in the industry? Let me ask a more general question.

MR. COGLIANDRO: What exactly do you mean by transparent?

MS. DRISCOLL: In other words, do you know what the Canadian producers are selling to their U.S. customers, and do they know what you're selling to your U.S. customers?

MR. COGLIANDRO: Yes, either exactly or, you know, by percentage. U.S. customers have a tendency not to tell you exactly what they're buying it for; but they will tell you, know, pretty much how much lower the price is or higher the price is, that sort of thing. So yes, we have an extremely good idea of what we're selling to certain customers, and the Canadians have a very good idea of what we're selling

to certain customers.

MS. DRISCOLL: Is there anything formal? Is it more through word of mouth, or how do you know that, through your customers?

MR. COGLIANDRO: We know the customers for long periods of time. In some cases, there are written agreements. I mean, in some cases -- and we supplied some information to the Commission -- there were actually written quotes. So we see that information that way.

Most of the information we get on pricing is a result of customer relationships. Whether we're supplying the customer or not, the customers either tell us directly or give us a very, very direct indication of what they're paying for material.

MS. DRISCOLL: Mr. Wisla, I wanted to note, in your petition, it looked like next to Mr. Cogliandro's statement, there was a press release on Chemtrade purchasing Rhodia's -- if I'm saying that correctly -- outstanding contracts. But you also mentioned one announcing Rodea's exit from the industry. So if you could just look at that petition and see if there's one that you meant to put in and didn't. If there is, put it in your post-conference brief.

MR. WISLA: What?

MS. DRISCOLL: There is one on Chemtrade purchasing Rhodia's outstanding contracts. But you seem to indicate there's also another one on Rhodia's exit from the industry. It could be one in the same; I don't know.

MR. WISLA: Well, I think at one point, Rodea had three plants in the U.S., and they sold off one in 2002. Then in 2004, they exited the industry by selling their remaining -- they still have the plants, but they sold their contracts and some of their assets and customers to Chemtrade. That's when they exited the industry, upon that deal.

MS. DRISCOLL: Okay.

MR. WISLA: And the earlier one, they sold, again, their business and their contract in 2002.

MS. DRISCOLL: Okay, this is just a courtesy to you. I'm wondering if there might have been a press release you meant to give in the petition and you didn't.

MR. WISLA: Yes, okay.

MS. DRISCOLL: All that's all for me, Mr. Carpenter, thank you.

MR. CARPENTER: We'll now turn to Investigator Duncan.

MR. DUNCAN: Good morning, my first question deals with substitutes for sulfur dioxide. Can you please list then and indicate whether or not they are sulfur derivatives?

MR. COGLIANDRO: The main substitutes for sulfur dioxide are really sodium bisulfite, sodium thio sulfate, and sodium sulfite. Those are the main three substitutes for the product.

They're not necessarily directly substitutable in all circumstances. A lot of this has to do with the chemistry of those products, the PHs of the streams that they're involved in treating, a lot of technical information. The bottom line is, they are all sulfur chemicals, all referred to sulphur derivatives.

Those main derivatives -- and the most common one is sodium bisulfite -- are extremely extensive substitutes for SO2, for liquid SO2. Typically, sodium bisulfite as an example, it is only 60 percent SO2 by dry weight. When a customer buys sodium bisulfite, it is buying the SO2 content only. That's what it wants. Typically, the price is much, much more expensive on an SO2 content basis.

As an example, I can give you a quick example. Today, sodium bisulfite sells for about, on

average, about $380 per short ton delivered, okay? It is 60 percent SO2. If you take $380 and divide it by 60 percent, which is the content of the SO2, you will get an SO2 cost of $635 per ton.

So the substitutes are not being used. They are not cost-drive substitutes. Customers are not substituting away because of cost. They are substituting because of safety. Sodium bisulfite is a hazardous liquid, but it is not nearly as hazardous as SO2. So in some cases, particularly in the cases of small municipalities, as an example, they may opt to go with the much more expensive substitute, because of the handling of the bisulfite. It's easier than handling SO2.

However, we believe that the cost, the escalating cost of the substitutes, they are energy and freight intensive, because they are liquids with a large content of water. They are extremely expensive to ship.

We believe that today that, in fact, consumers may be looking to switch back, because of the extreme expense and the rising cost of the substitutes. So we believe there may actually be a shift back to SO2 in the future.

MR. DUNCAN: I would like to discuss about

the clean process that calabrian has for its production of SO2. Does this process provide any advantages, compared to the other processes that create the gaseous 17 percent purity?

MR. COGLIANDRO: The process we developed, there's actually quite a bit of published literature on the process. It's referred to as an environmentally clean process. It has a lot of environmental advantages.

When you produce SO2 liquid from the burning of sulfur and air, the major contaminant in the sulfur dioxide gas, the impure gas, is nitrogen. The nitrogen has to be separated from the SO2, in order to further process the SO2 gas into a liquid. That is the costly part of making SO2. It is the separation and compression of the liquid.

In Calabrian's process, we use pure oxygen, which we get on a pipeline. We have an oxygen pipeline. The advantage to that process is, there is no nitrogen present, since it is four-ninths per oxygen. There is no nitrogen present. So we eliminate that cost.

But even further than that, it is not necessarily the cost. Because we have to pay for the oxygen, so that's kind of a trade-off, okay? There's

a trade-off there.

The beauty of it is, there is no emission. Our process is emission-free. So there is no environmental emission, SO2 emission, which every other producer, even the producers that used to make liquid here -- many of them had a problem with SO2 emissions, which are, of course, a real problem for the U.S. Government.

Our process, we have no air emissions or water emissions of any kind. The direct reaction of sulfur and oxygen allows us to produce a liquid directly. So we eliminate a lot of the downstream handling, and that's costly for a normal manufacturer. The offset is that we pay for the oxygen. So that's kind of a trade-off. But the huge advantage is, that it is extremely environmentally friendly.

MR. DUNCAN: It is my understanding that the U.S. industry primarily sources its sulfur from oil refiners. Can you comment?

MR. COGLIANDRO: Yes, the major sulfur source available for us is what we call refinery grade sulfur, which is one of the purest forms of sulfur available in the United States market. We are a sulfur consumer, and that's our major source of material.

Ironically, today, after the hurricane, we've actually had trouble getting sulfur, and have had to use a number of other sources, correct? We can use any kind of liquid sulfur. It really doesn't make a difference, as long as the purity levels are there. That's extremely important. But today, we're buying sulfur that's produced from the natural gas fields, as an example, having to transport it pretty large distances.

MR. DUNCAN: In addition to natural gas, are there other sources of sulfur in the U.S.?

MR. COGLIANDRO: The major mined sulfur sources are now gone. The major sources available in the U.S. are primarily refinery and gas-recovered sulfur. Those are the two main ones. Most of the smeltered sulfur that used to be produced is gone, because the smelters are gone.

MR. DUNCAN: You answered my next question, which is whether or not there were smelters that currently produce SO2 in the U.S., and you are saying there are not.

MR. COGLIANDRO: No, there are none. To my knowledge, no smelters ever produced SO2 in the United States.

MR. DUNCAN: There has been a question of production of SO2 from Puerto Rico. Do you know of any production of SO2 that is sold on the merchant market that comes from Puerto Rico?

MR. COGLIANDRO: No, I believe that the Puerto Rican plant -- and we know very little of it -- is a small captive plant that basically services the local market.

As I indicated earlier, SO2 shipped on a vessel is exceedingly uncommon. It's not done, because it's a hazardous compressed liquid, and it would require a red flag. I am not aware of any imports that have ever hit the U.S. soil -- not imports, I'm sorry.

MR. WISLA: I think there are some small imports into the United States, and those would be SO2 that's in canisters.

So somebody, some company, would have taken the compressed liquid, you know, from a tank truck, let's say, which is 40,000 pounds, and then they would put it into smaller canisters. These canisters maybe can be shipped. So most of the imports, other than Canada and Mexico, into the United States would be in the form of these canisters.

MR. DUNCAN: There's been some discussion

about the impact of environmental regulations on your industry. Can you please provide a brief historical background to the role that environmental regulations play in this industry?

MR. COGLIANDRO: Environmental regulations -- well, let me state it this way, first. The environmental regulations in the U.S. have become increasingly difficult and more complicated in the chemical industry, as a whole.

So as a chemical producer in the U.S., we are having to deal with, each year, stricter and stricter regulation in terms of compliance with emissions, discharges, safe handling, responsible care; and with the 9/11 events, now an increased attitude with regard to safety. I mean, there is a real concern on the part of the U.S. Government concerning compressed gases. So we supply a lot of information along that basis. We comply with a lot of environmental regulations.

Where environmental regulations have impacted us most recently has been in freight. The handling and transport of SO2, as is chlorine, ammonia, ethylene -- just about every hazardous compressed liquid in the United is undergoing review, because of the potential terrorist threat. So we've

had to respond to those issues.

It has resulted in, as I think Helene indicated, the cost of freight increasing substantially. Because the railroad companies particularly are having to deal with these issues. So they are looking at them very closely, and as these regulations continue to become more of a concern in the U.S., they are looking at the rates, as well. So that has been an impact.

MR. DUNCAN: In relation to these increases in transportation costs due to environmental regulation, are Canadian goods shipped in the U.S. subject to the same costs?

MR. COGLIANDRO: Absolutely -- shipping within the U.S., I would think that they're subject to exactly the same costs. Hence, my point; if they're subject to those costs, why aren't we seeing it in terms of price increases?

MR. DUNCAN: Your firm has recently, in the last five or six years, increased its capacity of production of liquid SO2 twice. Yet, you've qualified the market for SO2 as, at best, stable and most likely in decline. Can you reconcile these two?

MR. COGLIANDRO: Yes, you were referring to the market for liquid SO2. the consumption of SO2

liquid, particularly in our case, in prior years had gone up in response to substitution of liquid SO2 in two other products.

So, whereas, in previous years, we have responded both ways. We have responded both to the merchant market for SO2, which is a large market. Don't misunderstand what we say. It is a large market, and one that needs to be serviced. But there is also a growing market in the So2 derivatives, which are basically SO2 substitutes.

The need for the product is still there. That is not going away. The only thing that may be changing is where that product shows up and how it shows up. So the SO2 is either showing up as pure SO2 liquid in the market place, or as a derivative.

The need for the SO2, the demand for SO2 molecules, is growing at a significant pace. Hence, that's the reconciliation. That's why, in 2002 and 2003, the internal consumption figures basically increased. We were responding to the derivatives market.

MR. DUNCAN: Along those lines, there's already been a discussion on the insistence of liquid sulfur dioxide as being the subject product of these investigations. Now from my understanding, other U.S.

producers who produce SO2, first produce a gaseous 17 percent pure mixture with air. They then have to scrub or purify that to get a pure SO2.

For internal consumption purposes, would you qualify that as being internally consumed, if they take that pure SO2 and create downstream products, or would they first have to liquify it?

MR. COGLIANDRO: The producers that we referred to, or the industry that we referred to -- actually, Olen uses our process. They actually produce from sulfur and oxygen the same way we do. When they take their SO2, basically, they're making a liquid, consuming it internally to make sodium hydro sulfite, which requires, by the way, a pure form of the product to not use the 17 percent gas. There has been no commercial process ever developed to be able to use the 17 percent gas.

I don't know, in the case of PVS, I guess they start with sulfur. They burn it and make SO3, correct? Yes, they make oleum. That's a complex process. It's a Rhodia process.

They start with sulfur and burn it in air. Then they run that mixture over a catalyst, right, to make SO3. They absorb the SO3 into sulfuric acid and make oleum, and then they force the SO3 out of the

olium to make the SO2. So it's an involved process. Does that answer your question?

MR. DUNCAN: Yes.

MR. COGLIANDRO: Okay.

MR. DUNCAN: Have you lost business to companies that have decided to chose to make on-site NC2 sulfur dioxide?

MR. COGLIANDRO: We have not lost any business, that I am aware of -- isn't that correct, Tim? We have not lost any business to any consumers who have installed burners.

MR. DUNCAN: Can you discuss the seasonality in the industry?

MR. COGLIANDRO: The only seasonality that I'm really aware of is really in the sodium hydro sulfite business -- a little bit in the de-chlorination business. That has to do with the evaporation rates of chlorine. But I would consider that minor.

The major seasonality -- and probably Mr. Davis could better answer this, since his company makes it -- would be in the manufacture of sodium hydra sulfite. That's used as a bleaching chemical, and I think there is some seasonality in that business. Other than that, I'm not aware of any.

MR. DUNCAN: In the period under investigation, have you gained any customers previously supplied by Canadian firms?

MR. COGLIANDRO: Yes, as indicated earlier, we have reacted both in the U.S. and in Canada. We actually, at one point, entered the Canadian market, but were then forced out by Government regulation, which we really questioned. We really questioned what that was all about.

But basically, we were dis-allowed from importing product into Canada. So not only have we gained, but sacrificed. I mean, basically, it's been, I really term it, a war. You know, we have been battling for market share. But what is happening is, we're battling at lower and lower pricing.

The Northwest customer is an example. They were a customer of Cominco's. We went after them because of what they did to us in Texas. Basically, you know, that business, to be completely honest, that business didn't make a lot of sense for us. I mean, it was a very, very low priced business. But we had lost quite a bit of business, and we need to have dollars turning over in the company in order to generate some kind of margin. We have fixed costs we have to cover.

So we went to replace it. That's what we did. So we took that customer away from them, at the same number. See, this is the thing that's incredible to me. We took it from Cominco at the same number, and the reason we got it was for service. We had to meet the number, but we got it for service.

When Cominco goes in and takes the customer back away from us, they take it on price; and in that case, cut the price by what they told us was close to $50 a ton.

So there was no discussion about -- I mean, again, they made it so large, the price differential was so large, the customer felt bad about having to turn us out as a supplier. They had a five year deal with us, and they liked dealing with us because of the service. But the price disparity was so large, okay, they asked us to let them out.

MR. DUNCAN: Thank you; I think I have only two more questions. The first relates to the fact that average unit values for Canandian imports, according to official statistics, are much higher than average unit values of Mexican imports. Why have you chosen to pursue Canada and not Mexico?

MR. COGLIANDRO: Because of the large absolute volume and capacity of the Canadian producers

-- the Mexican producer is, relatively speaking, a small producer. Yes, they are a threat, but not nearly the material threat that the Canadian producers represent; and the exports from Mexico are now totally controlled by ChemTrade.

ChemTrade entered into a marketing relationship, and now exclusively represents the Mexican product. So to open an investigation here in Mexico, Mexico is just not a large enough factor, at this point, and I reserve that for the future. Because, you know, should this market decline even further in terms of U.S. production capacity, they could, in fact, become a factor. But at this point, they are not an overwhelming factor.

MR. DUNCAN: My last question is just dealing with clarification. Someone on your panel, and I forget whom, forgive me -- indicated that the industry has lost 100 employees, and I believe it was the industry and not your firm, in particular. Is that correct?

MR. COGLIANDRO: Correct; that's an estimate on our part. It's very difficult for us to estimate to any exact degree. But based on the number of people that we have employed at our SO2 facilities, we did an estimate based on the recent closures.

MR. DUNCAN: Mr. Carpenter, thanks, that's all I have.

MR. CARPENTER: We'll go next to Mr. Trost, the economist.

MR. TROST: Hi, I just had a couple of questions; mostly follow-up to things that other people have covered. First off, there's been a lot of talk about rising transportation costs, shipping costs, of liquid SO2. I was wondering how you thought that would impact use of substitutes.

You said already that other substitutes, the sodium bisulfate and so on, are also very expensive to ship. But one of my questions was, do you think more people will install on-site production of liquid SO2, because the shipping costs are becoming prohibitive, or do you think that's not going to happen?

MR. COGLIANDRO: No, I don't think that there will be a large move. I don't think there will be much of a move at all to install burners.

To justify putting in a burner, you have to be a very large consumer, and you have to be able to absorb the SO2, as Ron indicated, in situ; which means you have to be able to scrub it, okay? When you burn the gas, you have to get rid of that attendant nitrogen, which tends to hold on to that SO2. It is

not an easy process.

So there are some large, very large consumers, like large paper companies, who have these huge baths where they can absorb it. So, no, I don't think there's going to be a lot of substitute to the burner.

In terms of freight, let me make sure I'm clear. SO2 is an anhydrous product, okay? It is 100 percent dry weight by formula. It's 100 percent dry weight material. So when we ship one pound of SO2, we're shipping one pound of product.

In the case of sodium bisulfite, it ships as a 40 percent liquid product. It is 60 percent water weight, okay. So one dollar of freight cost for sodium bisulfite represents two and-a-half times the freight cost of the dry weight. So it is two and-a-half times more expensive, per pound of sodium bisulfate, to ship it.

So the freight rate, for example, on sodium bisulfite, is $40 per ton, per wet ton. Because it is only 40 percent dry weight, the actual freight rate is $100 per ton, per pound of bisulfite. It makes it very expensive to ship it.

MR. DUNCAN: How do the safety regulations impact those R-products -- sodium bisulfate? I mean,

you said they're safer. Is there any cost savings in shipping, say, for product?

MR. COGLIANDRO: Well, sodium bisulfite is rated as a corrosive liquid. It also ships under a corrosive label. So it is also considered a hazardous chemical; not nearly as hazardous as SO2.

By degree, sodium bisulfite is, again, much more expensive to ship, because of its water weight. However, there is a large impact on SO2, a greater impact on SO2 now, because of the hazardous reclassifications by the U.S. Government, okay?

But the price differential, again, I want to point, is so large, you're talking about a product that in today's market, sells at a very, very low net-back, SO2. In many cases, sodium bisulfate is at least two or three times more expensive -- sometimes four times more expensive to use.

MR. DUNCAN: Okay, my other question had to do with, do you have any idea of what percent of costs of downstream product is made up by SO2; specifically, other chemical products that you might be more familiar with, like sodium bisulfate, or anything like that?

MR. COGLIANDRO: What percentage?

MR. DUNCAN: What percent of the costs of

those products is made up by the sulfur dioxide?

MR. COGLIANDRO: I think we submitted some of that information. I'd really like to probably submit that information in the proprietary brief.

MR. DUNCAN: Sure.

MR. COGLIANDRO: We can give you more detailed information about that.

MR. DUNCAN: Okay.

MR. COGLIANDRO: I think we've already prepared some of that information for you. In terms of what percentage of cost represents -- that the SO2 represents a derivative. Is that what you're asking me?

MR. DUNCAN: Yes.

MS. COGLIANDO: We will supply some of that information on the proprietary brief.

MR. DUNCAN: Yes.

MR. COGLIANDRO: Yes, we will supply some of that information on the propriety brief.

MR. DUNCAN: Thanks; I think that's all I had; thanks a lot.

MR. COGLIANDRO: Okay.

THE COURT: Mr. Ascienzo, the supervisor auditor?

MR. ASCIENTO: Good morning, this is John

Ascienzo, thank you.

MR. COGLIANDRO: Good morning.

MR. ASCIENTO: My first question is -- and you don't have to answer it here; you can answer it in your post-conference brief -- could you identify the unit costs associated with the refrigeration and compression of the gas into the liquid?

In other words, if the total cost of goods sold is $150 a ton, just to pick a number, is the refrigeration and compression costs $10, $5, $20, whatever? You can do it now, but you could do it in the post-conference.

MR. COGLIANDRO: We received the information from the Commission. We will address that issue.

MR. ASCIENTO: Okay, thank you -- the next one, and I think the record is clear, but I just want to make sure. It sounds like liquid SO2, is liquid SO2, is liquid SO2, no matter what the process, or whether it's coming from, I guess, the waste product up in Canada. In the end, it's the same. Is that right?

MR. COGLIANDRO: That is correct. The merchantable product is virtually pure. So the processes that we outlined in the petition, there are a variety of process to make the liquid. At the end

of the day, it's the same product. There is no differentiation between the liquid SO2s.

MR. ASCIENTO: Okay, thank you, and then for you, and you can answer post-conference, or for your competitors, let's say, based on your previous response, it doesn't sound like there's going to be any different in the liquid SO2 that's sold commercially, versus the liquid SO2 that's internally consumed, versus the liquid SO2 that's transferred. Is that a fair statement?

MR. COGLIANDRO: Yes, the question you had asked us earlier?

MR. ASCIENTO: Yes.

MR. COGLIANDRO: Yes, for us, there's no difference.

MR. ASCIENTO: There's no difference, okay, So then the follow-on to that question is, in the end, the price of the product that's commercially sold versus the price of the product that's consumed, versus the price of the product that's transferred, should be the same. Is that right?

If the going rate is $100 a ton, just to pick a number, on the commercial market, if the product is the same, the price for everything else, whether it's consumed or transferred, should be $100.

Does that sound right? Is that a fair statement?

MR. COGLIANDRO: Yes, we were going to answer that question for you, also.

MR. ASCIENTO: Okay.

MR. COGLIANDRO: Again, we don't really deal with fair market value on internal manufacture. We deal more on the cost side. We try to transfer cost to the units at which it's being absorbed, as an example. But, yes, I think the answer to that question is, there is no major difference.

So probably, internal, you know, that's a question we're going to ask; what value should we use for that. Fair market value is probably fair market value.

MR. ASCIENTO: Assuming the products are all the same, fair market value, I would say, would be the commercial value, what you're selling for commercially.

MR. COGLIANDRO: Yes, I'd say the average selling price, as an example. Yes, that's what we had discussed.

MR. ASCIENTO: Then this is directed to both parties, Petitioners and the Responding parties. In the event your company internally consumed liquid SO2 or transferred liquid SO2 to a related party, please

amend your questionnaire responses as necessary to include the fair market value of the internally consumed or transferred liquid SO2.

Also, in the event you offset your costs of goods sold and SGNA costs associated with your commercial sales, by which you deem to be the price of the internally consumed or transferred liquid SO2, please change that and report the full cost of goods sold of all the product. Is that clear? I went around that the long way. Did everyone get that?

MR. COGLIANDRO: You would like the full cost of all SO2 that is produced --

MR. ASCIENTO: Yes.

MR. COGLIANDRO: -- whether it's internally consumed, transferred, or sold.

MR. ASCIENTO: Yes, sir, yes.

MR. COGLIANDRO: And for the record, we do not have any related parties. We do not sell to any related parties or transfer product to any related parties.

MR. ASCIENTO: Okay, thank you; you've talked about the 50,000 of capacity that was installed, I believe, and hasn't been used. Once again, you don't have to answer this here. But in case any of the costs associated with that unused

capacity are included in your questionnaire response, could you please indicate where they are and how much they are? You don't have to answer now.

MR. COGLIANDRO: In fact, those costs are not included. We submitted the information. If you look at our capital costs, it is broken down by the three units. We refer to that particular unit as a CIP, capital in progress, so it is not even being depreciated, yet.

Since it was never started, okay, it's basically still on the books at its full capital cost, because it has never been started. So those costs are not being allocated to any of the current costs.

MR. ASCIENTO: Okay, thank you; I've heard a lot about rail car leasing and how expensive it is. Again, if those costs are included in the questionnaire response, could you break them out, could you quantify them and tell us where they are?

MR. COGLIANDRO: Yes.

MR. ASCIENTO: Thank you; there was discussion earlier about increases in natural gas costs and electricity costs, in particular, that are used in the manufacturing process. Once again, you can answer in the post-conference brief.

What I'd like you to do is, give the actual

impact of these cost increases upon your unit cost of goods sold. Once again, if the unit cost of goods sold is $150, could you tell us, like, for instance, now or actually as of June 30th -- well, now and as of June 30th, you know, the cost of natural gas was $1 a ton, $2 a ton, the cost of electricity was $4 a ton or whatever it is, and then compare that to, let's say, 2004, before the prices evidently took off? Is that understood?

MR. COGLIANDRO: Okay.

MR. ASCIENTO: And that's it; thank you very much.

MR. COGLIANDRO: Thank you.

MR. STONE: I have a question on your manufacturing process. You mentioned that after you burn sulfur, there's some sulfur that still has to be removed. Is that removed as elemental sulfur and just recycled back around or is that moved as another sulfur product?

MR. COGLIANDRO: Yes. In essence, that is separated and recycled. That's the way we do it and that's -- as I mentioned, that's a trade secreted process. Well, let me leave it at that, because that's what we do, yes.

MR. STONE: I did have one question --

MR. COGLIANDRO: I'm sorry, and let me just say, it is not used -- it is not recovered for use in other products. It's used for cleaning the SO2 process.

MR. STONE: Okay. And, also, Ms. Weller mentioned the increased in natural gas prices. I was wondering exactly what is the role of natural gas in your process. Is it used to run equipment or is it -- is it later used?

MR. COGLIANDRO: Primarily to run the boilers, which are used in that process. So, we steam and we use a number of other things that require boilers.

MR. STONE: Are you producing electricity at the same time off of this natural gas?

MR. COGLIANDRO: No; no, we do not.

MR. COGLIANDRO: That's all I have.

MR. CORKRAN: Mr. Corkran, the supervisory investigator?

MR. CORKRAN: Thank you, very much, and thank you to everybody for coming to testify today. Your testimony has been very helpful. And I just have a few follow-up questions.

The first one involves two statements today that are, as I understood them, diametrically opposed

and I'd like some help maybe in trying to sort out or explore possible options for why you'd have conflicting statements like this. In the opening statements for the Respondents, prices were characterized as rising and in your testimony, in several instances, you've talked about prices overall declining. The question I had is has there been an overall price decline, but perhaps a recent recovery in prices? Or, two, some industries, for example, will have a product price, but will then have a surcharge and you have talked about your cost structure and how so much of your costs have been increasing. Do you use a surcharge mechanism in this industry? I'm just trying to explore possible options for why some might see prices rising and some might see prices declining.

MR. COGLIANDRO: First of all, one of the places we have seen prices rising over the last three years is in Canada, okay. As soon as we were forced to exit the Canadian market, the prices went straight up. In the U.S., our experience with pricing is, it's been going down. There's been downward pressure on pricing. Maybe the recent price rises that they're talking about are sales we have made to them at very high prices, okay. We sold some product to the

Canadian producers just recently, because of their problems with producing SO2 and by no means were we going to sell that at some low price, okay. We're hurting economically and we were going to sell them at the highest possible number we could sell them, okay.

I am not aware, and, again, I would like you to clearly understand, we have been targeted at certain accounts. We are convinced we are being targeted. And our only experience with that is that those prices are going straight down. The prices -- when competition comes in, clearly, they do not offer a price that matches our price or that even is lowered by two or three or five percent. They offer prices that are 20 and 30 percent lower. So, our experience with merchant market SO2 is that the price is being dramatically lowered at the accounts of which we're dealing.

Where we have tried to sell, okay -- for example, we tried to break into the California market a number of years ago and had a lot of trouble doing it because of the lock that certain Canadian producers had on the California market, long history. When we went to that market, we found that the prices were somewhat higher. As soon as we entered the market, and I think we detailed this in the petition, okay, as

soon as we entered that market -- example, we won a bid in California at a number higher than what we sell in the Texas market. That's somewhat unbelievable. I mean, we have to sell within 100 miles of our plant, we have to sell at numbers that are lower. These locations in Texas are thousands of miles away from the Canadian producers and we're having to meet competition that is much lower priced, okay. They sell at locations closer to them. In California, they were very close to the Canadian manufacturer. In some cases, they were high numbers, because, again, history and all that sort of thing. We hadn't been able to break in there. You know, we're not a household name like IBM, okay.

So, we sell to the account on bid. This was a municipal bid. We sell to the county, win the bid at a higher number than what we had been selling in Texas. We were very pleased to get the business. Within a couple of weeks of winning that bid, the municipality was approached by Cominco. In that particular case, the only two bidders were Marsulex and Calabrian. Now, what's odd about that, out in California, there were never multiple bidders by the Canadians. It was always one would bid and then one would choose not to bid. We turned up in the bid this

time and we win the business. Marsulex was not pleased, but Cominco didn't bid. Within two weeks of us winning that bid, they were complaining to the municipality that they hadn't been given a fair opportunity to bid and told the municipality that they could sell to them at a substantially lower price than what Calabrian won the bid for. Now, the bid hadn't been awarded yet. We had just been advised that we had been the low bidder, hadn't been awarded yet, okay. And sad that they could sell at a substantially lower price.

Now, I will give you the numbers, okay. Normally, I wouldn't do this, but I'm going to give you the numbers. Prior to us participating in that business, the Canadians were selling at $245 per ton delivered into that location, into that municipality. We won the bid at $238 per ton delivered. Marsulex bid $255 a ton delivered. Cominco chose not to bid. As soon as we were awarded the business, Cominco went to the municipality and told them they could offer them product for less than $200 a ton delivered. That is not a fair and competitive market.

MR. CORKRAN: Okay. I think that helps to illuminate, I think, perhaps some of the differences in the perceptions of prices. One other possibility I

wanted to explore is what about prices for product that you mentioned? I believe sodium bisulfite was one that uses sulfur dioxide and can, in some instances, substitute for that. What have been the price trends for products such as that?

MR. COGLIANDRO: Going up; going up; have to go up. Cost is driving those products. But, this is interesting, because sodium bisulfite is not produced or imported, to my knowledge -- well, it's imported a little bit. It's imported from Canada. But, it is not suffering the same kind of price deterioration. And we are forcing the price up. I mean, customers -- the customers in the chemical industry have been battered for years by rising costs. So, as we mentioned, we deal with some very aggressive buyers and very obstinate buyers. They don't want to pay higher costs. They don't want to pay higher prices. At the same time, they have to be realistic about what they pay for products. So, we have met resistance on raising sodium bisulfite prices in the U.S., but we have been successful at raising them because we are not met by competitors, who, in turn, not only don't raise the price, but cut it. So, in those cases, we have been -- the derivatives are going up. Our major customer for derivatives have seen price increases of,

I don't know, 10, 15 percent, at least, over the last year.

So, the derivatives are going up in price, but the costs are escalating more rapidly than the prices can even come up. The cost of selling those products are rising so quickly. I mean, almost on a monthly basis, we get a freight rate increase in a term of a surcharge due to gas prices, the diesel prices. The carriers and the railroads, you know, every time we try to raise our price, it's being met by an increase in cost. So, we aren't even recovering in many cases the cost at which we're selling the increased sales price of the derivative, because it's being offset by increased costs.

MR. CORKRAN: I think that your mention of surcharges brings back the other element that I was wondering about, which is for your longer-term contract prices, do you have escalators built into those contracts? And for your non-contract, you mentioned opened purchase orders -- I know it's not spot -- but at least for your non-contract sales, do you have any sort of a surcharge mechanism to cover your own increase in cost automatically?

MR. COGLIANDRO: Two answers to that. In some cases, we just -- these are bids and we cannot --

whatever the condition of the bid is. In the case of a municipalities, municipalities doesn't allow for price increases and we can't put it in there. Basically, that's a government bid. So, in those cases, we can't put escalators, because if we do, we'll be disqualified. We don't meet the conditions of the bid.

In the other cases, we would love to put escalators into our contracts and in many cases cannot, because no matter what we do, we're faced with -- basically prices are being offered under the conditions of fixed price or no price increases or that sort of approach. So, basically, SO2 is a competitive business. It's a competitive market, okay. If we compete against similar circumstances, we believe we would be able to put surcharges in our contracts. But, we're competing against waste product. And when they sell the product, I mean, basically, we have to respond to what our competitors are doing. So, we aren't given the luxury of being able to put that in the contract, because, bottom line, we wouldn't get the business. And, again, I say, we are trying to sell product just to generate margin today, just to cover fixed costs. I mean, basically, that's our approach. You know, sometimes,

we walk away from business. We don't like to do that, because we understand the economics of manufacture extremely well. Our fixed cost is not going away.

MR. CORKRAN: Forgive me for jumping around a little bit. There are several other topics I'd like to cover briefly. One is, I'm trying to get a handle on what truly limits supply in this industry. We talked a little about capacity, about how you have made additional capacity available, but have not really been able to use it. But, you, also, mentioned, in terms of not being able to accommodate true spot customers, that the availability of railcars was a limiting factor. Can you tell me what, in your business, really limits your ability to sell to new customers or to change substantially the quantities that you're selling to existing customers?

MR. COGLIANDRO: We must make a large capital investment and transportation cost investment for every kind of liquid SO2 that we sell, okay. There is both a handling risk and a real risk of investment when we look at making a sell, every sell, okay. The history of this product, particularly the recent history of this product, has been very uncertain. So, why is the 50,000 tons of capacity sitting there? Because, frankly, we are scared to

bring it on, okay. If we bring that capacity on and spend the additional monies in leasing the additional cars that we would need to basically service this business -- and the availability issue is not that the cars aren't available. They're not available to us, because we have chosen not to lease them. There are cars out there that we can lease. But, the lease commitment is for three to five years and these leases are exceedingly expensive. And once we make the commitment, we cannot turn the cars back in Scott free. We have to pay that lease for three to five years whether we have the business or not.

So, if we lease the cars or if we bring the capacity up, in response to a customer with a contract, okay, which has been our recent experience, and suddenly the contract -- suddenly the customer is offered product that is 20 or 30 percent lower in price, that's a huge risk for us, huge, okay. So, again, I think Tim said it, we are here as a last resort. There is no certainty in the SO2 business. Only one thing is certain: if it continues, we won't be selling it either.

MR. CORKRAN: Is this a product for which there is any sort of stockpile, say, defense logistic stockpile or strategic stockpile of any sort of this

type of product?

MR. COGLIANDRO: No. SO2 is expensive to store. Example, we just priced a new storage tank that would hold, I think it was maybe 100 tons -- I can't remember what it was. We looked at a storage tank for SO2. Cost is about $300,000 just to install a storage tank and that's not a very large one. It's capital intensive. So, there is no practical way to store large amounts of this material.

MR. CORKRAN: One of my last questions is several times, there have been mentions of companies that produce gaseous SO2, typically in the pulp and paper industry and I believe, also, in some of the sweetener industries. Can you give us an idea -- and I know you've said that it's unusual and they tend to be the very largest of those types of companies that can handle that -- can you give us an idea, are we talking about a dozen companies? Two dozen companies? And in terms of their ability to produce gaseous SO2, how does that compare to the commercial market for liquid SO2?

MR. COGLIANDRO: I can't give you the absolute numbers in terms of the tonnages, but I can tell you there are not a lot of people that run their own burners. There are not a lot of companies that

run their own burners. Some of the corn steepers put them in a number of years ago; but, they also happen to be some of our customers, because the burners, themselves, are unreliable, and sometimes -- one of the customers that we lost recently was a corn steeper, one of the ones that we talked about in our discussions. They actually burn at some of their plants, but they, also, buy liquid, because even the burners, themselves, are difficult to maintain and unreliable. But, this is not an overwhelming number of companies. I mean, it's not a huge number of companies that -- and, again, you have to understand, you have to be a rather large consumer. Typically, the smallest burners are probably in the 15,000 ton range. Practical -- I mean, to be economic, you have to be that sized consumer, typically.

MR. CORKRAN: One final question, a portion of the testimony was dedicated to instances where Canadian producers had declared force majeure on some of their deliveries. Have you had to face that or are you aware of other U.S. producers, who have been in a similar situation, having to declare force majeure or basically having to -- even maybe less drastic, but having to tell a customer that you simply could not provide the quantities that they were requiring? And

I don't -- by that -- and that last, I don't mean a new customer. I mean an existing customer.

MR. COGLIANDRO: We have a long history of both using and selling liquid SO2 and I don't remember going back instances of U.S. producers declaring force majeure on SO2, primarily because they were -- first of all, they were primary producers in the business, so they produced it on purpose, okay. It wasn't a resultant product from something else that they were doing. They were making SO2 on purpose.

The first time, the first time since 1996 that we have had difficulty shipping to our customers was this past September with Hurricane Rita. And I've got to tell you, that was uncomfortable experience, okay. But, I must tell you, we did everything we had to do. We bought in generators. We did everything we had to do to get that plant running and within four days, as I explained already. Within four days, we were running.

We didn't declare force majeure on any of our accounts. We delayed some shipments and it caused us some real problems, in terms of those delays. It cost us personally, because we don't like to delay to anybody. But, I'm not aware that we caused anybody any substantial problems because they hadn't gotten a

delivery. I can tell you that there were 17 refineries down in the Gulf, a number of which are still not operating. I can tell you that Mr. Davis, Mr. Davis's company, ChemTrade owns a plant that is five miles from our plant in Beaumont. It was still not operating as of last Friday.

So, you know, are we committed to the SO2 business? Absolutely. We do not and have not and never intended to declare force majeure. We have never done it. And today, we've not declared force majeure. We have never declared force majeure on deliveries of SO2.

MR. CORKRAN: Thank you all, very much, for your testimony. I, very much, appreciate it and have no further questions.

MR. CARPENTER: Thank you. I have a few questions related to the testimony. As I heard the Respondents' opening statement, they indicated that imports decreased from 2002 to 2004, but then increased in the first-half of 2005, because they were pulled into the U.S. market, as a result of capacity that had closed in the U.S. market. Number one, do you agree with that? And number two, in your estimation, do U.S. producers have the capacity to supply all of the merchant market consumption in the

U.S.?

MR. COGLIANDRO: Let me answer the second question first. Yes, I believe the U.S. producers have the capacity to service the entire U.S. market, particularly with the spare capacity we have that is not -- it's just not running at present.

In terms of the imports, part of the reason the imports -- part of the reason there's been this type of cycle, I think, is because of the interruption of supply that has come from Canada. When the Canadian shut down, for whatever reason they shut down, all of a sudden, they're not making product available to the market. And for that period of time, imports declined. But that period of time can be three, four, five weeks and it can be a substantial amount of material, because they flat don't have it. And typically what they do when they do have it, after they come back up, and particularly if they have lost business, okay, which is what happened to them in 2002 and 2003, to us, they lost business to us, is that they will come in and dump the price to get the business back, okay.

And I think that explains some of the variation you see in the numbers. In fact, I think the Canadians are going to claim they have large

internal consumption. They bought one of the largest consumers of SO2 in the United States, further putting pressure on the U.S. industry. The Canadian effort in this country to us has been exceedingly clear. Every year, almost every year, capacity of U.S. manufacturers of SO2 has declined.

Now, they've said in their opening, U.S. companies exited the business. They didn't have an interest. It's very simple, they're in business, okay. The U.S. manufacturer cannot make money. If a U.S. manufacturer, who makes the product on purpose, cannot make money, okay, he's going to exit the U.S. business. He's going to exit the business. That's what Rhodia did. Rhodia was selling product to the Barry Leads plant that Chemtrade bought prior to it becoming -- prior to its ownership by the Canadian product. They were selling to Clariant. Clariant owned that facility. Rhodia fought for its life at that account, at the Leads account, in the face of Chemtrade attacking that account and attacking that account and attacking that account with low-priced import. Finally, my estimation, Rhodia gave up, said I've had enough. They could not make money in the business. And they are a large integrated producer of other sulphur products. They product sulfuric acid.

They produce olium. This is a natural product for them. But, they finally said, the risk does not justify the low returns. So, they exited.

And that's typical for any U.S. manufacturer. Any U.S. manufacturer is going to look at its numbers and decide whether it's going to stay in the business based on its returns. It could not justify the returns, so it exited. No matter what kind of spin, you know, they're going to put on it, that's the bottom line.

MR. CARPENTER: All right, thank you. You mentioned that Canada has regular shutdowns for maintenance. Does Calabrian or any other U.S. producers have to shut down their operations on a regular basis for maintenance issues?

MR. COGLIANDRO: We do not. The Canadian -- let me talk about Canada first and they can better address that. But, the SO2 plants in Canada are directly tied t to the operations of the smelters. The smelters run to produce metals. As a result of burning sulfite ores, they create a sulfur byproduct; in their case, SO2 gas, which has to be all the things we've talked about has to be done to make a liquid. When those smelters don't run, they don't make SO2.

In the case of Calabrian, one of the unique

features of its process is that we have redundancy. We have individual reactors that basically are capable of producing 25,000 tons of product a piece. They are built exactly parallel. They run in parallel. We can run -- we can independently run -- and we really have six, but two are not running -- we have the ability to run each one independently and have redundancy in those reactors. But, they are each built identically. So, if we have to slow down or shut down one to do some maintenance, the other three have the ability to surge produce, to be able to produce what that one may have been down for. And, typically, that's the way we run.

So, maintenance-wise, they're very easy to maintain. They're very easy to maintain. They do require work, but they're easy to maintain. And it doesn't put us in a position where the whole plant ever shuts down. T hat doesn't happen, because they're independent trains. We call them independent trains.

MR. CARPENTER: In providing capacity data to the Commission in the questionnaire responses, did you allow for the scheduled maintenance of individual reactors?

MR. COGLIANDRO: Yes, I did. I gave you figures for name plate and nominal capacity. So, I

adjusted the figures to show if there was -- I allowed for a certain amount of maintenance per year and I was very generous with the amount of time I would leave for maintenance, and we don't experience anywhere near that.

MR. CARPENTER: Thank you. You made the comment, if I understood you correctly, that there are high SO2 prices in Canada, because of no competition. I was just wondering if you could elaborate on that. If there are multiple producers in Canada, why would there be no competition in Canada?

MR. COGLIANDRO: That's a touchy question, okay. But, let me just tell you a little bit about our experience in Canada. In the early 2000s, when we were being -- in the early 2000, when we were being pressured the first time, when we entered the market, because this has been -- this is not the first time these prices have been attacked or we've been attacked. We were attacked before we were even in the market. And when we couldn't get -- we couldn't break into the U.S. market -- we had already sold to a couple of accounts in Texas. When we couldn't bring in to the majority of the U.S. market, we decided to go to Canada. We figured if they could sell at those kind of prices here, we could sell at those kind of

prices there. And what we ran into at the time was very, very high pricing.

We had -- this gentleman had numerous discussions with many Canadian customers. The responses that he got made it clear, clear, that there was no competition in Canada. The competition in Canada was restrained. And, in fact, the consumers were concerned about even buying from Calabrian, because they bought multiple products from some of these producers and had been told if they buy from Calabrian, you won't get the other products.

However, there were certain rebels in Canada, who decided to buy from us and take the chance. And the market price in Canad was substantially higher, even at that time. We sold to some of those accounts. Within a year, the regulations regarding the imports of SO2 changed dramatically and the bottom line is, we were no longer able to import into Canada. We have tried. We tried for five years. We have been working with Transport Canada for five years, to try to get the quotes, permits, that are required to ship SO2 into Canada.

Now, I remind the Commission, there are no permits required to import SO2 from Canada into the United States. However, we now are required to have a

permit. At first, we were told we were not a Canadian producer; therefore, we couldn't get one. Then, when our lawyers finally told Transport Canada that wasn't the case, they finally agreed to give us a draft permit. But, in order to get the final permit, we would be required to tell them the name of every Canadian customer we were negotiating with and we would be required to sign a hold harmless agreement. Both we and the customers would be required to sign a hold harmless agreement, which stated, in essence, that we would indemnify every party from the border through to the customer, okay, involved in the handling and transportation of SO2, if there was an accident. That is absolutely outrageous.

And I complained to may attorneys that that is a violation of the NAFTA agreements. Why should we have to disclose to the Canadian government, who we are negotiating with. I was very suspicious of that, okay. But further, why would we, as a shipper of SO2, the Canadian railroad takes control of the SO2 when it crosses the border. They are responsible for shipping the product. In the U.S., when we release our railcars to a U.S. carrier, they are responsible for the shipment. And if there is an accident, they are responsible for the damage. It happened in one of our

cases. A railcar was involved in a tornado. The rail company paid 100 percent of the cost, not only the damage to the car, but they paid us. They reimbursed us for the cost of the product. Why would we be forced to sign a hold harmless agreement to sell product into Canada? I maintain that is illegal. I maintain that that is a violation of the very NAFTA agreements that we have with Canada.

MR. CARPENTER: Okay. Thanks for your answer. I don't want to get too far into that issue. But, turning to a somewhat different issue, you indicated that, if I understood you correctly, that the liquid SO2 is essentially a waste product, that Canadian smelting operations are a byproduct. And I don't want to put words in your mouth, but I thought you said something to the effect that they were essentially willing to sell in the U.S. at just about any price to obtain some value for this byproduct. Is that more or less what you're saying or am I overstating that?

MR. COGLIANDRO: Not to obtain value, to get rid of it.

MR. CARPENTER: To get rid of it.

MR. COGLIANDRO: And I was told that directly.

MR. CARPENTER: Okay.

MR. COGLIANDRO: I was told that directly, that they will do whatever they have to do to get rid of it.

MR. CARPENTER: Do they have any other outlets for this waste product, for SO2, besides selling into the U.S. market? In other words, if they don't sell into the U.S. market, what happens to the product?

MR. COGLIANDRO: Well, at the meeting I had with Cominco, I asked them why they didn't sell the product to eastern Canada, because they don't sell any product to eastern Canada. They only sell it in western Canada. So, I said, why are you dumping the product in the U.S., why are you selling it there. And he explained to me, well, my rates are cheaper going south and, you know, we can just sell it cheaper there. And then I asked him, well, then how is you ship from Trail British Columbia to a customer in western New York. You can't possibly tell me that you can ship to them, okay, but you can't ship 100 miles north across the Canadian border; why don't you ship it there. Well, we just don't, okay.

Are there other things they can do with it? They make sulphur and sulfuric acid. I assume there

are, but they have chosen to put it here.

MR. CARPENTER: All right. That's helpful. Also, the issue was brought up before that the Mexican imports have lower unit values than the Canadian imports. And I was wondering if you knew anything about the Mexican production process, whether it is somewhat similar to the Canadian, where it's a waste product of another operation.

MR. COGLIANDRO: Yes, of a smelter.

MR. CARPENTER: It's the same situation, then?

MR. COGLIANDRO: Yes. Met-Mex is a smelter. They produce cooper lead. They produce metal, same, similar operation.

MR. CARPENTER: All right, thank you. Mr. School, Driscoll already brought this up, but I just wanted to follow up on it. It seems like there are significant related party issues and to elaborate on that, in your brief, if you want to, if you are planning to make an argument as to whether any U.S. producer, particularly Chemtrade or any other company, whether appropriate circumstances exist to exclude that company from the domestic industry, if you could address the factors that the Commission typically addresses in looking at that issue.

And I think that's all the questions I had. Are there any other questions from staff?

(No other questions from staff.)

MR. CARPENTER: Okay. Thank you, very much, for your presentation. We appreciate you coming here today. At this point, we'll take about a 10-minute break and resume the conference with Respondents coming forward.

(Whereupon, a brief recess was taken.)

MR. CARPENTER: Welcome, please proceed whenever you're ready.

MR. HERTZBERG: I am Michael Hertzberg of the Howrey law firm and I am accompanied today by Mark Davis, the CEO of Chemtrade Logistics, Inc, and Chemtrade Logistics U.S., Inc. ChemTrade Logistics U.S. is a U.S. domestic manufacturer of liquid sulfur dioxide, I'm going to call it SO2, in Cairo, Ohio, and an importer of Canadian SO2. I'm also accompanied by my partner, Juliana Confrancesco, at least I thought I was until I looked around, and our economist Susan Manning of the CapAnalysis Group. Mark Davis and I will present the testimony on behalf of Chemtrade and all of us are available to answer your questions.

I might start by saying that if you're inclined to buy Petitioner's story, I have two

slightly used lottery tickets from yesterday. If anyone is interested, they can see me after the conference. Chemtrade Logistics U.S. is a strong viable member of the U.S. domestic SO2 industry that stands firmly opposed to the Calabrian antidumping petition. Chemtrade's Cairo plant has been in operation longer than Petitioners' plant. It's been producing SO2 for more than 20 years.

Chemtrade, also, operates sodium hydrosulfite plants in Leed, South Carolina and in Kalama, Washington. SO2 is a raw material for production of sodium hydrosulfite, among numerous other products. During the POI, Chemtrade, as a sodium hydrosulfite producer, was also an important customer for SO2, obtaining SO2 supply from its own Cairo production plant, from other U.S. SO2 producers, and from Canada and Mexico. Chemtrade is also a marketer of SO2 produced in Canada by Falcon Bridge and Inco for sale in Canada and export to the U.S. Chemtrade also imports Mexican SO2 primarily as a feedstock for Chemtrade sodium hydrosulfite operations in the United States. Chemtrade or its predecessors have participated in the Canadian and U.S. SO2 market for at least 50 years.

To date, only Petitioner Calabrian has taken

a public position in support of this petition. No other member of the domestic SO2 industry has made any claim publicly that it is materially injured or faces such threat. Olen is neutral. Chemtrade opposes. There is no public information regarding the stand of PVS or other suppliers, Rhodia and possibly Thatcher that produced for part of this period.

The antidumping law is very clear that the injury must be to the domestic industry as a whole, not to a single entity. The Commission should give great weight to the absence of any real support from the domestic industry regarding this petition. In the absence of claims, testimony, and proffer of evidence from other U.S. producers, Calabrian's claims of alleged injury or threat ring completely hollow.

Chemtrade's U.S. producer questionnaire response demonstrates that Chemtrade's U.S. SO2 operations are not injured and we vigorously oppose Calabrian claims that we, they, or any other domestic producer in the U.S. SO2 industry is materially injured. Of the existing producers, Olin announced its neutrality in this case by a letter attached to the petition. It makes no assertion of injury. PVS has not appeared, nor has made any public claim of injury. The Department of Commerce is investigating

whether any other domestic entity that operated during the period of investigation even supports Calabrian's claims.

The petition, itself, provides no, absolutely no support at all for Calabrian's bald assertion that the domestic industry, as a whole, is injured. Let us look at the evidence here. No aggregation of the alleged industry injury and no single piece of evidence that any other industry member is injured was supplied with the petition. That leaves PVS, Olin, Rhodia, and Chemtrade unaccounted for in the petition. As to PVS, Petitioner, itself, asserts at page 29 of its petition that PVS did not compete with Canadian imports. Under Petitioner's theory, therefore, Canadian imports had no adverse impact on PVS. Olin makes no claim of injury and has stayed neutral. As to Chemtrade, our questionnaire response shows healthy U.S. financial performance.

As for Petitioner, what is known publicly about Calabrian is that it has grown tremendously since it began operations in 1990 and has expanded on its success by moving into the merchant market as of 1996. In fact, Calabrian touts its success and its ability to increase its market share and sales to

become the largest U.S. SO2 producer between 2000 and 2004, apparently at the expense of a number of U.S. producers that closed during this same period, see page 31. Petitioner, itself, links its own assent in sales and market share as a result of these U.S. closures. As far as Calabrian's questionnaire response, we can't comment here. We wish we could, but we'll do so in our post-conference brief. In short, however, public information showing dramatically increased production, capacity, sales, and market share are not all marks of injury. Rather, they show Calabrian's SO2 business to be well positioned and healthy.

The weakness of Calabrian's claims are also exposed by Calabrian's efforts to eliminate the views and positions of U.S. SO2 producers PVS and Chemtrade from consideration. Chemtrade is a legitimate U.S. producer of SO2 in Cairo. That's in Ohio. Chemtrade has invested significantly in its U.S. operations, has made and is making a significant commitment to its employees and customers in the United States, and utilizes its plant to support its own significant downstream U.S. manufacturing operations in Leed, South Carolina. Chemtrade is the largest sodium hydrosulfite producer in North America. Its Leed,

South Carolina facility is the largest North American sodium hydrosulfite production site and Chemtrade is the only producer of both powder and liquid sodium hydrosulfite.

SO2 is an essential raw material for production of sodium hydrosulfite. As part of the domestic industry, we welcome the Commission staff to visit our Cairo, Ohio SO2 facility, to kick the tires and to meet our employees, who cannot believe anyone can claim they are not part of the domestic industry. In fact, but for SO2, the Cairo facility might not exist. Virtually all merchant sulfuric acid plants have closed for economic reasons and this facility includes a small acid plant. This facility exists only because of the positive SO2 contribution to overall operations. In fact, we believe that neither PVS nor Chemtrade could operate their sulfuric acid production businesses without the positive contribution by their SO2 operations.

Calabrian's claim that PVS should be eliminated from the domestic industry because it is somehow controlled by Chemtrade or depends on Canadian imports is just flat out totally fallacious. Chemtrade and PVS are competitors in the U.S. SO2 business. There is no SO2 marketing agreement and

there never has been one between PVS and ChemTrade, as Petitioner alleges in its petition at page 29 and as we heard earlier today. Moreover, we are unaware of PVS acting as an importer from Canada.

That Calabrian would make technical arguments and request the trade agencies to exert their discretion against legitimate U.S. producers, rather than demonstrate real U.S. industry support for their petition or any evidence of injury to the industry as a whole, demonstrates the weakness of the Calabrian petition. We, also, believe that should either of the trade agencies determine to ignore Chemtrade as part of the United States SO2 industry, it would be a potential violation of the national treatment provisions of NAFTA, Chapter 11.

As I indicated earlier, the domestic industry members have not been harmed by Canadian imports. While no analysis or commentary regarding Calabrian's actual condition can be made by us in this forum, to the extent the Commission determines that Calabrian's business reflects weakness or is out of line with the results of other U.S. producers, it must explore why. We will address certain issues presented by Calabrian's questionnaire response in our post-conference APO brief. However, there is no doubt that

Calabrian's admitted and well-known excess capacity has necessarily impacted its operating results. In addition, we understand from customers that during the POI, Calabrian has failed to supply SO2 commitments it contracted for and that it has refused to supply certain customers that would not commit to single-source arrangements with Calabrian. Calabrian has also unilaterally cease to supply fully commitments to customers on several occasions when customers elected to switch suppliers. Production shortfalls resulting from these decisions cannot be attributed to Canadian exports.

The U.S. SO2 market has declined throughout the period of investigation. Based on official U.S. Census statistics, total U.S. apparent consumption of SO2 in the merchant market declined from 128,500 metric tons in 2002, to about 104,000 in 2004, or by 19.2 percent. In interim 2005, an additional three percent drop occurred. Petitioner acknowledges this decline caused by shrinkage in certain markets for SO2, such as for waste water management or water purification and textiles, and a shift of certain large customers for procurement of SO2 to production of their own gaseous sulfur dioxide. There has also been a major decline in the corn processing industry

due to substitution by sodium bisulfite, SBS, or conversion to gaseous production by former customers. We believe this has affected Calabrian, as well.

For example, in 2002, we were selling SO2 from our Cairo plant to Cargill for corn processing applications. Calabrian took this account by offering lower prices. However, shortly, thereafter, Cargill switched to procurement of sulfur bisulfite as a direct substitute for SO2. Similarly, the use of SO2 to produce sodium hydrosulfite onsite at paper mills has virtually disappeared during the POI, in favor of sodium bisulfite as a direct substitute. In fact, there is pricing pressure on SO2 for all producers due to the increasing usage of SBS, which Calabrian, itself, may have benefitted from, and an increasingly competitive environment for sodium hydrosulfite, which constrains raw material pricing, including SO2 prices.

At the same time that decline and demand was gathering steam, Calabrian inexplicably determined to add substantial production capacity. In fact, it determined to add 50,000 short tons to its own capacity in 2003, thus increasing its capacity to 150,000 short tons; see the petition on this. This substantial addition of capacity in 2003 makes no sense, given that the 21st century U.S. merchant market

peaked in 2002 at 128,585 metric tons according to public census information. By 2004, Calabrian's own published capacity exceeded the entire size of the U.S. merchant market, by approximately 8,000 short tons. This excess capacity overhang is a major reason for any difficulty that Calabrian may be experiencing and an important factor in price levels in the U.S. market. While Calabrian claims that various U.S. producers were forced to close their facilities due to Canadian imports, nothing is further from the truth. And I'm going to let Mark Davis address that point.

MR. DAVIS: Good afternoon. In 2002, Rhodia did shut down its Hammond plant, as the Petitioner alleges, and its annual capacity, about 12,000 short tons. They, also, allege in the same year, Rhodia sold one of its plants to PVS. In fact, what actually happened is Rhodia shut down -- Rodea sold its U.S. customer market list and contracts to PVS and did shut down its plants in 2000. Rhodia then sold one of the plants at Baton Rouge with the capacity of 25,000 tons to PVS, another U.S. producer, that allowed PVS to service the customers that acquires part of the transactions. And then, Rhodia shut down their remaining plants later on in that year.

The Petitioner, also, states in 2000,

Marxellex, one of the Canadian producers, shut down a plant in Copper Hill, Tennessee, with an annual capacity of 45,000 tons. In fact, Marsulex had purchased Copper Hill in 1998 and subsequently decided to close the site and sell the assets, including the SO2 plant, to management on site. The site was closed, because the sulfuric acid plant, which is a primary reason for that site, was no longer competitive. Every ton of sulfuric acid it made it sold at a loss and Marsulex determined to close that plant. I know this for a fact, because at the time, I was president of Marsulex and I closed the plant. We couldn't run the SO2 plant without the acid plant and the acid plant made no economic sense.

In 2002, the Petitioner states that Clariant had shut down its plant in Bucks, Alabama, with an annual capacity of 65,000 tons, he claims, due to Canadian imports. In fact, Clariant chose to stop producing SO2 due to safety reasons at Bux, Alabama. There had been a major incident and I believe a fatality there. They decided to close down that plant for safety and cost reasons and consolidate their production of all of its sodium hydrosulfite business at Leed, South Carolina that was then owned by Clariant. Clariant decided to contract all of its SO2

requirements at Leed for merchant market suppliers, including Chemtrade, and also entered into an agreement with Rhodia, a U.S. producer, that saw Rhodia restart its SO2 plant in Baton Rouge that had been shut down earlier. Clariant then stopped production at Bucks, Alabama in July of 2000 and increased its purchases from Chemtrade, Rhodia, and others, due to safety concerns and cost saving measures at its Alabama plant, and not as a result of Canadian imports. Subsequently, Chemtrade purchased the sodium hydrosulfite business from Clariant in late December 2002, and inherited the SO2 supplied contract from Rhodia's plants, as part of the assets of the transaction.

The Petitioners goes on to state in 2001, Hydrite shut down its sulfur dioxide plant in Iowa. In fact, Hydrite used SO2 primarily to supply its captive requirements to produce sodium bisulfite for resale in the U.S. Midwest. It did not need to do the step of liquefying SO2 to produce SBS and opted to produce SBS by burning sulfur and reacting gaseous SO2 to produce SO2 SBS. Producing SBS this route was considerably safer and more economical without the cost of liquefying SO2 gas. To our knowledge, Hydrite never established a merchant market presence in the

SO2 market, as a plant with new technology, which never proved to be reliable. Accordingly, Hydrite shut down its SO2 plant due to safety, cost, and reliability concerns, not to the Canadian imports.

Finally, the petition states that in 2004, Rhodia shut down its two remaining plants in Baton Rouge and Houston, with capacity of 68,000 tons. Again, in this case, the facts are this: Rhodia actually approached Chemtrade, who was Rhodia's largest customer for SO2 for production at our Leed's plant and they inquired whether we would be interested in acquiring the assets of its SO2 business. Rhodia told us that they wanted to exit the SO2 business due to safety concerns, such as the fact that its SO2 plant was located across the fence of a school in Houston, Texas. Accordingly, Rhodia shut down its plants in Houston, Texas and Baton Rouge, again to a desire to exit the business for safety and environmental reasons, not as a result of Canadian imports.

MR. HERTZBERG: I've never understood the zoning laws in Houston; but, in any event, I think these examples demonstrate the substantial credibility caps in the petition. They are not alone, but it's a good example of some of the credibility gaps.

Chemtrade exports SO2 that is produced by Canadian smelter operators, Inco and Falcon Bridge. This is not a new business or one that is targeted at Calabrian or any other domestic producer of liquid SO2. In fact, predecessor companies to Chemtrade have engaged in this business with the U.S., as I said, for at least 50 years and we just didn't have anybody there that went back that far that could tell us how much farther it went back, long before Calabrian entered the merchant market in 1996. Many of our merchant market customers predate Calabrian's existence. Moreover, Canadian SO2 supply has historically been a welcome alternative source of supply in the American market and a necessary alternate since supply outages for a variety of reasons required users to multi-source. Producers of SO2 in North America have faced supply dislocation issues on numerous occasions, including strikes, plant shut downs, accidents, plant imbalances, environmental control issues, and weather. Currently, the market is very tight because of just this type of thing. Tech Cominco, another Canadian producer, is going to speak in a few minutes, was on strike. Falcon Bridge is currently on strike. And Calabrian was affected by Hurricane Rita. Moreover, both as a Canadian supplier

and a U.S. customer, we know our Canadian prices do not lead the market by any stretch of the imagination. Our questionnaire responses will reflect this fact.

To the extent there has been price erosion, it appears to us that any price declines are attributable to the shrinking market for SO2, the impact of competitive products, and the fact that Calabrian added substantial capacity even as third-party market analysts were projecting that existing capacity was sufficient to supply foreseeable market needs even as of 2000, see Exhibit 2 to the petition.

Petitioner, also, placed some emphasis this morning on the decline in spot sales, or at least that's how we understood the testimony. Chemtrade does not sell in the spot market. Moreover, a significant portion of Canadian imports do not enter the merchant market or compete with Calabrian or any other merchant suppliers in any way. We supply our affiliated SHS, sodium hydrosulfite production facility in Leed, South Carolina, with a combination of Chemtrade U.S. domestic shipments, supply from other U.S. SO2 vendors, and Mexican and Canadian SO2 imports. Like most U.S. chemical producers, we value those multiple sources.

Further, Petitioner's injury story does not

jive with the import statistics. During the POI, Canadian imports declined from 47,863 metric tons, to 42,657, that's 10.9 percent, according to Custom statistics. Chemtrade's Canadian imports for its own captive consumption increased during this period due to R's U.S. supply exiting the market and Canadian supply to the merchant market declined and Rhodia was no longer supplying the Leed, South Carolina plant. And Canadian supply to the merchant market declined even more rapidly than the statistics show. Our importer questionnaire response also reflects a significant drop in Chemtrade's merchant market sales during the POI.

Petitioner, also, seems to ignore the untold story of Mexican supply of SO2 to the U.S. market. The facts will clearly demonstrate that Mexican imports of SO2 have been substantially lower in price than Canadian imports during the POI. Chemtrade, itself, imports from Mexico, as a result of acquiring the Clariant sodium hydrosulfite business in the U.S. on December 30, 2002. Chemtrade inherited a supply contract for the Leed sodium hydrosulfite plant with a Mexican supplier. But during the 2002 to 2004 period, there were substantial quantities of Mexican imports by others and a significant quantity of Mexican

material was sold in the Gulf region where Calabrian competes most heavily. Mexican material is presumptively fair value traded and as a commodity product, had an impact on overall market pricing. Clearly, this impact cannot be attributed to Canadian imports.

While demand conditions have been the main detriment of prices, Calabrian's own price strategy may relate to its own significant excess capacity. To our knowledge, Calabrian is the only North American producer that has significant SO2 excess capacity. This excess capacity is likely to have been a major factor in Calabrian's operating results.

Calabrian's petition claims regarding Canadian capacity are significantly overstated and the Commission will be able to examine the actual data. Equally important to note is the fact that Canadian SO2 import competition with U.S. SO2 producers, including Calabrian, is highly attenuated in several ways. Captive consumption accounts for a significant part of domestic consumption. In addition to the fact that a significant portion of Chemtrade's imports are made for Chemtrade's captive production, Calabrian and Olen are known to produce significant quantities of SO2 for their own internal consumption. This portion

of the domestic U.S. industry, which is significant, does not compete at all with Canadian SO2 imports. Moreover, there is some geographic attenuation, as well, because freight is a cost all producers want to minimize. Petitioner's implication that Canadian suppliers somehow allocate customers is totally unfounded. Rather, geographic realities may have a lot to do with who competes for particular opportunities.

We believe Calabrian ships and competes much more heavily in the truck delivery market than Canadian suppliers do, and that Calabrian has focused primarily on its regional market. This results in additional attenuation, as well, as most of that competition would be with Mexican and U.S. production. Calabrian's petition attempts to show that Calabrian is injured by failing to obtain list prices, we heard that quite a few times this morning, from customers. In point of fact, list prices in the chemical industry, as you well know, are generally meaningless and this is the case in the SO2 business, as well.

Just as Calabrian's claims about Canadian capacity were highly exaggerated, there is no truth to Calabrian's claims that the Canadian SO2 market is closed to U.S. competitors. It is an open market. To

date, Calabrian simply failed to commit to adequate emergency response capability in Canada, which is a requirement to trade in Canada. Until Calabrian conforms to requisite business practices in Canada, it's unlikely to find Canadian customers.

Finally, to the extent Petitioner has made any specific claims regarding lost sales or revenues to Chemtrade, the Commission should be very careful to determine whether the competition was really with Canadian product or with Chemtrades's U.S. production. Calabrian may also be confusing Mexican material with Canadian production, and we'll illustrate some examples of that later.

The Petitioner's threat claims are equally spurious. Canadian exports have been declining over the POI, as Canadian exports to the merchant market. Petitioner's claims regarding Canadian capacity are without factual support, as I mentioned. We are simply unaware of any announcements of further additional capacity and any issues that relate to capacity. As for Petitioner's claim that Canadian imports have required greater market share due to closure of U.S. facilities, this certainly cannot be blamed on Canadian imports, because the reasons for these plants have nothing to do with imports.

Moreover, the U.S. industry share of the U.S. merchant market, we believe, has increased during the POI, contrary to Petitioner's assertions.

For all of these reasons, the Commission should render a negative determination in this preliminary investigation, find there's no reasonable indication of materially injury or threat by reason of SO2 imports from Canada. Thank you.

MR. GRIFFITH: Good afternoon, Mr. Carpenter, members of the staff. My name again is Spencer Griffith of the law firm, Akin Gump here today on behalf of Tech Cominco. I am going to turn this over to our panel momentarily, but I'd like to make two preliminary comments, if I could.

First of all, price. There's been a lot of discussion from Petitioners this morning on price. You heard time and time again that they claim prices have plummeted in the U.S. market. Well, we urge the Commission staff, as you're looking at this record, don't listen to his rhetoric, look at the numbers before you in the record. You will be seeing an exhibit, Exhibit 1, that Mr. Klett will be referencing. This is a U.S. Bureau of Census chart of U.S. producers' prices. Mr. Cogliandro seems to see conspiracy around every corner. Well, apparently, the

U.S. Bureau of Census is part of the conspiracy. This shows rising U.S. prices through 2005. This does not show declining prices. We, also, urge the Commission staff to look at the questionnaire responses, to again see what the actual numbers show, not what his rhetoric show.

Second, speaking of rhetoric, there was an allegation this morning from Mr. Cogliandro that a representative of Tech Cominco said that Tech Cominco would sell at whatever price necessary to get the sales. That is simply untrue and incorrect. How do I know this? The person with whom he was speaking is sitting here next to me, Mr. Paolone. Mr. Paolone will tell you that it's simply an untrue statement. He did not make those representations.

Having said those two preliminary comments, I'd like to now turn to Mr. Paolone and then we'll follow with Dan Klett.

MR. PAOLONE: Good afternoon. My name is Steve Paolone and I'm the manager of Tech Cominco American industrial chemical sales group based in Spokane, Washington. I manage and am responsible for the company's sales of liquid sulfur dioxide produced by our affiliated company, Tech Cominco Metals, based in Trail, British Columbia. Through our Spokane sales

office, we sell the liquid sulfur dioxide and other chemical products to a wide range of customers.

As for myself, I've been with the company for 26 years. I have an engineer background, worked at the Trail plant for seven years as a production engineer, and I've been on the sales side of the business for Tech Cominco since 1986. And I'm familiar with both the production and sales aspect of the sulfur dioxide markets.

Tech Cominco is a major worldwide company and a producer of a number of products, including sulfur dioxide. We produce sulfur dioxide at our Trail, British Columbia operation, as a byproduct of our lead-zinc smelter. The cooling condensing line at our Trail facility limits our sulfur dioxide production. Our sulfur dioxide production at Trail runs continuously throughout the year. The only shutdown scheduled at our plant are short eight-hour maintenance shutdowns and, also, we do maintain a fairly significant inventory of sulfur dioxide in railcars at the plant at Trail.

Tech Cominco has been a steady long-term supplier to the North American market. We have been in the U.S. sulfur dioxide market for over 25 years, and that's as far back as I could find records. We

manufacture and sell a high-quality sulfur dioxide product and have a reputation as a reputable steady supplier, as evidenced by the fact that we have a long-term relationship with most of our major U.S. customers. We sell to a wide range of customers, including end users and distributors, in different industries, in both the U.S. and Canada.

Our U.S. customers include customers in a variety of industry, including pulp and paper manufacturing, water treatment -- waste water treatment, sorry, and the chemical industries. Tech Cominco did recently experience a strike at its operation from July 19th and it ended on October 6th. During this period, we did not produce sulfur dioxide at our plant at Trail, so we did not run. This is our first labor disruption at that plant since 1989. Our sulfur dioxide facility in Trail is now back on line and we are shipping product to our customers.

Given our status as a high-quality reliable supplier, Tech Cominco has a long-term relationship with most of our customers. Prices and volumes are negotiated when contracts are renewed. For some customers, such as municipalities, we submit bids in response to RFQs, and I'll discuss that a little bit more later on in my testimony. Price and quantities

are usually set out in the contract, but volumes can be subject to change over the course of the contract. The market is competitive. We win some bids and we lose others. We have lost business to Calabrian and other U.S. producers and we have taken business from Calabrian and other U.S. producers; so, it's back and forth.

Although liquid sulfur dioxide is interchangeable, purchase decisions are also made on the basis of other factors, in addition to price. Non-price factors are important in the industry, particularly the ability to supply steady volumes over the life of the contract and your status as a reliable long-term supplier. Our company excels in this area. Also, customers look to us and other suppliers for assistance, such as customer support in the form of safety audits, safety training, given the hazardous nature of the product, and the safety and care that must be undertaken in its transportation and handling.

Calabrian, in its petition, implies that it's somehow unusual or suspect that some times it meets competition from only one Canadian producer at a given customer. If this is true, this is not surprising. Given that a Canadian producer's ability to compete for a given account is a function of high

transportation cost in the industry and the location of sulfur dioxide plants in relationship to the customer's locations. In addition, Calabrian alleges that the government of Canada somehow imposes discriminatory regulations on Calabrian that prevent it from shipping liquid sulfur dioxide effective to Canada. This assertion is simply incorrect, as evidenced by the fact that U.S. producer are exporting liquid sulfur dioxide to Canada, as shown by the Canadian import statistics. Also, we, ourselves, have imported U.S. sulfur dioxide into Canada without problem.

As noted, in this industry, the ability to reliably supply committed volumes to U.S. customers is critical. And we have first-hand experience with Calabrian's inability to supply committed customer volumes to their customers. During the Tech Cominco strike, we did enter into a purchase for resale agreement with Calabrian to supply certain volumes of liquid sulfur dioxide to certain of our U.S. and Canadian customers in our railcars. Calabrian, however, failed to ship as much as they promised, even after Hurricane Rita. Calabrian's failure to supply the volumes it committed to is particularly surprising and important, in light of Calabrian's claim in the

petition that they have large excess capacity that they are unable to use due to Canadian imports. And in the recent past here, we've had two instances where U.S. customers have come to us, Cardeal and County of Sacramento, and have told us that Calabrian cannot reliably supply their SO2 needs. And as a result, these U.S. purchasers are looking for other sources of sulfur dioxide.

I would like to comment on Calabrian's claim that at a meeting, I stated that we have excess SO2 available and would sell it at any price. This is not true. Our U.S. sales numbers over the last four years would indicate that this is simply not the case.

There was also a comment made about the price that was offered to us on the purchase for resale material. I just want to state that at no time did I tell Calabrian that the price was a fair number. It was not negotiable and we took it directly to our customers and sold it to them on a flow through basis.

I understand that in most injury cases, the ITC see significantly increasing imports. It's important, however, here that is not the case. Our company's export volumes to the U.S., in fact, have been stable over the POI. Moreover, Tech Cominco has not increased exports to the U.S. in 2005. Indeed,

exports to the U.S. from our company during the first-half of 2005 were very similar to our first-half 2004 exports.

Petitioner alleges that since 2004, Canadian producers have targeted their company. Our company has only taken on one new U.S. customer since 2004. That customer was one that we previously sold to for many years and that was the northwest customer that he talked about. And I just got a quick note on that. I just want you to know that we got approached by that customer to offer pricing. They offered to have us quote a price for a portion of their business and that was in the fall of 2004 and we offered them pricing based on that request for quotation from them.

MR. PAOLONE: In addition to the fact that our experts have been steady, our company's U.S. pricing has been stable or increasing over the POI. Our company has not experienced declining prices in the U.S. market. The lower unit value showing up in the import statistics do not reflect our own company's pricing.

In addition, to the extent that any pricing in the U.S. market has declined, they would be a function of factors other than imports including the fact that some customer substitute other products like

sodium bisulfite or ammonium bisulfite for liquid sulfur dioxide, given that they are safer and easier for the customers to handle than liquid sulfur dioxide.

This conversion from SO_2 to other products has put downward pressure on the prices for SO_2. For example, I understand that Calabrian was supplying Cargill with liquid sulfur dioxide to a number of their facilities. Cargill, however, converted all but one of their plants to an alternative chemical and thus Calabrian lost a good portion of the business. This is just one example of how other factors other than imports are impacting Calabrian's operation.

We in the past three years have also lost some SO_2 customers when they have converted to other chemicals as well.

In addressing Calabrian's claim that SO_2 pricing has decreased from a 230 U.S. dollar per ton FOB production plant price in the late 1990s, I would like to remind Calabrian that Tech Cominco sold over 20,000 tons of sulfur dioxide in the last three years of the 1990s to the Calabrian Texas operation at a delivered price of $169 U.S. per short ton, delivered to their plant, and in turn they did, some of it was on a purchase for resale basis.

Make no mistake, Calabrian knew the price they paid was indicative of the overall market pricing.

Petitioner alleges in the public version of the petition that significant amounts of U.S. capacity have been closed because of imports. We believe that the U.S. capacity has been closed for reasons other than imports, and I do have one specific example.

Thatcher's liquid sulfur dioxide capacity was closed in 1999. Not because of sulfur dioxide pricing, because the company had experienced product quality issues with their own liquid sulfur dioxide production and made a business decision that liquid sulfur dioxide production was not part of its core business, particularly given the hazardous nature of the chemical.

We have sold sulfur dioxide to Thatcher from 1999 to the present. And in 2001 they offered to sell us their unused, or their SO_2 production equipment which was at that time unused.

In addition, Petitioner's claim that U.S. capacity was closed as a result of increasing Canadian imports is contracted by the simple fact that during the 2002-2004 period imports from Canada declined. It thus makes no sense to say that imports from Canada

caused the capacity to close.

Also, to the extent that the total imports from Canada increased slightly in 2005, this would be due in good measure to the fact that those imports were being pulled in after U.S. capacity had been closed.

Calabrian's petition also ignores the fact that Calabrian's feedstock prices have increased dramatically over the POI, although I did hear them mention some of that today.

Their two main feedstock inputs to their liquid sulfur dioxide production are sulfur and oxygen. We know for a fact that both oxygen and sulfur have increased dramatically in price. We know that sulfur prices have increased by about 50 percent since 2001.

Finally, there is no evidence that Canadian producers threaten the U.S. industry. Tech Cominco's exports to the U.S. have been stable. We do not project increases in our 2006 shipments. There is no reason why Canadian shipments to the U.S. should increase in the near future. The Canadian market is strong and stable.

The petition overstates our capacity at Trail and we have provided the correct capacity in our

questionnaire response. We have not increased our capacity.

Tech Cominco has strong capacity utilization numbers and to the extent that we have excess capacity in the past we have not increased our exports to the U.S..

Also, there is no Canadian capacity planned, to my knowledge. Moreover, there is no indication that major U.S. customers who have not already converted to other chemicals will do so in the near future. The market seems to have rationalized to current consumption levels.

Thank you for letting me address you on this important issue.

MR. KLETT: Good afternoon. My name is Daniel Klett. I'm an economist with Capital Trade, Incorporated testifying on behalf of Tech Cominco. I will address certain volume, price and impact issues.

Regarding volume effects, sulfur dioxide imports from Canada declined from 2002 to 2004. Therefore any increase in Canada's share of the U.S. market over this period that may have occurred would be completely attributable to faster declines in U.S. production and shipments.

And as you have heard, these declines were

the result of U.S. producers closing sulfur dioxide capacity for reasons having nothing to do with the pricing of sulfur dioxide imports from Canada.

Your questionnaire data will need to be relied upon for what has actually occurred with regard to total U.S. production shipments and market share trends and we will provide this analysis in our post-conference brief. But to put any decline in context, the exit of Rodea alone from the U.S. market in 2004 resulted in a decline in SO_2 name plate capacity of 68,000 tons. You heard from Mr. Davis as to why Rodea exited the U.S. market.

The petition focuses on 2005, and import volume from Canada has increased in 2005 over 2004 levels, but this also was in part in response to the decline in U.S. sulfur dioxide capacity. It was not a cause of the decline.

Also, to put this increase in perspective, sulfur dioxide imports from Canada in the first eight months of 2005 were just over 1,000 short tons, or 2.5 percent higher than they were in 2002, and the 2005 number's annualized. 2002 is the first year of the POI.

I don't see how Calabrian can justify its assertion this morning that subject import volumes

have "surged". The data just don't support this assertion.

Moreover, when looking at import volume and market share trends for causation analysis, the Commission cannot look just at the volume of imports coming into the U.S. but must also look at what happens to the imports once they're in the U.S. market. You heard that Chem Trade captively consumes some of the SO_2 volume that imports from Canada in the production of other downstream chemicals. This is import volume that never enters the merchant market in competition with Calabrian or any other U.S. SO_2 producer.

Regarding price and its determination of whether the U.S. producers' prices have been depressed or suppressed by subject imports, the Commission looks at a multitude of factors, not just the degree of underselling on a nominal basis in each quarter. I say this because quarterly prices were collected on an FOB basis from both U.S. producers and importers so do not include U.S. inland freight which is significant.

For this reason, price comparisons in any particular quarter will not necessarily reflect competitive price levels and should be given little weight by the Commission.

However the Commission evaluates the same price data in other ways for its determination of whether competition from subject imports depressed or suppressed U.S. producers' prices. These include the extent to which U.S. and import prices were correlated over time, relationships between relative prices in market share changes, and the possible effects on price levels or profitability of non-import factors such as changes in raw material costs or market demand. Our post-conference brief will analyze these factors which will demonstrate the absence of adverse price effects from subject imports.

This brings me to another point of raw material and other cost trends. Calabrian stated this morning that it has faced increasing costs and that it could have increased its prices to cover these cost increases but for competition from subject imports. However as you heard earlier, sulfur dioxide is facing decreasing demand due to its hazardous nature and increased competition from other chemicals such as hydrogen peroxide, sodium bisulfite and ammonium bisulfite. The presumption that prices should increase in lock step with any cost increases to preserve profit margins is incorrect given these other competitive pressures.

Regarding the impact of subject imports on the U.S. industry, the Commission may find some instances of confirmed lost sales or lost revenues or, as Calabrian testified this morning, customers may be targeted. But this is to be expected in any competitive market.

You heard that Tech Cominco loses sales to Calabrian and sometimes has to reduce its price to maintain sales at individual accounts.

For anecdotal instances of confirmed lost sales or lost revenues to be meaningful, however, for any other individual customer anecdotal accounts to be meaningful, the adverse effects must be manifest in the aggregate industry data. As has been discussed, there may have been declines in aggregate U.S. industry SO_2 volume but I'll repeat here the point that has already been made because it is so important to this proceeding. Any declines in U.S. production that were the result of closures of U.S. sulfur dioxide capacity for some U.S. producers were for reasons other than subject import competition, and you've heard direct testimony from our witnesses today relating to why those plants closed.

Furthermore, Calabrian has made many allegations of lost sales and lost revenue in its

petition this morning and I assume the Commission staff will attempt to verify these allegations based on contact information provided by Calabrian for these same customers which is information normally provided by a Petitioner with lost sale and lost revenue allegations.

I'd also like to comment on the allegations of depressed prices contained in the Petition which goes all the way back to 2000 in some cases, the base year, to support its allegations of adverse price effects and relies on list prices.

Price data for U.S. producer shipments on an FOB basis as reported in the Census Current Industrial Reports, and you have before you Exhibit 1 which are the unit values from that data. They show fairly stable prices from 2002 to 2004 in the $150 per short ton range, and that increases in 2005.

Of course you'll have to rely on your own questionnaire data, but I don't think those data will support the contention made by Calabrian this morning of significant price reductions during the POI.

Finally, the Commission also looks at aggregate industry profitability trends. These data are confidential and we will address that issue in our post-conference brief.

Thank you.

MR. GRIFFITH: That concludes the Respondents' presentation. I see we finished early, and we would be pleased to answer any questions that the staff may have. Again, thank you for your time.

MR. CARPENTER: Okay. Thank you, gentlemen, for your testimony. We will accept your chart, Exhibit 1, as an attachment to the transcript.

We'll begin the questioning this afternoon with Mr. Duncan.

MR. DUNCAN: First I want to touch off on a substitute that you guys mentioned, hydrogen peroxide. Can you please describe it and whether or not it is a sulfur derivative.

MR. PAOLONE: No, actually it's a totally different chemical. It's used in the pulp paper industry for bleaching pulp and mechanical pulp. There are different pulps out there that get produced.

You can use sodium hydrosulfite which is a sulfur based, sulfur dioxide derived chemical or you can use hydrogen peroxide. Peroxide tends to have some advantages with some users, some pulp producers, and the sodium hydrosulfite seems to have advantages for other pulp producers.

MR. DUNCAN: It was suggested that this

morning the Canadian industry relies on smelting operations for the production of SO_2 uniquely. Is that the case?

MR. PAOLONE: Actually at our plant at Trail, I can talk about our facility. We actually have two zinc roasters and a lead smelter that produce sulfur dioxide gas and it's from that sulfur dioxide gas that we eventually make our liquid sulfur dioxide.

They're essentially large sulfur burners, but rather than burning sulfur they're burning a metal sulfide, in this case zinc sulfite and lead sulfite. But the source of the sulfur is in the concentrate itself.

MR. DAVIS: I'm sorry, if I could just add a little bit, and Steve can correct me if I'm wrong too. It's Mark Davis speaking for Chemtrade.

There are four SO_2 sources in Canada that I know of. There's a Tech Cominco smelter that does it, Inco has a smelter, Falkenbridge has a smelter, and there also is a sulfur burner in Prince George, British Columbia that's owned by Marsulex. So three of the four SO_2 production facilities in Canada would be smelters. There is one that is a sulfur burning, stand alone acid and SO_2 facility.

MR. DUNCAN: Thank you.

Can someone from Chemtrade please respond to the relationship you have with Marsulex?

MR. DAVIS: Today, none. The history for the transcript is, in 2001, Chemtrade was IPO'd out of Marsulex for 30 or 45 days, I forget what it was, as Marsulex had a 10 percent interest in Chemtrade until the underwriters exercised their over-allotment option as part of the IPO process. So since, call it September of 2001, they're two distinct publicly traded entities.

For additional color, Marsulex and Chemtrade are engaged in a quite heated legal battle between each other. There's not a love lost.

MR. DUNCAN: Is that in relation to this Peak Chemical LOC?

MR. DAVIS: Yes, it is.

MR. DUNCAN: Does that have any relation to this investigation?

MR. DAVIS: No.

MR. DUNCAN: The Petitioners addressed seasonality as they see it in the U.S. market. Is there any seasonality in the Canadian operations?

MR. DAVIS: The seasonalities they addressed, which is primarily driven by sodium hydrosulfite, from my position anyway, that's the only

seasonality there is in the SO_2 market.

MR. PAOLONE: Yeah, I would concur with that.

Actually if you take a look at our monthly volumes that we ship, we have a fairly steady month to month business, very little seasonality to our customers' use of the product.

MR. DUNCAN: Can you just list the production facilities you have in the U.S., different locations.

MR. DAVIS: Sorry, the SO_2 production facilities or all of our production facilities?

MR. DUNCAN: The SO_2.

MR. DAVIS: SO_2? Only in Cairo, Ohio.

MR. DUNCAN: So Beaumont does not produce?

MR. DAVIS: No, it doesn't.

MR. DUNCAN: My last question has to do with the regulatory hurdles that Calabrian claimed they are facing in trying to import into the Canadian market. Are these same requirements required of shipments from Canadian producers?

MR. PAOLONE: Yes they are.

MR. DUNCAN: Can you provide details in your post-conference brief?

MR. GRIFFITH: Yes, we will provide that in

our brief.

MR. DUNCAN: That's all I have, Mr. Carpenter.

MR. CARPENTER: Ms. Driscoll?

MS. DRISCOLL: Thank you, Mr. Carpenter.

First of all I'd like to thank you gentlemen for coming here today, particularly those of you who have come from Canada. We appreciate your coming here. We know it's a long way.

I'd like to ask a question first, just to get some of the relationships down which I think have been important in the testimony today.

Mr. Davis, according to our calendar here on this conference you're the President and CEO of ChemTrade.

MR. DAVIS: That's correct.

MS. DRISCOLL: Therefore, you're the President and CEO of the plant in, according to the petition on page 43, in Kid Creek and Sudbury in Ontario.

MR. DAVIS: That's not correct. The SO_2 producing facility in Sudbury is actually a facility owned by Inco which is primarily a nickel smelter. We market product produced by Inco.

MS. DRISCOLL: Okay.

MR. DAVIS: The facility at Falkenbridge in Kid Creek is a zinc/copper smelter where until the middle of 2004 we owned the asset, but they actually produced the product and we marketed it. Since the middle of '04, they fully own the asset but we still market the product that they produce. Both of these companies are, I don't know about New York, but they're certainly Toronto Stock Exchange listed public entities.

MS. DRISCOLL: Okay.

Are you also the President and CEO of the Cairo, Ohio?

MR. DAVIS: I'm the President and CEO of our U.S. subsidiary, one of the assets of which is the Cairo, Ohio facility.

MS. DRISCOLL: Okay.

MR. DAVIS: Essentially, if it helps, I'm President and CEO of the ultimate parent company. There's a bunch of subsidiaries.

MS. DRISCOLL: And one of the subsidiaries is the Cairo, Ohio --

MR. DAVIS: One subsidiary is ChemTrade U.S. which owns the Cairo facility.

MS. DRISCOLL: Okay. Thank you very much for that very -- That helps a great deal, thank you.

There is a lot of testimony this morning from Petitioners and it had a certain theme of your competition in the United States against them, and I just want to ask, leaving aside the Canadian market, do you compete against other Canadian producers in the United States?

MR. PAOLONE: Yes, we have.

MS. DRISCOLL: And that's true for you as well?

MR. DAVIS: Yes it is.

MS. DRISCOLL: If you could provide some backup of that in your post-conference brief, that you've competed on bids, what you can give us, if there's anything you can give us, or just respond to the testimony this morning with respect to the Texas transactions and some of the others. As you deem appropriate. It just seems to be an ongoing --

MR. PAOLONE: I can comment on that. Actually I'm a little bit embarrassed on one of them, but he talked about the County of Sacramento and the fact that we did not compete on that business which is totally untrue. I'll give you a brief history of the account.

It's the County of Sacramento, it's a wastewater treatment plant. They put RFQs out. It's

a public process so everything is open to the public.

We had that business for a number of years. Marsulex actually took the business from us. During the time that Marsulex had the business it was a one-year contract with two one-year renewals. We offered pricing, and I've got documentation of that I can show, at considerably lower price than Marsulex was offering, actually lower than what Calabrian eventually got the business for.

We, unfortunately, last summer, and this is 2004, we did not get put on the bid list, mistakenly got left off the bid list by the buyer at Sacramento and that is why we protested to the county. We had actually offered them an indication of where we were going to be with pricing prior to the bid being put out, and it's a bit embarrassing.

We got left off and we missed it, quite frankly. We went back to them and asked if we would be allowed to put the bid in, this was the day after the winning price got sent out, we found out about it. We did ask if we could get an opportunity to bid on the business and we were told that it was too late.

But that's the story, and the county would confirm that. They were very apologetic about the fact that we got left off. It was an unfortunate

situation.

But having said that, again, we lost the business to Marxellex. So the prior supplier was Marxellex. The supplier prior to Marxellex was Tech Cominco. So it is a competitive marketplace.

MR. KLETT: Ms. Driscoll, this is Dan Klett.

I think also, just to clarify, you have to look at locational issues. Tech Cominco is located in British Columbia. The product that ChemTrade markets is produced much further, in eastern Canada. So to the extent you see any concentration of Tech Cominco sales to customers in the west and ChemTrade's customers located in the east, that's not collusion on their part in divvying up the market which is what Calabrian is claiming. It's strictly a transportation cost, logistical issue.

MS. DRISCOLL: I appreciate that comment, and I certainly understand that after the testimony this morning of the cost and the toxicity of the substance being transported.

But that sort of raises the question to me about Texas. It is far from Canada, and it's sort of in the center of the country. Would somebody like to comment on that?

MR. PAOLONE: Yes, I'd like to comment on

that.

Surprisingly, our freight rate to the Texas accounts that we have is significantly lower than our prices into our California accounts. Freight rates, I'm sorry. Our freight rates are significantly lower. And it is an issue of the rail, the delivering railroad, I'll be quite frank with you.

The UP tends to want a lot more money to move sulfur dioxide than the Burlington Northern, and that's really the reality. If you take a look at our, at businesses that we have, that is part of what drives where we sell.

MR. GRIFFITH: And in our post-hearing brief we'll supply documentation of the company's freight rates, documenting that the freight rates to Texas are lower than to California.

By the way, this is something Petitioner is aware of.

MS. DRISCOLL: And I take it UP means --

MR. PAOLONE: Union Pacific.

MS. DRISCOLL: Union Pacific, okay.

MR. DAVIS: As long as you're asking about Texas I'll just throw in one more comment.

MS. DRISCOLL: Certainly.

MR. DAVIS: The Texas customer that

Petitioner claims that we took is going to be supplied by Mexican material, not material coming down from Canada. We have different freight economics than they do out of British Columbia.

MS. DRISCOLL: Okay.

I'd like to ask now essentially some more housekeeping as opposed to sort of reaction to the testimony this morning.

Do you agree with the domestic like product set out by Petitioners?

MR. GRIFFITH: Spencer Griffith.

For purposes of this preliminary determination we are not challenging the like product determination at this time. We don't think it matters. We think this record is clear no matter what the like product is.

MR. HERTZBERG: I would concur with my learned counsel's statements.

MS. DRISCOLL: Would you agree that the gaseous subject isn't sold commercially, just as somewhat of a housekeeping issue.

MR. PAOLONE: Could you repeat that again?

MS. DRISCOLL: The idea is, there's been some, either testimony, I think testimony and in their petition that gaseous sulfur dioxide is not sold

commercially. That liquid sulfur dioxide is --

MR. PAOLONE: Oh, that's correct. The reason is that the density of gas is about 1/400ths of the density of liquid, so the volume in a rail car that would haul 90 tons of liquid sulfur dioxide would haul less than one ton of vapor. It's only if you are using it internally or you have an account that is maybe pipeline access is the only way you could provide gaseous SO_2 at a competitive price.

So if it has to be transported in truck or rail or containers of any kind it would have to be liquid sulfur dioxide.

MS. DRISCOLL: It's simply not cost efficient to transport the gas.

MR. PAOLONE: Exactly. If you can imagine, like I said, the freight rate on a rail car of gaseous sulfur dioxide would be, if it's $10,000 to move that rail car, which it can often be for 90 tons of liquid sulfur dioxide, it would be that same $10,000 for that one ton of vapor in the same container.

MS. DRISCOLL: All right.

Do you agree that liquid sulfur dioxide is essentially fungible? There's no difference in quality between what you produce and what's produced in the United States by the various producers? Either

Mr. Paolone or Mr. Davis.

MR. DAVIS: Yes.

MR. PAOLONE: In most cases it is, although there are some times where you have customers that will complain one way or the other about product quality from another supplier.

MS. DRISCOLL: I suppose this is back to the competition question, but I would like you to comment in your post-conference brief if you would about the statement in page 35 of the petition which states that near the expiry of Calabrian's contracts one Canadian producer, never two or three in competition with each other will offer very low prices. We've already discussed that, but that statement -- I think it would be a good thing to comment on it.

MR. GRIFFITH: We'll address that in our brief. But again, Mr. Paolone has testified, he's given you a concrete example. He's lost business to Marsulex.

MS. DRISCOLL: Okay.

There's been some discussion, Mr. Davis, about the relationship between Chemtrade and PVS. Would you like to comment on that?

MR. DAVIS: Sure. Chemtrade and PVS, as far as the SO_2 market is concerned, compete quite

vigorously. Like the chemical industry, there are certain other places where actually we're not in that strict competition. We actually sell PVS sulfuric acid that they actually turn around and sell into the U.S. Before they bought it from us they actually bought it from our competitor, Norfalgo. So we have a commercial relationship on sulfuric acid and no relationship on liquid sulfur dioxide.

MS. DRISCOLL: So you don't, would you not characterize your relationship with them as encompassing exclusive marketing agreements?

MR. DAVIS: We have no relationship with them regarding SO_2 at all.

MS. DRISCOLL: Would you agree that essentially because of the transportation and the toxicity of the product it moves within North America, but it doesn't move by water or --

MR. DAVIS: Yes, I'd agree with that.

MS. DRISCOLL: I'd also say that I think Mr. Griffith and Mr. Hertzberg, you can probably see that I think probably Petitioners will be making some related party arguments. If you would comment on those in your post-conference brief. Potentially you have an ownership interest and you have at least an allegation of these marketing agreements, so I would

think those would be the two that perhaps you'd want to be commenting on.

To be equal on both sides I just want to bring that up to you.

MR. HERTZBERG: That's fine, and we look forward to that opportunity. We did address some of the highlights in what we had to say today as well.

MS. DRISCOLL: Also you might want to comment on whether you believe the captive production provision applies and why or why not, or how you think that should be looked at as part of the conditions of competition.

MR. HERTZBERG: We will definitely do that. Thank you.

MR. GRIFFITH: Just for the record, Spencer Griffith. Tech Cominco, of course, has no related party issues. It doesn't have any related parties in the U.S.. And we will as well address the captive production issue in our brief.

MS. DRISCOLL: Okay, thank you.

Mr. Carpenter, those are all my questions.

MR. CARPENTER: Mr. Trost?

MR. TROST: I just have one quick thing that I brought up earlier. It has to do with substitutes and purchasers switching to one, the other

substitutes, other chemicals; and two, installing their own SO_2 burning equipment.

What impressions do you have of how much that's happening and what your concerns are about the future regarding those?

MR. PAOLONE: I'll answer for Tech Cominco on that.

We have not in the 19 years that I've been involved in the business, we have not seen any of our customers switch to a sulfur burner. We have seen people switch to substitute chemical. Typically they're smaller accounts which are not interested in having the risky chemical sulfur dioxide, liquid sulfur dioxide on their site.

I can talk about what happened recently with our strike at Trail. After a few weeks we were unable to supply our own liquid sulfur dioxide. We had some inventory, but went through that. We have had a number of accounts actually witch to alternative chemicals during our outage. Every indication that we get today is that because of the high cost and the fact that they are comfortable handling liquid sulfur dioxide they will come back to using liquid sulfur dioxide once we're able to supply them.

MR. DAVIS: This is Mark Davis.

The only addition I'll put to that is we noticed over the last maybe five years that the U.S. pulp and paper industry that we used to serve switched quite drastically and got SO_2 off their site because it became a process safety management issue. Often they replace that with sodium hydrosulfite purchased from us, or buy SBS to make sodium hydrosulfite in lieu of SO_2, or the other thing that actually is happening here, actually from my industry, the sodium hydrosulfite industry, is actually imports of Chinese sodium hydrosulfite.

So again, they got the SO_2 off the mill site. There are people that are importing Chinese sodium hydrosulfite and that obviously brings the SO_2 component with it. It's not actually a domestic use for SO_2. So we've seen a drop over the last number of years. I think, as Mr. Paolone said, I think the market in the U.S. has stabilized now, but there was a decrease in the usage of SO_2 for those reasons.

MR. TROST: That's all I have. Thanks.

MR. CARPENTER: Mr. Ascienzo?

MR. ASCIENZO: Good afternoon, thank you.

Some questions about costs, if I may.

Like I asked the Petitioners this morning, could you estimate in your post-conference brief or

today the cost associated with, the unit cost associated with refrigerating and then compressing, or however it works, the gaseous SO_2 into the liquid SO_2.

And --

MR. GRIFFITH: On behalf of Tech Cominco we'll address that in our brief.

MR. ASCIENZO: And For ChemTrade. Yes. Thank you. Mostly addressed at ChemTrade, the U.S. producer.

Also the unit cost associated with the electricity, the natural gas, and then the oxygen and the sulfur --

MR. DAVIS: We will give you a rundown on major cost components. What you will find, I believe, for all U.S. producers, aside from Calabrian, is actually our main cost is sulfur. We don't use much electricity, don't use oxygen, so we therefore don't use natural gas. I think you'll find that from our response. We'll break down the cost components for you and I suspect you're going to see that PVS, the other U.S. producer response as well, so natural gas is really not an issue for us.

MR. ASCIENZO: Okay. Could you do that for let's say the first half of '05 and then all of '04, on an annual basis.

MR. DAVIS: Yes.

MR. PAOLONE: Just so you understand, because of our processing and the fact -- We do not consume a lot of power or we do not burn sulfur, we do not use oxygen, so our costs really are strictly related to the compression and liquification. That's pretty much it for sulfur dioxide.

MR. ASCIENZO: Thank you. That's it.

MR. CARPENTER: Mr. Stone?

MR. STONE: Thank you. Philip Stone.

I guess this is primarily for Tech Cominco. For sulfur removal, removal of SO_2, can that only go to liquid sulfur dioxide or are there other options for removing sulfur that you could switch to easily?

MR. PAOLONE: No. Actually, what we have at Trail, and obviously this was elected to as part of the gas handling system on our gas coming off of the acid plants that we have, we have to scrub the gas. I don't want to get too technical, I'll get you all confused here.

But essentially what it is is we have to scrub the gas that comes off of our acid plants and that acid plant gas has sulfur dioxide in it, vapor. It gets recovered as a bisulfite. We do an acidification. The acidification produces 100 percent

sulfur dioxide gas stream and it also produces an ammonium sulfate fertilizer. So that sulfur dioxide comes off of that acidifier is what we put into the marketplace through our compressors and cooling.

MR. STONE: Do you produce the bisulfite as well or just the fertilizer product and the sulfur dioxide product?

MR. PAOLONE: The bisulfite is just an intermediate. We do not have a market for that in our particular location. The geographical location we're in there are no consumers of that particular product so it actually has to be acidified to make the fertilizer and the sulfur dioxide.

MR. STONE: For Mr. Davis, for your Cairo plant, is that primarily a sulfuric acid plant or is the primary product sulfur dioxide?

MR. DAVIS: As we said in our testimony, it wouldn't economically exist if it was just a sulfuric acid plant. We need the profitability from SO_2. If you look at the history of the U.S. merchant acid business, I don't believe there's any merchant acid plant, stand alone, that's left in the market any more. It's not economical. Definitely our facility and I think PVS will tell you the same, relies on SO_2 profitability to make the site work.

MR. STONE: Thank you. That's all the questions I have.

MR. CARPENTER: Mr. Corkran?

MR. CORKRAN: Thank you, and thank you to all the witnesses for coming today. Your testimony has been very informative. I just have a few follow-up questions.

Actually, I think the first one I wanted to start with was the testimony this morning characterized, at least at one point characterized the Canadian producers as being unreliable suppliers. There was mention made of instances of declarations of force majeure and the relationship with smelters was given as a reason for why there might be a start and stop nature to the supply of liquid sulfur dioxide.

I would like to get your reaction to that characterization. I would also like throughout the question that if in fact operations are something of a stop and start nature, what impact would that have on prices?

MR. PAOLONE: I think if you took a look at our customer list and went back over the last ten years, and you would see that we've had pretty much the same core customers for our sales. If you talk to those customers I think they would tell you that we

have been a reliable supplier. We have provided them with the other services that they've required from us and we've done a good job. I understand that we've had this strike that has obviously not helped the situation, but in recent history we've done a very good job in supplying those customers and I think if you talk to them directly you'd get testimony saying that exact thing.

MR. CORKRAN: Also on this point, Mr. Paolone testified earlier that contrary to Petitioner's allegations, Tech Cominco is not experiencing maintenance shutdowns which are disrupting the supply of SO_2. Mr. Paolone testified that has not happened at Tech Cominco.

MR. PAOLONE: Just a quick technical explanation of that.

Because we have there sources of the sulfur, we burn concentrate in actually there different furnaces, we have consciously made sure that our shutdowns have always been staggered between the different parts of the plant so we never have the plant shut down all at the same time, so we'll be running one or two of the zinc roaster and the lead smelter. So if there are shutdowns it's just one unit gets shut down. So much like Calabrian talked about

having different trains, we effectively have that same at Trail.

MR. CORKRAN: What about the -- The testimony this morning mentioned there were several multiple instances of declarations of force majeure. Is that consistent with your own experience? Has that happened?

I understand the situation about the strike in the more recent time period, but has this been an ongoing problem? And I also understand your testimony about not having maintenance outages, but I took the testimony as being more related to just the nature of the relationship between the smelter and the sales.

MR. PAOLONE: I think one thing that was alluded to was the fact that we took some down time back in the early 2000s to sell power from Trail. We have a unique situation at Trail. We actually own our own dam and we generate hydroelectric power.

But I can tell you that even though we were down during that period and we did not produce sulfur dioxide, we actually met every one of our contract commitments during that period through either inventory that we built up and we spent a considerable amount of money doing that, or through purchaser resale material. So we did not at any time shut

anybody down or cut any of our customers off.

MR. DAVIS: This is Mark Davis. I believe actually you could talk to any of our customers as well. They'll tell you we're a long term, reliable supplier. To my recollection, I don't have as many years as Mr. Paolone does in the industry, we have never declared force majeure on customers. Inco actually was one of our supply sources, was on strike for three months in 2003. We didn't declare force majeure.

Having said that, things happen in the chemical industry, right? Hurricane Rita happened to the Petitioner and anecdotally you hear about customers calling other people to supply some of his sources. So to our knowledge, we've actually never let a customer down. If you talk to them I think you'll find that they view us as a reliable, long term supplier to this industry.

MR. CORKRAN: Thank you. Thank you very much for addressing that question.

Mr. Paolone, you mentioned that you received an offer from Thatcher to sell you their production equipment. I may have missed it in my notetaking, but the question arose in my mind, was that offer accepted or not?

MR. PAOLONE: We actually looked at the equipment specifications, our operations people did at Trail to see if there was an opportunity for us to use -- primarily looking at the downstream liquefaction compression equipment. Unfortunately, the equipment they are using, were using, was not compatible with our own and our people at Trail, rather than buying equipment that didn't match up with our own elected not to buy the equipment.

MR. CORKRAN: And when we talk about equipment like this, particularly in an industry that has seen several reductions in capacity, what happens when equipment is no longer being used to produce liquid sulfur dioxide? Is it in storage, is it used for a different application, is it possibly sold?

MR. PAOLONE: At least the compression and the cooling equipment very likely can be sold to other users, other chemical producers I would think. I've never had experience with that so I can't answer it from experience, but logically it would seem you'd be able to take that compressor and sell it to another industry.

MR. DAVIS: This is Mark Davis.

I think the answer is some or all of what you said. Some of the equipment is useable by others.

One of the questions obviously is not only the status of the piece of equipment, but how much it costs to move it from where it is. And so there's a lot of movement of used chemical equipment but it's just a cost/benefit analysis whether or not they want to use a used piece they can buy cheaper, or buy new.

MR. CORKRAN: Mr. Klett, I had down on my notes, you had been discussing FOB price data and I believe you asked the Commission to give that pricing little weight. I was wondering if you could expand on that point.

MR. KLETT: My point is that I think as everybody in this room acknowledges, the delivery costs are very important in this industry. In my experience in different sectors, freight cost as a percentage of the final delivered cost is probably one of the highest if not the highest that I've seen.

So when you look at, in any particular quarter, if you see a margin of underselling of 30 percent, 40 percent, I don't know what it's going to happen to be. Maybe it will go the other way. Because those prices are on an FOB basis, and competition really takes place on a delivered price basis to the customer, that unless the average transportation costs for imports in the U.S. producers

on average is exactly the same, which may or may not be the case, likely not, that those margins of underselling don't tell you a whole lot about competition at that point in time.

Having said that, you can also look at the price data on an FOB basis for purposes of trends, for purposes of relationships, for purposes perhaps of changes in the margins of underselling whether you see changes in relative volumes in response to changes in relative price. So for those kinds of analysis I think the pricing data would be more useful, but in terms of the actual price differential at any point in time, I don't think it tells you a whole lot about competition.

MR. CORKRAN: I think I'm getting a little bit outside of my area here but let me ask the question nonetheless. If you were looking at delivered prices wouldn't a great deal of what you were looking at be essentially reflecting transportation costs and not the selling, not the pure selling price from the U.S. importer or the U.S. producer? If you were looking in the alternative at delivered pricing?

MR. KLETT: But I think from a competitive perspective the transportation costs are part and

parcel of the delivered price to the customer so that any time anybody in this room is talking about a competitive situation to a customer, that customer is looking at the delivered price from its alternative sources. It's also my understanding that prices are typically quoted and invoiced on a delivered basis in this industry as well. Maybe Mr. Paolone can comment on that.

MR. GRIFFITH: Spencer Griffith, if I could supplement that briefly.

Yes, I would agree with what Dan Klett mentioned.

The customers here are buying a delivered price product. That's what the customer is looking for.

For the Commission to analyze underselling you've got to be looking at competition at the customer's location. The competition is the delivered price to the customer. The competition is not the freight differential from Petitioner's plant to say Tech Cominco's plant. To the extent there's a freight differential, when you look at an FOB price you're going to get artificial underselling if in fact the freight differential makes Tech Cominco's FOB price lower. But that's not going to reflect the

competition at the customer's location.

So the underselling issue is, are the imports underselling at the point of competition, which in this industry is the delivered price. That's why we think in this industry it's the delivered price that's more relevant.

Frankly, we were surprised that Petitioners in the petition didn't propose to the Commission how underselling analysis should be done. It's often done by Petitioners. They chose not to do it here.

MR. CORKRAN: Okay. I'm going to have to think about that a little bit longer, but I definitely appreciate the feedback.

Sodium hydrosulfite. Mr Klett, you had mentioned that one of the things to bear in mind in looking at the market environment was the increasing competition with sodium hydrosulfite. What do you make of the testimony that we heard this morning about sodium hydrosulfite prices increasing? I guess actually two points. One, to anybody who's involved in the market, do you actually agree with that statement first, as a factual issue, that they're increasing? And two, to Mr. Klett, what should we take away from that if that is --

MR. DAVIS: I'm probably the only and

certainly the biggest sodium hydrosulfite guy in the room, and I don't see prices increasing at all. I didn't hear that this morning. Maybe it was something else. If it was said this morning, from our perspective that's just actually factually incorrect. And to the extent you want to, frankly, pull up my last couple of quarters' results which are, we're a public company. In fact we talk about decreasing depressed prices of sodium hydrosulfite due to Chinese imports.

MR. KLETT: Mr. Corkran, this is Dan Klett.

I think there are two elements to the competition. One is of course the price relationship, and you don't just look at the price differential at any point in time but also movement as you understand. But I think also the fact that if customers are considering switching from sulfur dioxide to other substitute chemicals for non-price or reasons because sodium hydroxide is, sulfur dioxide is more hazardous, that is a decline in the demand for sulfur dioxide that also has an effect on price.

So that in a sense non-price competition between sulfur dioxide and other chemicals can have a price effect on sulfur dioxide.

MR. CORKRAN: Thank you. I appreciate all

of those responses. I'll have to go back through my notes. I may have identified the wrong chemical, which --

Mr. Paolone, a question for you, please.

The July 19 through October 6 strike that you experienced, were you able to, did you have, were you in a position to take steps to stockpile product prior to the strike, or was it a rapidly developing situation where you weren't able to take steps?

MR. PAOLONE: I wouldn't say it was rapidly developing, but we did take steps to build inventory and we did move that product off the property at Trail so that we had it available to our customers.

MR. CORKRAN: And the last question I had, because it's come up in both this morning and this afternoon's testimony, is if you could please provide Canadian import data for sulfur dioxide in your post-conference briefs.

MR. GRIFFITH: Yes, we'll do that.

MR. HERTZBERG: You mean imports coming into Canada?

MR. CORKRAN: I'm sorry, yes. Imports coming into Canada.

MR. HERTZBERG: We'll get that for you.

MR. CARPENTER: Ms. Driscoll?

MS. DRISCOLL: I have one more question for Mr. Paolone and Mr. Davis.

Based on your experiences in the market, do your customer base their decisions on awarding contracts solely on the lowest price or are other factors considered such as diversification of supply, reliability, that kind of thing?

MR. DAVIS: I think they want diversification of supply, reliability, technical service, customer service, and the lowest price.

(Laughter).

MS. DRISCOLL: Okay, maybe I should ask what do you think are the top three?

MR. DAVIS: I think it is a little bit customer specific, to be quite frank. But we say we're in the commodity chemical business. If you're selling to, for example, an International Paper they'll tell you the top three things they look for are price, price and price. Quite that simple.

Other people will actually look for other sources, take other things into account.

For example, again, I'm also I think probably the largest SO_2 consumer in the United States at my Leeds South Carolina facility. I don't want to be single source in my facility because if I can't get

it then it hurts me down the road too. So we look at price plus reliable supply.

Because we're in the business we don't look at the tech service aspects that much. So I think if you're weighting things, and Mr. Paolone can disagree. If you're weighting things, I think the price is 80 percent of the story and the rest of the stuff is persuasive, but you still have to be competitive on price.

MS. DRISCOLL: And diversification you would put, and reliability you would also put pretty high up?

MR. DAVIS: I think it's customer specific. Some customers have choices if actually SO_2 doesn't come up to the door. Other customers have no choice.

MS. DRISCOLL: I see.

MR. DAVIS: So I think it's a customer specific item.

MS. DRISCOLL: And they don't have a choice depending on the geographic, the transportation --

MR. DAVIS: It's geographic; it's their own capital equipment, what they can actually use. For example, if someone is using SO_2 to make sodium hydrosulfite on site, which they can, if the SO_2 doesn't show up he either may or may not be able to

just buy sodium hydrosulfite from me, depending on how his facility is set up.

MS. DRISCOLL: All right.

MR. DAVIS: Is that clear? Kind of?

MS. DRISCOLL: I'll read it and maybe -- I think I'll get it.

MR. DAVIS: I'll try one more time.

MS. DRISCOLL: Go ahead.

MR. DAVIS: I believe that actually the reliability issue is different for different people. If you're going to shut down a huge paper mill because one tank car of SO_2 doesn't show up at their door, they actually rank reliability really high because you shut them down for a day it's a big hurt.

If they actually have the capital equipment to do something else, use something else if the SO_2 doesn't show up, it's not as if -- They still care, but it's not as big an issue.

MS. DRISCOLL: I understand now. Okay.

Mr. Paolone, do you have anything to add?

MR. PAOLONE: No, I think Mark's covered the points. Our situation with the strike, it was pretty obvious that there were a number of customers that had alternate chemicals, alternative chemicals that they could use, and then there were some that needed sulfur

dioxide. Those were the ones that we worked with to try and get supply of sulfur dioxide to.

MS. DRISCOLL: Thank you very much.

MR. CARPENTER: Mr. Duncan?

MR. DUNCAN: I have a couple more questions.

In your testimony this afternoon someone indicated that sulfur prices in the U.S. have increased 50 percent in the period of investigation. I'm asking that you provide the data for that.

MR. GRIFFITH: Yes, we'll include that in our brief.

MR. DUNCAN: Next, I'm going to touch on a point that was started to be brought up by Mr. Corkran about SBS in that the Petitioners in this morning's testimony were suggesting a certain way of analyzing on what level prices of SBS compete with prices of sulfur dioxide. Wherein which 60 percent of SBS is the sulfur dioxide. That is what they're going to use in their facilities, the purchasers. So any price would then be divided by that.

Do you have a comment on that?

MR. PAOLONE: Actually it's not totally correct because with sodium bisulfite you have a large caustic requirement so there's a huge caustic cost. And quite frankly, in today's marketplace the caustic

price has gone from $100 a ton to I think it's about $400 or $550 a ton. So the caustic component of the SBS production is probably a hell of a lot more now -- excuse me.

(Laughter).

Than the sulfur dioxide cost component.

So it's not really true. There are other costs involved in making the SBS other than the SO_2.

MR. DUNCAN: And on a separate but parallel track, how would you suggest looking at competition of substitutes when you're talking about sodium hydrosulfite and hydrogen peroxide as substitutes in the paper milling industry?

MR. PAOLONE: That's a difficult question to answer because it's really, it's at a technical level at the pulp mills where those decisions are made. And it's almost like baking a cake. I mean the recipe is so different from one mill to the next in terms of the bleaching chemicals that are required, and they're continuously doing tests to determine what the best mix is for them.

We've seen, in our marketplace anyway, we've seen a fairly stable market recently. It appears that the mills have done the work they need to do to know what chemicals they can use to effectively make their

end product.

MR. DAVIS: Let me just, they don't have to switch completely from one to the other. One of the things that actually gets at the recipe is what these guys care about is the lowest time of bleached pulp or the lowest time of bleached paper. They don't care a whole lot about what they use to get there.

So I suspect we're going to see, though I don't know this, is with natural gas pricing so high, a bunch of costs of making hydrogen peroxide is natural gas produced, so I suspect actually the hydrogen peroxide price is going to go up so they might actually alter their process by 10 percent one way or the other to actually get the lowest cost out the end.

MR. DUNCAN: So we might see some switching back to sulfur dioxide?

MR. DAVIS: I don't believe that the pulp mills will ever put SO_2 -- the pulp mills that have SO_2 off their site, I personally don't believe it will ever go back on there. They took it off not for a cost reason but for safety reasons.

MR. DUNCAN: So they'll go from peroxide back to sodium hydrosulfite?

MR. DAVIS: They'll take SO_2 off the site

and they'll bring in either SBS or sodium hydrosulfite. They'll actually bleach in a sequence. Some oxygen, some SBS, some sodium hydrosulfite, some peroxides, chlorine dioxide. It's a very complex bleaching sequence.

MR. HERTZBERG: I think also Mr. Klett's point about substitution also being related to other non-price issues has to be considered. I don't think Petitioner addressed that or focused on that whatsoever. It still is substitution of the SO_2 which then has effects on the pricingin the SO_2 market.

MR. DUNCAN: That's all I have.

MR. CARPENTER: Again, thank you for your testimony, and for your thoughtful responses to our questions. We appreciate it.

That concludes the direct testimony. At this point we'll take about another ten minute break and we'll have closing statements beginning with the Petitioners.

MR. DAVIS: Thank you very much.

MR. CARPENTER: Thank you.

(Whereupon, at 2:05 p.m. a recess was taken)

MR. CARPENTER: Can we resume the conference at this point, please?

MR. WISLA: Okay. Again, this is Ron Wisla

from Garvey, Schubert & Baker on behalf of Calabrian. As we're closing it just occurred to me that the Respondents have been very selective in their view of the statistics such as import stats. They only look at imports from 2002 to 2004. There has been a drastic increase in 2005 which makes the imports higher.

On an annualized basis imports would be higher than any year during the period of investigation. In any event imports from Canada are significant throughout the period of investigation. This is not a case where imports started out very small or subtly going to higher levels.

Throughout the investigation imports from Canada have always been very significant. It's also important for the Commission to view the import data as a share of U.S. consumption. In our petition we made some estimates and they were about based on 150,000 ton consumption.

I've heard other data saying that perhaps the consumption should be much lower than that, but whatever level that the Commission gets from the questionnaires I think it's very important to view the import data not only in absolutes, but also relative to U.S. consumption.

Another important fact that Respondents did not give much attention to was of course the average unit value of Canadian imports which have been going down throughout the period of investigation. So these are things that will be looked at I'm sure and that must be kept in perspective.

For the remainder of the closing arguments I'll hand it over to Mr. Cogliandro. He just wants to rebut some certain points made in the presentation.

MR. COGLIANDRO: Thank you, Ron.

Charles Cogliandro. I'd like to kind of take these in the order of what I consider to be important points made by the Canadian producers and exporters: (1) the very customer that we talked about in our presentation in Texas at which we were attacked by Chem Trade there were two locations in Texas very close to our plant.

Cominco's representative stated at this address that in fact they were at a disadvantage, they were freight disadvantaged in selling to that account so therefore they didn't compete. That same customer has a location in Mobile, Alabama, approximately 500 mile to the east of this customer's two Texas locations.

Cominco is their supplier. Cominco was not

attacked at that location. That happens to be approximately 500 miles closer to Chemtrade's facility, okay? So I totally disagree that freight had anything to do with that.

(2) Sacramento. Sacramento's bid was published on its website. There were three qualified bidders listed on the website: Cominco, Marsulex, Calabrian. It was an open bid. We maintain Cominco did not choose to bid. I would ask you to ask the County of Sacramento when it awarded the business to Marsulex those years that were mentioned where the rail cars came from, which plants.

It happens that the Marsulex plant in British Columbia and the Cominco plant in British Columbia are very close to each other. It happens that, and again you can get this information from the customer, I would ask them where the cars originated from when they bought the material. They have that data very clearly in their files.

(3) Mr. Davis alluded to the fact that we concentrate on our truck business in Houston out of the Beaumont plant. Again, fact: They said that we didn't really -- Chemtrade didn't really compete in that business down in Texas. That is flat not true. We load trucks at our plant in Beaumont and have a

customer about 70 miles away to whom we ship and truck.

Chemtrade is taking material, is shipping material from Canada in rail cars to Houston, transloading the material into trucks and selling it to that same Houston account. A transload operation. Their price to that account is approximately 30 percent less than our price is.

We have or have had, we don't have it anymore, approximately 25 percent of that business. The only reason, the only reason that the customer kept us on as a supplier and refused to give us a contract by the way was because they needed a reliable supplier.

When they couldn't get it from Chemtrade they bought it from us. So the discussion about them not competing with us in the truck business in our own home market 70 miles away from our plant and they're shipping to our customers in truck. The northwest customer that Mr. Paolone referred to.

He claimed that the customer came to him. In January of this year we were into year two of a five year contract with that customer. We had 100 percent supply position with that customer.

Regardless of who initiated the contact at

that account -- and I agree with Mr. Davis in one sense, the customer is always interested in price -- but regardless of who contacted who -- and I do believe the customer when he said he was approached -- but regardless there was a five year agreement in affect.

Mr. Paolone's response if in fact that really happened should have been sorry, I cannot talk to you, you have an exclusive contract with this supplier and that would be contractual interference which in fact it was. Cost safety risk of the other U.S. manufacturers. Both these producers and exporters make the very case that we are talking about.

U.S. manufacturers exited this business because of risk versus return. The discussion of PVS is an example. Not being able to remain in the business without its SO2 business, it's not true. It was producing sulfuric acid and oleum before it ever produced SO2. It did it before, it could do it now.

In the case of Rhodia, Rhodia exited the business because it wasn't making any money in SO2. It has a school next door to its plant which is why they said they'd shut down the plant. In fact Rodea in that same facility produces oleum, SO3, a sister

product of SO2, one of the worst and most toxic products that's made in the sulfur business.

They are still making the oleum, they are still selling it in the Texas area and they are still making a lot of money doing it. So the risk was evaluated. The risk of making the SO3 versus the return was good enough for them to stay in that business, but the risk of staying in SO2 versus the very low returns that they had did not justify them staying in the business.

Clariant, same thing. Clariant had been in the business of SO2 at Bucks as Clariant, as Hercelenes and as Virginia Chemicals, one of the original producers, for 50 years. It finally couldn't compete. Risk? Yes, there is a risk, but there has to be a return that is justifiable for the U.S. producer to stay in the business.

Mr. Paolone discussed with you, he confirmed with you the increasing cost of our raw materials. Yes, because we have a real cost. Mr. Davis confirmed the increasing cost of raw materials. When he spoke that way I thought he was going to support the petition.

In fact he has a vested interest in his Cairo plant and therefore is going to tell you what

you need to hear, but the fact of the matter is his raw materials are going up. They brought up the issue of transportation.

I'm glad they brought it up. As a percentage of this product you will see in the numbers transportation is an exceedingly high cost and yet as it increases the prices for SO2 are not not only going up, they are going down. If they have increased transportation costs why are they not increasing prices?

Why do they choose to come to Texas in 2005 and quote prices that are substantially lower than the existing prices that are there? If the transportation costs from Canada are going up and they are subject to U.S. regulation why are they not increasing their prices?

With regard to government regulations, yes, shipping regulations. They are required to conform to all U.S. shipping regulations. I can guarantee you they are not required to sign a hold harmless agreement and their customers are not required to sign hold harmless agreements. I ask that the Commission ask for copies of hold harmless agreements from any of the U.S. customers that buy product from Canada.

There is no such thing. One final point.

Mr. Paolone talked about imports into Canada. Yes, in fact imports into Canada do exist, have existed, exist right now because he's buying it, okay? It is somewhat amazing to us that whenever Canada needs material that regulations don't really count for much, okay?

I take one final issue with something that Mr. Paolone had to say. In fact after Rita when the railroads started up and started allowing us to ship back out of our plant the first car that went out of the facility was one of his. Rita has caused an extensive amount of problems in the Gulf.

It's caused problems for us as well as everybody else. We are having a lot of difficulty getting raw material, but we are making every effort we can to make sure that the U.S. industry is serviced.

Thank you. Thank you for your time. Thank you for your attention.

MR. CARPENTER: Thank you for your comments.

Would the Respondents come forward, please, at this point?

MR. GRIFFITH: Good afternoon. Again for the record, Spencer Griffith.

Mr. Carpenter, members of the staff, let's

take a step back here and think about what's going on in this case. This case has boiled down to three topics for you and for the Commission.

There's number one, closure of U.S. capacity. Why did it close? Did it close due to imports?

Number two, prices. Have prices plummeted the way Petitioners assert, or have prices not plummeted the way we say the record shows?

Number three, volume of imports in 2005. Imports went down 2002 to 2004, so their entire volume case has to be what happened to imports in the first half of 2005.

Let me address these topics and make a few other remarks as well.

First on capacity. The evidence shows that U.S. capacity was closed for reasons other than imports. There is not a single U.S. producer here today to tell you that they closed capacity due to competition with imports. The only producer who is here expanded his capacity in the face of what he called a deluge of rising imports.

Second, the evidence from Mr. Paolone and Mr. Davis confirms the fact that these plants were closed for reasons other than imports, and we'll be

providing additional information on this in our post-hearing brief.

Also as to capacity, Calabrian claims that they massively expanded capacity. This is from a Petitioner who says that they're being deluged by imports. That expansion of capacity simply makes no sense.

Now, if they did expand capacity then their harms are self-inflicted. It does not appear to be a rational business decision to expand capacity on the one hand and at the same time say that the market is suffering from a deluge of imports.

Now, Mr. Cogliandro also said today that they expanded SO_2 capacity in part to serve the derivative downstream product market. Well, this is interesting because he never bothered to tell the Commission or the Commerce Department in his original petition when he blamed his failure to be able to use that new capacity solely at the doorstep of Canadian imports.

Second, let's talk about prices. You've heard from Petitioner that prices are continuing to plummet and that this deluge downward has continued in 2005. It's simply not true.

Exhibit 1 that you have before you is based

on U.S. Bureau of Census data which shows U.S. producer prices, not Calabrian's prices to Canadian buyers as you heard this morning. These are U.S. producer shipments going up in the first half of 2005 and steady 2002 to 2004.

Secondly, the questionnaire response data that Mr. Trost and Mr. Duncan I'm sure will be compiling tomorrow and this weekend. I urge you to look at what that data show you and compare that with the allegations that you have heard.

Third, volume. Volume of imports went down 2002 to 2004. This is entirely a case therefore about the volume of imports in the first half of 2005, but those imports went up slightly, which they did. They were pulled in by the closure of 80,000 tons of capacity in the United States in 2004 alone as Mr. Wisla began the presentations today with those numbers.

Chemtrade testified as well that much of the imports that they're bringing in are for their captive consumption. These are not impacting Calabrian's business operations. Also, the fact that these imports were pulled in is confirmed by the fact that imports from Mexico rose faster in the first half of 2005 than did imports from Canada.

Moreover, imports overall from 2002 to year-to-date 2005 have not surged. Mr. Wisla again just now tried to imply that imports have surged. Import volume is up two percent 2005 annualized versus 2002, and in fact shipments are down 2002 to 2004. This is not a surge of import volume.

On causation, obviously the Commission has to look at causation. There's no causation here. Import volume is down at the same time as U.S. capacity is down. Any increase in capacity in the U.S. market is self-inflicted entirely by Calabrian's unorthodox, shall I say, claim of capacity expansion in this current market. Also you heard testimony that customers have been switching to other products, and that's putting price pressure on SO_2.

In addition, I have a few comments on threat. You know, it's interesting. We heard nothing today on threat basically from Petitioners, and that's because there really is nothing that they have to offer you on threat. Import volume is down 2002 to 2004 and up slightly annualized 2005 only because those imports were pulled in.

Second, prices are not down. Prices are up over the POI. You've got a strong Canadian market, as you heard. You've got no new Canadian capacity. This

is not a situation where you've got threat in the market.

Finally, and this is not something I do in every case. I have to make a few comments about credibility issues that I think the Commission and the staff are faced with in this investigation.

Let me tick some of these off for you based on the presentation you've heard today. Number one, there was a claim that Tech Cominco asserted that they would sell product at whatever price they could to get the sale. You heard direct testimony from Mr. Paolone that is factually untrue. No such statement was ever made.

Number two, you heard testimony that Calabrian has never failed to supply volume to a customer. That is incorrect. We urge the staff to contact the customers and talk to the customers and see what they have to say.

Number three, you heard testimony that the Rodea plant was closed due to competition with imports. Well, we urge you to consider why isn't Rodea here? If in fact they've been injured by Canadian imports, why aren't they here? What is their position on this case? Who knows? They're not here to tell us what their position is.

Number five, you heard that prices have declined. In fact, that's not true. Prices have increased over the POI as the U.S. Bureau of Census data confirms.

Number six, the Petitioners asserted that their inability to use their expanded capacity was due to Canadian imports. That's what they said in the petition. That's what they've told the Agency. Here today we learned well, that's not entirely true. We also expanded capacity to conserve our derivative downstream product. Apparently they haven't been able to use that capacity partly because the downstream products have not matured the way they wanted.

Number seven, they said that they could not sell to Canada. That is simply factually untrue. In 2004, 8,000 tons of SO_2 were sold to Canada. Tech Cominco themselves have imported U.S. produced SO_2 into Canada. This is simply not true.

You heard testimony that they do not see competition from multiple Canadian suppliers at a given account. Again, that is simply factually untrue. You heard testimony that Tech Cominco has lost accounts to Marsulex, and we'll provide additional information on other examples in our post-hearing brief.

You also heard that it was suspicious somehow that the sales prices in Texas were cheaper than the prices in California given freight differentials. Well, that's simply incorrect given that Tech Cominco's freight rates to Texas are cheaper than the freight rates to California. Differential in freight rates would cause differential prices, but they would cause them in a contrary direction to what Petitioner has claimed.

That's really what we have here facing us today. This is not a case where the evidence that the Commission has to gather is going to support this case. I'll be frank. I think that Petitioners see a conspiracy behind every tree. I'm not seeing conspiracy from what they're saying. I'm seeing competition.

The U.S. trade laws are not designed to prevent competition. He is complaining about competition. There is not injury on the entirety in the aggregate from Canadian imports to the U.S. industry.

Thank you.

MS. COFRANCESCO: That's absolutely correct, Mr. Carpenter and members of the staff. This is Juliana Confrancesco of Howrey again.

Let us review what the testimony was this morning. As you have already said and as I will supplement here, there is no domestic industry that is here before you seeking relief. In fact, there is only one company. In the words of Petitioner's counsel, it is a "small player."

There is no other U.S. producer that has raised any kind of claim of injury at all publicly. This is obviously a very important piece of evidence that the Commission has to consider in determining its preliminary determination.

As I said this morning in my opening statement, the profile of the domestic industry that we are seeing here -- the profile of the Petitioner I should say because the domestic industry is not sitting here saying we are injured.

The profile of that Petitioner sitting over there is a very positive one according to what their petition has said, and as I said this morning production is up, domestic shipments are up, capacity is up, market share is up, and in fact U.S. market share is up according to U.S. statistics. Where then is the injury? There is none.

Mr. Wisla, who is searching, trying to find a thing to grasp upon, says that oh, well. You didn't

hear the Respondents say anything about the imports being significant over the period. They were significant according to Mr. Wisla all throughout the period 2002 to 2004.

Well, the Petitioner is saying there was no injury in 2002 to 2004. They felt it in 2005. So if the imports were in fact significant they were not injurious during the entire period as admitted by them, the Petitioner.

When do they say that this occurred? Well, the focus of the testimony this morning was early 2005. That was when this so-called "surge" occurred. Where did that increase in imports go to? Well, you heard the testimony this morning that increase in imports, small though it was, went to internal consumption by Chemtrade because they had lost their traditional U.S. supplier, Rhodia, which exited the market for safety reasons. Safety.

MR. CARPENTER: Can I ask you to summarize in a sentence or two?

MS. COFRANCESCO: In sum, there is no basis for an affirmative preliminary determination. The determination must be negative here.

Thank you.

MR. CARPENTER: Thank you very much for

those additional comments.

Once again, I want to thank all of our witnesses who came here today to help us develop the record of this investigation. We really appreciate it. Your testimony has been very helpful to us.

Before concluding let me mention a few dates to keep in mind. The deadline for both the submission of corrections to the transcript and for briefs in the investigation is Wednesday, October 26. If briefs contain business proprietary information, a public version is due on October 27.

The Commission has scheduled its vote on the investigation for November 14 at 2:00 p.m. and will report its determination to the Secretary of Commerce later that day. Commissioners' opinions will be transmitted to Commerce on November 21.

Thank you for coming. This conference is adjourned.

(Whereupon, at 2:37 p.m. the hearing in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Liquid Sulfur Dioxide From Canada

INVESTIGATION NO.: 731-TA-1098 (Preliminary)

HEARING DATE: October 20, 2005

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: October 20, 2005

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: Erica Fouche
Signature of Court Reporter