

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
POLYETHYLENE TEREPHTHALATE) Investigation Nos.:
(PET) FILM, SHEET, AND) 701-TA-415 and
STRIP FROM INDIA AND TAIWAN) 731-TA-933 and 934
(Review)

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 STRIP FROM UNDIA AND TAIWAN) (Review)

Tuesday,
 February 20, 2008

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

The hearing commenced, pursuant to notice, at
 9:31 a.m., before the Commissioners of the United States
 International Trade Commission, the Honorable DANIEL R.
 PEARSON, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:Commissioners:

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 SHARA L. ARANOFF, VICE CHAIRMAN
 DEANNA TANNER OKUN
 CHARLOTTE R. LANE
 IRVING A. WILLIAMSON
 DEAN A. PINKERT

APPEARANCES: (Cont'd.)

Staff:

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GRACEMARY ROTH-ROFFY, ATTORNEY
GEORGE DEYMAN, SUPERVISORY INVESTIGATOR

Organization and Witness:

On behalf of The Domestic Industry:

RONALD KASSOFF, Sales and Operations Planning
Manager, Dupont Teijin Films
TODD ECKLES, Director, Marketing Development,
Toray Plastics (America), Inc.
CARLTON WINN, Manager Strategic Planning and
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DIERDRE MALONEY, International Trade Analyst,
WilmerHale
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JOHN D. GREENWALD, Of Counsel

On behalf of Respondents:

CHRIS REJOIAN, President, Alba Sales
DAVID J. CRAVEN, Of Counsel
DENNIS JAMES, JR., Of Counsel

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P R O C E E D I N G S

(9:31 a.m.)

CHAIRMAN PEARSON: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Nos. 701-TA-415, and 731-TA-933 and 934 (Review) involving Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan.

The purpose of these five year review investigations is to determine whether revocation of the countervailing duty order on PET film, sheet and, strip from India and antidumping duty orders on India and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

The witness lists, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the secretary before presenting testimony.

I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the secretary.

1 Finally, if you will be submitting documents that you
2 wish classified as business confidential your request
3 should comply with Commission Rule 201.6.

4 Mr. Secretary, are there any preliminary
5 matters?

6 MR. BISHOP: No, Mr. Chairman. I would note
7 that all witnesses have been sworn.

8 CHAIRMAN PEARSON: Okay. Thank you. Let us
9 then proceed with opening statements.

10 MR. BISHOP: Opening remarks on behalf of
11 those in support of continuation of the orders will be
12 by John Greenwald, WilmerHale.

13 CHAIRMAN PEARSON: Good morning, Mr.
14 Greenwald. Welcome back to the Commission.

15 MR. GREENWALD: Good morning, Mr. Chairman,
16 Commissioners, Commission staff. You are not
17 unfamiliar with PET film cases. This past November
18 the Commission unanimously found a reasonable
19 indication that the domestic industry had been
20 materially injured by PET film from Brazil, from
21 China, from Thailand and from the UAE.

22 That decision is important to this sunset
23 review for a number of reasons. First, it indicates
24 that the domestic industry is, in fact, vulnerable to
25 renewed dumping by Indian and Taiwanese producers.

1 Second, it confirms the validity of the like product
2 definition that the U.S. industry is advocating.

3 Third, it supports the U.S. industry's case
4 for cumulating imports from Taiwan and India because
5 there, as here, there was a reasonable overlap of
6 competition among the subject imports and between the
7 imports from each country and the domestic like
8 product.

9 Now, we fully understand that cumulation is
10 permissive in sunset reviews but want to point out
11 that there is no evidence that the conditions of
12 competition provide a basis for decumulating the
13 subject imports in this review. Fourth, the
14 competition between and among imports and the domestic
15 PET film industry occurs exclusively in the merchant
16 market for PET film.

17 Whether as a condition of competition or
18 under the Commission's captive production rule, the
19 focus of the analysis should be on U.S. production for
20 and competition in the merchant market for PET film.
21 Fifth, there is no significant Bratsk issue in this
22 case because the nonsubject imports of commodity grade
23 products, that is those that are at issue in this
24 case, are subject to affirmative preliminary
25 determinations in separate Title VII proceedings.

1 Sixth, the facts of that case, that is the
2 new case, show how quick Indian producers have been to
3 shift their production for the U.S. market to
4 platforms that are not subject to antidumping and
5 countervailing duty orders. Two of the Indian
6 producers (two that are not here today) are actually
7 the ones that have production plants in the UAE and
8 Thailand.

9 There is no reason whatsoever to believe
10 that if the orders are revoked in this case they will
11 not be equally quick to repatriate their production
12 for the U.S. in India and begin, again, to ship in
13 volume to the U.S. market. There are also powerful
14 reasons not to revoke the order on PET film from India
15 and Taiwan that go beyond those raised by the
16 Commission's November 2007 preliminary injury
17 determination in the new case.

18 Specifically, Taiwanese importers are not
19 contesting continuation of the order, nor, as best we
20 can tell, are two of the major Indian producers,
21 Polyplex and Flex. In addition, India's production
22 capacity has increased and is clearly sufficient to
23 supply the U.S. market in volume.

24 The data in the staff report show that
25 Indian and Taiwanese producers have a very strong

1 economic incentive to ship substantial volumes of PET
2 film to the United States, and the U.S. industry is
3 once again showing the degree to which it is sensitive
4 to foreign producer dumping.

5 Finally, there are antidumping orders in
6 effect or antidumping investigations underway against
7 PET film from India in the EU, Brazil and Turkey.
8 These restraints make a U.S. without antidumping and
9 countervailing duty orders especially attractive. In
10 March 2006, I note that the EU decided to continue its
11 order against PET film from India under its equivalent
12 of a sunset review.

13 On these facts we submit there is no
14 persuasive rationale for revoking the antidumping
15 orders at issue in this proceeding, and I might add
16 that having read the prehearing briefs from
17 Respondents, they have offered none.

18 The essence of their case seems to be that
19 Indian producers would have no incentive to export to
20 the United States or undercut U.S. producer prices if
21 the antidumping and countervailing duty orders were
22 revoked.

23 It is impossible to reconcile that claim
24 with the behavior of the two major Indian producers
25 that opened plants in the UAE and Thailand right after

1 the antidumping orders at issue in this proceeding
2 went into effect. Thank you very much.

3 CHAIRMAN PEARSON: Thank you, Mr. Greenwald.

4 MR. BISHOP: Opening remarks on behalf of
5 those in opposition to the continuation of the orders
6 will be by Dennis James, Jr., Cameron & Hornbostel.

7 CHAIRMAN PEARSON: Good morning, Mr. James.
8 Welcome to the Commission.

9 MR. JAMES: Members of the Commission, my
10 name is Dennis James. I am a member of the law firm
11 of Cameron & Hornbostel. I appear here today on
12 behalf of Jindal Poly Films, Ltd., a producer of PET
13 film in India. One other producer from India is also
14 appearing before the Commission today. That company
15 is MTZ Polyfilms, Ltd., represented by Mr. David
16 Craven of Riggle & Craven.

17 It is the position of the Indian companies
18 appearing before you today that the countervailing
19 duty and antidumping duty orders on PET film from
20 India are no longer providing any benefit to the U.S.
21 producers and ought to be revoked. Revocation of the
22 orders will not cause any discernable adverse impact
23 on the U.S. industry.

24 There are several reasons for this. First,
25 while the orders may have provided some relief to the

1 U.S. producers when they were first issued, they are
2 no longer providing any benefit today. This is
3 because large quantities of PET film from nonsubject
4 countries have in recent years taken larger and larger
5 shares of U.S. consumption.

6 The nonsubject imports have replaced Indian
7 imports in the U.S. market. The U.S. producers are
8 therefore no longer benefitting from the orders.
9 Moreover, should the orders be revoked the most likely
10 occurrence as regards India is that imports from India
11 will merely replace some, but by no means all, of the
12 share of the market now held by nonsubject countries.

13 Second, although Indian companies have
14 increased their capacities to produce PET films since
15 the orders went into effect most, if not all, of that
16 capacity is now directed at the Indian home market and
17 at other third-country markets. The data in the
18 staff's prehearing report indicate that the Indian
19 market for PET film has grown considerably in recent
20 years.

21 This growth is a direct result of the
22 burgeoning Indian middle class, which is expected to
23 grow significantly in the foreseeable future. Along
24 with that growth, middle class Indian consumers are
25 expected to increase their demand for packaging and

1 for other products that require PET film.

2 It is therefore not only reasonable but
3 obvious that the Indian producers will in the future
4 focus more and more on their strong and growing home
5 market regardless of whether or not the orders remain
6 in effect in the United States. Finally, the current
7 exchange rate situation is not favorable for Indian
8 exports of PET film to the United States.

9 Since the end of 2002, the U.S. dollar has
10 dropped against the Indian rupee from about 48 rupees
11 to a dollar to just about 40 today. This is a decline
12 of roughly 17 percent. Simply stated, it is no longer
13 as profitable or lucrative for Indian exporters to
14 sell PET film in the U.S. market.

15 By contrast, sales to Europe in euros
16 actually return more to the Indian producers now than
17 they did when the U.S. orders first went into effect.
18 One of the reasons for this is that at the end of 2002
19 one euro was worth a little over 50 rupees. Today,
20 the rupee has appreciated against the euro to almost
21 59 rupees to one.

22 In view of the foregoing, and as will be
23 further discussed today, the Indian producers submit
24 that revocation of the orders will not lead to
25 continuation or recurrence of any material injury to

1 the U.S. producers in the foreseeable future.
2 Accordingly, we urge the Commission to revoke the
3 orders. Thank you.

4 CHAIRMAN PEARSON: Thank you, Mr. James.

5 MR. BISHOP: Would those in support of the
6 continuation of the antidumping and countervailing
7 duty orders please come forward and be seated.

8 CHAIRMAN PEARSON: Mr. Greenwald, are you
9 running the show?

10 MR. GREENWALD: I wish I were, but no, Mr.
11 Meltzer is.

12 CHAIRMAN PEARSON: Mr. Meltzer, okay.
13 Please proceed.

14 MR. MELTZER: Thank you. We have today the
15 U.S. industry and people who have experienced
16 firsthand what it has meant to have these orders in
17 effect, and they can tell you what it will be like if
18 the orders are revoked. We have Carlton Winn from
19 Mitsubishi Polyester Film, we have Todd Eckles from
20 Toray Plastics (America), and we have Ron Kassoff from
21 Dupont Teijin Films.

22 So what we would like to do is start off
23 with Carlton Winn talking about the product, the
24 production process, the production economics and the
25 market segments for PET film in the U.S. market.

1 MR. WINN: Good morning. My name is Carlton
2 Winn, Manager of Strategic Planning and Raw Materials,
3 from Mitsubishi Polyester Film. I've worked in the
4 polyester industry now for 26 years. We manufacture,
5 research, market and sell polyester film here in the
6 United States. We also have manufacturing and
7 businesses in Europe and Asia as well.

8 Today, I'm going to discuss the product
9 itself, the different markets and a little bit about
10 the manufacturing process itself. Can you hear me?
11 Okay. Is that better? Thank you. PET film is a
12 clear or opaque flexible film that is made from PET
13 polymer and has a unique set of physical properties.

14 These properties include high heat
15 resistance, high tensile strength, durability, good
16 gas barriers and good electrical properties. PET film
17 can be produced in many thicknesses anywhere from two
18 gauge to 14 gauge, with the most common gauge around
19 48 gauge.

20 Today, rolls of finished polyester film can
21 range from the size of a roll of papers towels like
22 you use in your kitchen to rolls that weigh as much as
23 a large automobile. With such a wide selection of
24 internal polymer fillers and additives, film surface
25 treatments, either by inline coating or coextrusion

1 technologies, this product is sought after to be used
2 in a very wide range of product applications.

3 If we look at demand in the United States we
4 should do this in the context of each of the five
5 major market segments. The first market segment,
6 magnetics, used to be the largest end use of polyester
7 film, but this market has all but disappeared as a
8 result of technology changes.

9 The second market, imaging, has been a large
10 user of thick PET film, however, this market has been
11 flat through declining and growth recently. This
12 segment would include microfilm, which is now being
13 replaced by computer storage technologies. The
14 electrical market is growing over 10 percent.

15 The real growth area here are applications
16 such as displaced films, computer monitors, wide
17 screen TVs and membrane touch switches. Wiring cable
18 wrap, LCD screens and motor films are other examples
19 of films sold into this segment. There are two very
20 large volume U.S. markets. Those are the packaging
21 and industrial segments.

22 If we look at the industrial segment, it's a
23 very big cross-section of various submarkets and is
24 growing around three percent at this time. This
25 segment would include release films, hot stamping

1 foil, laminating products, window films and other
2 products like pressure sensitive labels.

3 The packaging segment includes not only food
4 packaging, but also medical packaging, pet food
5 packaging, flexible pouches, such as the Capri Sun
6 pouch that you buy for your kids with juices, peelable
7 films and barrier films to keep out moisture. This
8 moderate demand growth in the U.S. market has been
9 supported by some capacity expansion in the U.S.

10 Our company, Mitsubishi, expanded in 2003 to
11 support part of this growth. Unfortunately, the U.S.
12 growth demand has been overshadowed by the explosion
13 of global expansion in other parts of the world.
14 Also, if we look at the industry and who makes the
15 product here, the U.S. industry is made up of eight
16 producers, five are merchant producers and three are
17 captive producers.

18 A significant amount of domestic production
19 of PET film is captively consumed in the manufacture
20 of downstream products. Captive production has been
21 historically confined to be used mainly to produce x-
22 ray and photographic products, and they do not enter
23 the merchant market for domestic like products.

24 PET film is the predominant material input
25 by weight in the downstream product, and the PET film

1 sold in the merchant market is generally not used to
2 produce these captive type products.

3 In the recent new investigation against PET
4 film from Brazil, China, Thailand and the UAE, the
5 Commission considered as a condition of competition
6 that a significant portion of domestic production is
7 captively consumed and decided to examine merchant
8 market data as well as data for the total U.S. market.

9 If we look at the manufacturing process,
10 this basic manufacturing process used to sell all of
11 these products are essentially the same. While there
12 is a fair amount of flexibility to transfer a product
13 from line to line, these lines are however not
14 flexible enough to be changed over to other materials,
15 such as polyethylene, polypropylene and nylon.

16 We cannot make these products on our lines.
17 Our assets are very specific to polyester. If we look
18 at the process itself the polyester chip is melted
19 through an extruder and fed through a flat channel die
20 where a thick, amorphous, flat, molten sheet is co-
21 tooled onto a rotating casting drum.

22 This sheet is then heated again and
23 stretched through a differentially motorized rollers
24 in the forward direction. After cooling the sheet
25 again, we can apply a coating to one or two sides of

1 the film and other surface treatments, such as plasma
2 treatment, can also occur here, as well as in other
3 parts of the process.

4 Then the film sheet is fed into a tinner
5 over where the film is grabbed by the clips, and the
6 film is pulled forward and also stretched outward in
7 the transverse direction. The film is then wound into
8 large mass rolls, and these mass rolls are then
9 processed further into the custom roll widths and
10 lengths that fit our customers' needs.

11 Each step of the process has to be carefully
12 controlled in terms of speed, pressures, temperatures
13 and environmental controls. There are literally
14 hundreds of control points throughout this process. A
15 small mistake anywhere in this long process results in
16 what we call splits or breaks.

17 If the film splits or breaks, the machine
18 has to be stopped or slowed to be cleaned up and
19 restarted. Making polyester film is a very capital
20 intensive process. Polyester machines produce films
21 at widths up to 350 inches in width, that's roughly 28
22 feet wide, and we do this at very high operating
23 speeds.

24 These machines can cost anywhere from \$50
25 million to \$100 million each. The technology, though,

1 to construct a basic film line is available from
2 standard manufacturers, such as Brechner or Dornier,
3 both of these companies are out of the EU, and there
4 are other manufacturers that can provide the same out
5 of Asia.

6 Capital is the only barrier to entry to get
7 a basic, solid manufacturing line on the ground and to
8 get it started. The basic commodity products produced
9 on these machines are essentially interchangeable.
10 For example, a packaging grade film from India or
11 Taiwan can be easily interchangeable with similar
12 films produced here in the United States.

13 A significant amount of polyester film sold
14 in the U.S. market are commodity type films. An
15 example of commodity film is the standard 48 gauge
16 corona treated packaging grade film. I think our
17 current estimate of the total volume of the total
18 market is 65 percent.

19 All producers of polyester film target the
20 largest segments of this large area, the commodity
21 area, to base load their film lines. Manufacturers
22 need to schedule long, uninterrupted production runs
23 at very high utilization rates. Our plant, and I
24 think all of our plants, run 24 hours a day, seven
25 days a week, 365 days a year.

1 Christmas, Thanksgiving, we run all the
2 time. We have to do this in order to generate the
3 revenues to support the costs of the business. As I
4 mentioned earlier, the process is complex, and when
5 producers are forced to make many changes splits or
6 breaks occur and this reduces our profitability.

7 Thank you for the time this morning, and now
8 Todd will next discuss the condition of the U.S. PET
9 industry during the sunset review period and how the
10 domestic film industry improved after the orders were
11 placed on India and Taiwanese imports.

12 MR. ECKLES: Good morning. My name is Todd
13 Eckles, I'm the Director of Marketing Development for
14 Toray Plastics (America) located in North Kingstown,
15 Rhode Island. I've been in the polyester film
16 industry for 18 years, and I'm responsible for the
17 sales and development of polyester film in the North
18 American markets for Toray.

19 Today, I'll address the conditions of the
20 U.S. PET film industry during the sunset review period
21 of investigation from 2002 through 2007, and how the
22 U.S. PET film industry improved as a result of
23 antidumping and countervailing duties imposed on
24 subject imports from India and Taiwan.

25 In 2002, the U.S. PET film industry was

1 experiencing lost sales, suppressed prices, poor
2 reinvestment conditions which were directly attributed
3 to the importation of low priced PET film from India
4 and Taiwan.

5 PET film producers in the U.S. from 2002
6 through approximately 2005 experienced improved
7 financial conditions due to the positive effects of
8 the antidumping and countervailing duties established
9 by the ITC on imports from India and Taiwan. Let me
10 take a moment to explain the conditions of the U.S.
11 PET film market during 2002.

12 Subject imports in 2002 from India and
13 Taiwan were approximately 30 million pounds, 20
14 million from India and 10 million from Taiwan. These
15 imports retarded to large volume commodity markets
16 such as the packaging and industrial film markets.
17 These two markets are the largest and fastest growing
18 markets in the industry today.

19 In 2002, subject imports were estimated to
20 be seven percent of those markets. This is considered
21 significant market penetration for import films and
22 caused major price erosion and subsequent losses for
23 the U.S. industry. Price points for these subject
24 imports were at levels below U.S. producers' total
25 production costs.

1 This forced U.S. producers to limit their
2 participation or even exit the market because of
3 losses associated with selling below costs. Raw
4 materials for PET were relatively unchanged from 1991
5 up to 2002, an exception being 1995 when there was a
6 spike.

7 U.S. PET film markets, such as magnetic
8 media and imaging, were rapidly declining, and intense
9 R&D initiatives were needed for U.S. producers to
10 establish replacement products for these declining
11 markets.

12 It was very difficult to fund these very
13 expensive R&D initiatives based on the declining
14 operating income that U.S. producers were experiencing
15 because of losses associated with competing with low
16 priced imports from India and Taiwan. Domestic passed
17 a decline and investments were delayed in this period.

18 Dupont Teijin Films shut down a film line in
19 2003 in Florence, South Carolina; SKC suspended
20 previously announced investments due to poor
21 reinvestment dollars; and Toray had temporary
22 inventory adjustment shut downs in 2002.

23 Fast forwarding through 2002 up to about
24 2005, U.S. PET film significant improvements which
25 were directly related to the relief antidumping CV

1 duties afforded the U.S. PET film market. Subject
2 imports dropped 16 million pounds. That's a 47
3 percent drop in a three year period.

4 This afforded the U.S. producers to supply a
5 greater percentage of domestic customers who
6 previously purchased from low priced subject
7 importers. Price points of the industrial and
8 packaging markets improved subsequently improving the
9 profitability of producers through greater production
10 yields, higher prices and margins and greater
11 production utilization.

12 From 2002 to 2006, raw material prices
13 increased a staggering 216 percent. It went from 30
14 cents a pound to 65 cents a pound for a pound of
15 polyester resin. Fortunately, the U.S. producers were
16 able to increase prices during this period partly due
17 to the relief afforded from the antidumping and
18 countervailing duties on low priced imports from India
19 and Taiwan.

20 The U.S. packaging and industrial markets
21 have increased to a large percentage of the total U.S.
22 PET film market. This is important to note as target
23 markets for these subject imports have been and will
24 continue to be large volume commodity packaging
25 industrial markets, mainly because those films are the

1 films that their lines can produce.

2 These markets are the fastest growing and
3 are important to the U.S. producers to allow us to
4 base line our film lines. In order to support these
5 growing markets, Mitsubishi started a new film line in
6 2003. R&D for U.S. producers established new products
7 for new markets which aided in the improvement of the
8 overall U.S. industry's operating profits.

9 These improving conditions in the U.S. are
10 being threatened by both subject and nonsubject
11 imports targeting the U.S. and packaging markets.
12 Indian film companies have invested in PET film
13 facilities in other countries which are not currently
14 subject to antidumping and countervailing duties, such
15 as Turkey, Thailand and the UAE.

16 They've also made announcements to establish
17 assets in Mexico. Thailand and the UAE are part of a
18 September 2007 antidumping petition filed on behalf of
19 the U.S. PET film producers. These new facilities
20 started importing film in the U.S. at the same low
21 prices as Indian PET film in 2002.

22 Furthermore, it's interesting to note that
23 once these facilities were established U.S. customers
24 were offered significant discounts to move from Indian
25 produced film to Thai and UAE produced film again

1 demonstrating the intent to avoid antidumping and
2 countervailing duties and continue to sell at
3 injurious prices.

4 These new facilities will continue to target
5 large volume commodities markets, such as industrial
6 and packaging, which in 2006 represented a larger
7 percentage of the total U.S. PET film market.
8 Ultimately, if unchecked, these imports could cause
9 greater injury to the U.S. producers as the target
10 markets have grown to a larger percentage of the total
11 U.S. PET film market.

12 Nonsubject imports from China, Thailand,
13 Brazil and UAE have also contributed to a recent
14 decline in the U.S. PET film market's financial
15 condition. These countries are part of an antidumping
16 petition filed on behalf of U.S. producers in
17 September of 2007. As you can see, the antidumping
18 and countervailing orders have been an important
19 factor in restoring temporary improved business
20 conditions to the U.S. PET film market.

21 If these orders are revoked we can only
22 expect that the Indian and Taiwanese film producers
23 will again enter the U.S. market at an injurious price
24 level, target our largest and most essential markets,
25 thus forcing the U.S. PET film back to 2002 market

1 conditions reducing the U.S. PET film producers'
2 operating profits and ultimately putting U.S. jobs at
3 risk. Thank you.

4 MR. KASSOFF: Good morning. My name is Ron
5 Kassoff, I'm with Dupont Teijin Films. It's a joint
6 venture between Dupont Corporation in Wilmington,
7 Delaware, and Teijin Corporation in Tokyo, Japan.
8 I've been in the polyester film industry for 22 years,
9 and I'm going to describe a little bit of the current
10 status of the PET film industry, supply, demand and
11 expected impact if the existing orders were to be
12 lifted.

13 First, on capacity, the global PET film
14 industry has seen massive investment in recent years.
15 There's been significant growth in China, that's a big
16 factor, but there has also been continued expansion of
17 PET capacity in India, we believe targeted for export
18 markets including the U.S.

19 Other investments have been mentioned in
20 Thailand, Turkey, United Arab Emirates, by producers
21 from the subject countries, and purely to avoid
22 antidumping and countervailing duty orders. The
23 capacity increases are continuing.

24 There's a plant under construction announced
25 by Uflex in Mexico, Uflex is an Indian producer, to

1 start up by the end of this year and we believe
2 targeted directly at the U.S. market. Switching to
3 consumption, the U.S. PET film market has been
4 relatively flat in the last few years.

5 There has been some growth in some markets,
6 such as packaging, industrial films, LCD panels, but
7 there's also been corresponding decline in other
8 markets where technology shifts have occurred, such as
9 floppy disks, analog printing and even some markets
10 where the value added is moving offshore.

11 Imports to the U.S. have risen continually
12 in recent years, mostly driven by the highly
13 interchangeable films in the packaging and industrial
14 markets. In particular, from 2006 to 2007 imports
15 from the subject countries are up 14 percent.

16 Imports from Taiwan rose 20 percent, imports
17 from India actually have dropped slightly in that one
18 year period, but imports from the countries where the
19 Indian producers have established new production
20 facilities has risen 25 percent in that one year as
21 well.

22 So if you look at putting this all together,
23 the flat demand, the increasing global capacity and
24 imports to the U.S., it's a pretty drastic over supply
25 situation in the United States. This has resulted in

1 drops in price. We've continually seen a drop in
2 price. In the last in 18 months alone we have seen
3 drops of about 15 to 20 percent in pricing.

4 On top of this we look at the raw material
5 situation. Raw material prices are petro chemical
6 based raw materials, and they've increased 22 percent
7 in the last 18 months. This has been driven by both
8 the world energy prices as well as the manufacturing
9 capacity limitations of these raw materials.

10 If we put together the price decrease and
11 the cost increase, it's resulted in additional
12 economic deterioration for the U.S. PET film industry.
13 With such overcapacity in the industry it's very
14 difficult to raise prices to offset the rising costs
15 of the raw materials without losing business.

16 As a result, the profit margins get squeezed
17 and the industry profitability further deteriorates.
18 As Mr. Greenwald mentioned, other countries have
19 brought antidumping cases against India including the
20 European Union, Brazil and Turkey. In Brazil, the
21 initial margin assessment was 42 percent, and that's
22 on top of a 16 percent import duty.

23 Also, recently the Department of Commerce
24 has reviewed countervailing duties imposed on two
25 Indian producers and have raised them slightly. If

1 you look at these, plus the past history, it indicates
2 a pattern of aggressive pricing behavior by the
3 subject countries, which we would not expect to
4 change.

5 If the orders were lifted we would expect to
6 see immediate resumption of imports at low prices from
7 the subject countries, plus continued imports from the
8 other countries where they now have new facilities.
9 We would expect to see additional price incentives
10 offered by these companies to gain additional share
11 resulting in continuation of the market price
12 degradation.

13 This would result in a return of the
14 industry to the state prior to the initial order in
15 2002. We would see reduced prices, reduced
16 profitability, underutilized equipment and loss of
17 additional jobs. Now, John for closing comments.
18 Thank you.

19 MR. GREENWALD: If the Commission has the
20 patience for another three or four minutes, let me
21 close by trying to bring this back into the context of
22 the sunset provision of the antidumping and
23 countervailing duty statutes. There should be no
24 question that the domestic industry is vulnerable to
25 renewed dumping.

1 That has been proven over and over again in
2 successive antidumping and countervailing duty
3 investigations, most recently in your end of 2007
4 decision on imports from Brazil, China, et cetera.
5 Nor should there be any doubt that the Indian industry
6 has made its determination to supply U.S. market
7 crystal clear.

8 The Indian Respondents that are here today
9 cannot legitimately claim based on the record that if
10 the orders were revoked there would be no likelihood
11 of an increase in Indian PET film exports to the
12 United States.

13 Producers that in the wake of the orders
14 that are at issue today were quick to supply the U.S.
15 market from their Thai and UAE plants will be just as
16 quick to ship their supply back to India if the orders
17 are revoked, especially with their imports from
18 Thailand and the UAE now subject to antidumping
19 investigations.

20 In my opening remarks I noted that the
21 Taiwanese industry is not here. That matters. It is,
22 in effect, an indication that they fully expect the
23 orders to continue, and I would say on that score,
24 they should indeed be right. Now, let me close with a
25 comment on Bratsk and the relevance of nonsubject

1 imports.

2 The major suppliers of commodity grade
3 nonsubject film are in fact subject to separate Title
4 VII proceedings. I've mentioned, we've all mentioned
5 the new case filed in September against imports from
6 Brazil, from China, Thailand, the UAE, but there was
7 also a changed circumstances review of a Korean
8 producer, Kolon, that had renewed its dumping after
9 having been excluded from the antidumping order on PET
10 film from Korea.

11 The Department of Commerce has preliminarily
12 brought Kolon back under the discipline of the
13 antidumping law. In other words, all the imports of
14 commodity grade PET film that could theoretically,
15 that would compete in the same way that imports from
16 India and Taiwan do, are subject to pending actions,
17 all of which have had preliminary affirmative
18 determinations.

19 When you look at the import statistics you
20 will see other imports. You'll see imports from
21 Japan, for example. Those are of specialty grade
22 products. They are higher priced, they are not the
23 sort of imports that disrupt the U.S. market.

24 In addition, in the import statistics you
25 will see imports from Canada, from Mexico, from Oman,

1 but what you ought to know there is there in fact is
2 no PET film production in any of these countries. A
3 plant is going into Mexico, but it is not yet
4 producing.

5 What we understand is that the imports from
6 all of these countries are in fact not imports of PET
7 film. They are other types of films that are not
8 subject to these orders. In short, as we see it there
9 is no serious Bratsk issue raised by this case. With
10 that, thanking you for your patience, we'd like to
11 close our direct testimony.

12 CHAIRMAN PEARSON: Thank you, Mr. Greenwald.
13 Actually, you've got time left. If you have more you
14 want to say, don't think you have to cut it off now.

15 MR. GREENWALD: I'm sure that you are much
16 more interested in getting responses to your
17 questions. I remember somebody, a Judge on the Court
18 of Appeals for the Federal Circuit, saying that
19 arguments are her time, not our time. I suspect that
20 you all feel the same way about it.

21 CHAIRMAN PEARSON: Well, I can assure you we
22 appreciate your economy in the use of your time.

23 I'd like to start by welcoming all
24 panelists. Appreciate that you can be with us today.
25 It's possible that by the end of the day you'll have

1 an opportunity to see Washington and a bit of snow.
2 Hope you don't need to really desperately catch
3 flights tonight.

4 We'll see what the town is like. You do?
5 Well, okay. Good travels to all of you as you escape
6 here. We will begin the questioning this morning with
7 Commissioner Lane.

8 COMMISSIONER LANE: Good morning. Until we
9 got that weather report I didn't realize we were
10 expecting snow today. How depressing.

11 CHAIRMAN PEARSON: Well, and not only that,
12 but it may well obscure the total eclipse of the moon
13 tonight, so it's really going to hurt.

14 COMMISSIONER LANE: Okay. Back to reality
15 then. Let's talk about PET film. Mr. Kassoff, I was
16 interested in your testimony that the demand for the
17 product is flat in this country, but at the same time
18 all of these other countries are increasing their
19 capacity.

20 Is the demand in the world, other than the
21 United States, increasing or what do you foresee
22 happening with all of this increased capacity
23 worldwide?

24 MR. KASSOFF: Yes. Globally the demand is
25 increasing in developing areas mostly, so there is

1 some increase there, but the supply is even
2 outstripping the growth in demand, so there still is
3 oversupply globally. The U.S. is a very attractive
4 market and a lot of the suppliers like to come to the
5 U.S.

6 COMMISSIONER LANE: Okay, thank you. Is a
7 PET film product sold into, for example, the packaging
8 market also sold into other markets, such as the
9 electrical market? If it is indeed sold into other
10 markets is the price of the same film different
11 depending upon the markets?

12 MR. KASSOFF: Yes. The different markets do
13 have different price points, and there are different
14 products as well. There's distinctive characteristics
15 between the different products. So there is some
16 overlap. Some products can go into many different
17 products.

18 There are some products that are
19 specifically for packaging, specifically for
20 electrical, or for LCD panels, or something else. So
21 it's a little bit of a mixed bag in that regard.

22 MR. MELTZER: May I add a comment to that in
23 that one of the dynamics that we've seen throughout
24 all of these cases is a price transmission effect. So
25 underselling and aggressive pricing in the lower

1 realms of the PET film market and the commodity grade
2 films has an impact all the way through the different
3 product lines.

4 You oftentimes find situations where
5 purchasers are buying a bunch of different films, and
6 so therefore, the low price on the commodity grade
7 side impacts the pricing that they seek at the other
8 grade films.

9 COMMISSIONER LANE: Okay. Mr. Kassoff, I'm
10 not sure I understood your answer. If the same
11 product is sold into different markets, is the price
12 sometimes different for the same product?

13 MR. KASSOFF: Typically, it's pretty close
14 if it's the same product.

15 COMMISSIONER LANE: Okay, thank you.

16 MR. WINN: I'd like to add that basically,
17 you take two items, PTA and MEG, and you produce a
18 polymer resin. It's a very clear product. And then
19 in our process, we have different places. We can put
20 different fillers, we can put different additives
21 inside the polymer itself. We can make a sheet that's
22 one, a monolayer, or we can have coextruded products
23 which have three different layers, three different
24 types of PET with different fillers and additives.

25 We then can put different coatings on the

1 film, and in general, the commodity grade films are
2 just a real basic PET resin with a real standard
3 filler in it, and in general very limited types of
4 coatings. The specialty products can have all types
5 of very expensive additives, different surface
6 treatments, coextrusion systems, wound in very special
7 ways, and in some cases have to be in an extremely
8 clean environment, whereas some of the commodity
9 products can be made in a less clean environment.

10 So that's one way you can kind of separate
11 the real basic commodity types versus the specialty
12 types.

13 COMMISSIONER LANE: Okay, thank you. There
14 is a substantial amount of internally consumed product
15 reported in the data that we are looking at in this
16 case. Looking at tables 3-9 and 3-10 in the
17 confidential prehearing staff report, the financial
18 data shows some significant differences in
19 profitability on commercial sales versus profitability
20 on internal consumption.

21 To the extent you can discuss it now, and if
22 necessary, with more explanation in the post-hearing
23 briefs, could you describe, first of all, the methods
24 you use to value your internal consumption, and
25 secondly, could you explain why there would be

1 significant differences between the profitability on
2 internal consumption and the profitability on
3 commercial sales?

4 MR. GREENWALD: The producers that you see
5 before you produce overwhelmingly for the merchant
6 market. The producers that are not here produce much
7 more significantly for the captive market. What we
8 can do in the post-conference brief is to give you an
9 explanation of how differences in merchant market
10 versus captive sales affect the financials of each of
11 these companies, and that obviously would be
12 confidential.

13 What I can't address is what you see in the
14 financials for companies that are not here.

15 COMMISSIONER LANE: Okay, thank you. Your
16 prehearing brief states that all but one US producer
17 enters into long-term contracts with purchasers that
18 contain meet-or-release provisions which allows the
19 purchaser to get out of the contract if the producer
20 is unable to meet any drop in price. Do all contracts
21 contain meet-or-release provisions?

22 MR. WINN: In the case of Mitsubishi, not
23 all of our contracts have meet-or-release. We do have
24 frequent discussions with customers, and if lower
25 prices are available to them, it's brought up and it's

1 negotiated in spite of the fact that there is no meet-
2 or-release in their contracts.

3 MR. ECKLES: At Toray the situation is very
4 similar. There are times where we have contracts and
5 the customer will come to us saying that they have a
6 significantly lower price and they need us to readjust
7 the price, and if we do not, they will break the
8 contract and start buying from the lower price
9 producer. That happens more commonly in the commodity
10 market areas where price is so significant to their
11 profitability.

12 There are other contracts that are honored
13 by our customers and they do maintain the contract in
14 place.

15 MR. KASSOFF: The situation is the same for
16 DTF. We have both kinds.

17 COMMISSIONER LANE: Okay, thank you. Has
18 the use of long-term contracts containing these types
19 of provisions increased, decreased, or remained the
20 same since the original investigation?

21 MR. ECKLES: At Toray, we still face the
22 same situation as we did prior to the investigations,
23 as well as today.

24 MR. WINN: It's similar at Mitsubishi as
25 well.

1 MR. KASSOFF: Likewise at DTF.

2 COMMISSIONER LANE: Have US producers had to
3 lower prices within the duration of a given contract
4 in order to meet lower prices of subject imports?

5 MR. ECKLES: Absolutely.

6 MR. WINN: It's the same for us. Yes.

7 MR. KASSOFF: Yes, same for us.

8 COMMISSIONER LANE: Okay. Can you then, in
9 your post-hearing brief, provide us with the
10 percentage of contracts during the period of review in
11 which changes in prices were made?

12 MR. GREENWALD: We will do that.

13 COMMISSIONER LANE: Okay, thank you.

14 Mr. Chairman, I'll wait until my next round.

15 CHAIRMAN PEARSON: Commissioner Williamson?

16 COMMISSIONER WILLIAMSON: Thank you, Mr.
17 Chairman. I too want to welcome the witnesses and
18 express my appreciation for their testimony.

19 I'd like to get this definition of PET film
20 and I want to know, is the commodity PET film defined
21 by the physical nature of the product itself, or is it
22 defined by the use of the film? For example, is there
23 a commodity film in the electrical imaging and
24 magnetic markets, and is there a general agreement as
25 to whether a particular kind of PET film is a

1 commodity or a specialty product?

2 MR. ECKLES: In the plastic film industry,
3 we have hundreds of different types of films that go
4 into different markets. It's constantly a moving
5 target. For instance, magnetic media, a 56-gauge film
6 used for a T-120 videotape was considered a specialty
7 film back in the early 90s. By the mid to late 90s it
8 was considered a commodity film because the price
9 points dropped below profitable levels, but it was
10 still very attractive to many producers because it was
11 massive volume.

12 So I would say that a commodity film is
13 defined by the price point and the sheer size of the
14 particular market, because as Carlton mentioned, we
15 really need to run our plants all the time, so those
16 large volume applications tend to be areas that are
17 very profitable for us, even though the price points
18 may be low, but it allows us to fully utilize our
19 equipment and drop our costs.

20 COMMISSIONER WILLIAMSON: Thank you. In
21 that regard, is that a trend that you seem to see
22 across the industry, if you look at, if you say
23 packaging and industrial uses are very important right
24 now, are you seeing the same kind of, shall we call it
25 technology change impacts?

1 MR. ECKLES: We do. Applications mature and
2 then eventually are replaced by other technologies.
3 Then there are still some that are very mature but
4 tend to still have the same sheer volume they did 20
5 years ago. It's really hard to categorize it as one
6 particular type of commodity film because commodity
7 films might be 20 different types within the packaging
8 industry, or 50 different types in the industrial
9 industry, but usually those applications are lower
10 priced and larger volume.

11 COMMISSIONER WILLIAMSON: Thank you. I
12 think Mr. Winn mentioned the fact that the prices of
13 the commodity films often affects the price of the
14 more specialty grades, and I was wondering, is there
15 any lag in this, or?

16 MR. ECKLES: We have customers that will buy,
17 let's say, 10 different types of films. There may be
18 a 48-gauge corona-treated film, which we really call
19 commodity film, and it is a common film type that's
20 imported by the subject importers. In addition to
21 that commodity film, he may buy 10 other value-add
22 films that he buys at double the price of that
23 commodity film, but he'll gauge the trend in the
24 polyester film industry by that 48-gauge corona-
25 treated film, so if that price drops 20 cents, he's

1 thinking in his mind that those other 10 films that he
2 buys that are value-add also are going to drop in
3 price.

4 Now, that may not always be the case, but it
5 certainly sets the mood for a contract negotiation.
6 When you see one price going down, you expect all the
7 film prices to go down, and the films that are
8 considered intermediately priced or quasi-commodity, I
9 guess is a good way to put it, they will sometimes
10 drop and follow that price of that 48-gauge corona-
11 treated film.

12 So it does affect all the films, and it can
13 cause price erosion in areas that really aren't
14 warranted.

15 COMMISSIONER WILLIAMSON: In terms of US
16 producers, do all of them tend to make a wide range of
17 the different types of products, I mean specialty and
18 commodity types, or are there certain firms that
19 specialize?

20 MR. KASSOFF: Yes, that is true for the
21 predominant producers, and there is a wide range in
22 various markets, and some have different specialty
23 areas as well, but it's pretty much a very wide range,
24 and there is also -- but a big part of it is the
25 commodities that we have to use to support the overall

1 volume.

2 MR. GREENWALD: In response to your
3 question, we're having an internal conversation as to
4 whether or not there is a difference between those
5 producers that supply the merchant market that do have
6 the full range and producers that produce film, let's
7 say, photographic, for internal consumption. My
8 guess, again, I don't know because I haven't talked to
9 the producers that produce for captive consumption,
10 but my guess is there is a significant difference
11 between the range in types of film that the captive
12 versus merchant market suppliers produce.

13 MR. ECKLES: Our business will always be a
14 combination of value-add and commodity films. We need
15 the commodity films to utilize our equipment and
16 reduce our production costs. I would love to say that
17 we would have 100% value-add films, but that just is
18 not the reality.

19 MR. WINN: The answers that Ron and Todd
20 gave, very similar for Mitsubishi Polyester Film. We
21 make all of the different types of products, both
22 commodity and specialty. As I mentioned in my
23 original testimony, we need to base load our film
24 lines with a base load of the commodity films, long,
25 uninterrupted production runs where we can really base

1 load our manufacturing operation. It's very important
2 to us.

3 COMMISSIONER WILLIAMSON: Throughout the
4 period of review, with the orders in place, the AUVs
5 for US shipments of subject imports were below the
6 AUVs for US producers. Does this indicate that
7 subject imports tend to be a commodity segment of the
8 market, or does the domestic --

9 MR. ECKLES: Can you define AUV?

10 COMMISSIONER WILLIAMSON: Average unit
11 values.

12 MR. ECKLES: Okay.

13 COMMISSIONER WILLIAMSON: Let's put it this
14 way. If the imports have tended to be below US
15 producer prices, does that indicate that they are
16 shipping a different type of product? Is there any
17 evidence to say that?

18 MR. WINN: We're not aware of any -- if
19 you're looking for, like, is it a different type
20 product, a different commodity product than what we
21 produce, at least our view is that they are all
22 interchangeable.

23 MR. GREENWALD: As I understand the
24 question, Commissioner Williamson, it is whether or
25 not what you are seeing in the average unit values

1 doesn't reflect price underselling on an apples to
2 apples basis, but rather simply reflects a difference
3 in the mix of production, and I will let them speak,
4 but I think every witness here will tell you that
5 systematically, the subject imports, on an apples to
6 apples basis, that is commodity grade to commodity
7 grade, will price below the US-produced prices.

8 COMMISSIONER WILLIAMSON: What about the
9 specialty products?

10 MR. ECKLES: A lot of the subject companies
11 are not importing specialty films. The example of
12 that would be non-subject imports from other countries
13 such as, let's say, Japan, and their price points are
14 much, much higher than what the commodity films are,
15 and oftentimes, those films aren't even produced in
16 the US, so they need to be imported in order to supply
17 US demand.

18 COMMISSIONER WILLIAMSON: Okay, thank you.
19 What about, you mentioned the higher prices of, say,
20 the Japanese products because you say they tend to be
21 specialty, at least some. Are there any other
22 differences or generalizations you can make about the
23 non-subject imports?

24 MR. ECKLES: The US market is a net importer
25 of polyester film. As we mentioned before, there are

1 hundreds of different types of polyester film. It's
2 very difficult at times to produce a very small
3 quantity of a specialty film because, as Carlton
4 mentioned, our film lines are 28 feet wide. In an
5 hour, we can make their whole annual consumption of
6 polyester film.

7 So in those situations, the domestic
8 producers may opt to import it from other locations
9 that have a larger economy of scale of that particular
10 product and have a better profitability of making it,
11 so in those situations, we may rely even on our sister
12 companies to import a film to the US that we currently
13 do not make in the US. In addition, there may be
14 films coming from other countries that compete with
15 the US producers on a very peer kind of basis, meaning
16 their price points are reasonable, they are the market
17 prices, they are not underselling, so we do have
18 healthy competition with some non-subject importers.

19 COMMISSIONER WILLIAMSON: Thanks, and thank
20 you, Mr. Chairman.

21 CHAIRMAN PEARSON: Commissioner Pinkert?

22 COMMISSIONER PINKERT: Thank you, Mr.
23 Chairman, and I'd like to join my colleagues in
24 welcoming the panel, thanking you for testifying
25 today.

1 I want to begin with some of the issues
2 raised near the end of your testimony, Mr. Greenwald.
3 What I'm wondering is whether we are dealing with a
4 situation here where as soon as you put an order on
5 one country, production of the merchandise moves to
6 another country that's non-subject, and so I'm
7 wondering, what's to prevent producers from moving
8 away from subject countries toward non-subject
9 countries as orders are either imposed or continued?

10 MR. GREENWALD: Well, what is to prevent it,
11 ultimately, is the ability of this industry to bring
12 new cases. It is true that if you look at the history
13 of this industry, the first cases were Japan and
14 Korea. The next were India and Taiwan. The next,
15 because these are the ones that met the threshold, for
16 example, de minimis threshold, were the UAE and
17 Brazil, Thailand and China.

18 You've heard testimony saying that plants
19 are going in by Indian producers to Mexico. They are
20 not operational yet. The only thing this industry can
21 do to keep its head above water is to keep the orders
22 in effect that they have in effect -- and they have
23 worked. This industry does not gladly spend money on
24 us. I wish I could tell you that they did, but that's
25 not the case.

1 What they do is very careful cost benefit
2 analysis, and it has been serial, and my guess is that
3 it will continue to be serial. That is, at some
4 point, Mexico will do what India has done and China is
5 now doing, and there will be a case against Mexico,
6 but it isn't ripe yet because the plant isn't
7 operational yet. What is critical, given this
8 pattern, is to maintain the orders that have been in
9 effect to bring Kolon, for example, back under
10 antidumping duty discipline when, after signing a
11 pledge they wouldn't dump, they began to do it again,
12 maintain the orders on India and Taiwan, let us
13 prosecute the cases of what are not really non-subject
14 imports but imports subject to another Title VII
15 antidumping proceeding, and hold out the law to an
16 industry that has proven it can work if a new problem
17 arises.

18 I mean, you see the progression, and we know
19 it, and I wish I could tell you that this were not the
20 likely course of events, but what I can tell you is
21 that the reason this industry is here is that the
22 dumping orders that have been put into effect really
23 have worked.

24 MR. MELTZER: And it's not just here. I
25 mean, the dynamic that you are seeing in the US market

1 is a global dynamic. You see the Brazilian industry
2 filing a case against Indian PET film. You see the
3 Europeans filing a case against Indian PET film and
4 also continuing the orders against Indian PET film.
5 The same Indian producers also have a facility that
6 they established in Turkey, and they are now bringing
7 product from Turkey to the EU.

8 So it really is a global dynamic, and there
9 really is a significant impact that the discipline of
10 these orders has on the activities of the subject
11 producers. It's seen not only in the US market, but
12 around the world.

13 COMMISSIONER PINKERT: Well, presumably,
14 it's your view that these orders have had some impact
15 because it takes some time for the industry to move
16 from one country to another, and it takes some capital
17 and some know-how, and so forth, and I'm wondering
18 whether perhaps the industry witnesses can help me to
19 understand the costs and the time lags involved in
20 this movement that perhaps is occurring.

21 MR. ECKLES: Normally, it takes 18 months to
22 two years to start up a film line, so when an order is
23 announced and there is some adjustment as far as the
24 amount of imports coming to the US, we are pretty
25 certain that two years to three years down the road,

1 there will be someone else importing to the US. We
2 know it's going to happen in Mexico as well.
3 Honestly, it's pretty interesting to see how well
4 they've done at acquiring the capital in order to go
5 ahead and put in these firm lines, given the fact that
6 there is overcapacity.

7 So I don't quite understand how they can
8 justify a lot of these expenses, but they continue to
9 show this pattern of moving around the world to avoid
10 antidumping and CVD penalties, and starting to sell
11 some again right back where they were three years
12 prior to the order, a few years after.

13 COMMISSIONER PINKERT: Any other comments
14 from the industry witnesses?

15 MR. WINN: I'd just like to add that the
16 technology and the production equipment has become so
17 standardized, they place an order with a machine
18 manufacturer and they'll ask, where do you want it to
19 go? So it really is relatively easy to order a
20 standard machine if you have the capital, and then
21 place it anywhere in the world that you'd like to run
22 that particular machine.

23 COMMISSIONER PINKERT: Thank you. Now,
24 turning to your argument about the production
25 operations in other countries such as Thailand and the

1 UAE, is there any evidence that you can point to that
2 Indian producers will actually shift their exporting
3 activities away from those other countries back to
4 India if the orders are removed?

5 MR. GREENWALD: Well, what I can point to is
6 the logic of the evidence that you have before you.
7 In our post-hearing brief -- it's confidential, so I
8 can't go into detail -- what you will see is a fairly
9 extensive analysis of what happened to the volumes and
10 prices of companies that had been supplying the United
11 States from an Indian platform and then moved to
12 supply the United States market from either a Thai or
13 a UAE platform.

14 With that evidence, it seems to me that the
15 logical conclusion -- the logical conclusion I have
16 reached, and the logical conclusion that I think
17 anybody that looks at this evidence has to reach, is
18 that there is a pattern of behavior that would predict
19 a return to prior-to-the-order pricing and export
20 levels from India from these producers, especially as
21 their production and exports from the UAE and from
22 Thailand are facing the prospect of antidumping
23 orders.

24 In other words, having gone from A to B to
25 avoid the implications of the dumping order, logic

1 suggests they will go from B to A for precisely the
2 same purpose.

3 MR. MELTZER: May I just add one further
4 incentive, which is, if you take a look at the price
5 levels in the US market versus price levels in India
6 or in other parts of Asia, if the orders are lifted
7 here, there would be a very natural businessman
8 incentive to bring more product here because you can
9 get more for your product here than you can in those
10 other markets.

11 COMMISSIONER PINKERT: Thank you. It looks
12 like my time is just about up, so I'll save my other
13 questions for the next round. Thank you.

14 CHAIRMAN PEARSON: Mr. Winn, I was struck by
15 your comments on the -- as a technical matter,
16 producing PET film. It sounds to me like a very
17 interesting thing. I mean, materials engineers or
18 chemical engineers must really kind of enjoy trying to
19 figure out how to build or manipulate this stuff. Is
20 that a correct assessment?

21 MR. WINN: I think that's absolutely
22 correct. The basic manufacturing process is the same,
23 but that combination of fillers or coatings or
24 coextruded layers, it's a very complex process to
25 develop a new specialty film, and it's one that's done

1 hand in hand with our customers as well. So normally
2 when you get a specialty product built and
3 constructed, it usually goes into, essentially what we
4 say with a specialty product, that it meets some
5 special new application that our customers need.

6 CHAIRMAN PEARSON: Do you have any sense of
7 how many specific variations on PET film are produced
8 in the United States that would be within the scope of
9 this investigation?

10 MR. WINN: You know, I don't know the
11 number, but I could literally say thousands.

12 CHAIRMAN PEARSON: Oh, it's going to be in
13 the thousands?

14 MR. WINN: Yes, and you know, the basic
15 thicknesses can be different. It can be monolayer, it
16 can be coextruded. There are dozens and dozens of
17 different types of coatings, dozens of types of
18 additives, all kinds of different changes that you can
19 make during the process to change the shrinkage
20 properties of various films. So some films you'd like
21 some shrinkage, other films you want very dimensional
22 stability, and you can make those adjustments during
23 the manufacturing process.

24 It's one reason why polyester, our friends
25 at DuPont I think invented it back in the 1950s. We

1 built film lines as an American company Celanese in
2 the 60s. It's very unusual for a manufactured product
3 to be around as long as polyester has, and it's
4 because it can reinvent itself in new applications.
5 It's just, it's an endless process.

6 CHAIRMAN PEARSON: Okay, and I assume, Mr.
7 Greenwald, as a technical matter, that as you move
8 downstream closer to the customer with more and more
9 variations, that at some point you get outside the
10 scope of our investigation?

11 MR. GREENWALD: Yes, the scope of the
12 investigation is limited by thickness, I think.
13 There's a base polyester that is common. There is a
14 wide range of specific products. There actually are
15 core, very high volume commodity-grade products that
16 don't run into the thousands. I mean, what you find
17 is a 48-gauge versus, what, a 54-gauge or something,
18 but corona-treated packaging film is a commodity
19 grade.

20 Where you branch out is on the thousand of -
21 - not thousands, but you know, hundreds of specialty
22 grades you can produce. Those really are not the
23 issue in this case. Now, you can't define them out of
24 the scope except by thickness because what you'd find
25 is people would throw on a couple of grains of some

1 additive and say, well, here we are, we're not in
2 scope anymore.

3 But it's one of those products that has a
4 core that's identifiable and has been followed I think
5 in every case, and we've tried to make the scope
6 reasonable in terms of the effect, frankly, on sort of
7 the economics of business, by putting on a thickness
8 limitation.

9 CHAIRMAN PEARSON: Okay. Sounds reasonable
10 enough to me. I'd like to go back to a question that
11 Commissioner Williamson was raising regarding pricing
12 relationships between the commodity grades and the
13 specialty grades. What's not clear to me still is, if
14 we see a change in the price of a commodity grade of
15 PET film, are we also likely to see a change in the
16 price of more specialty grades?

17 What type of price relationships do we see?

18 MR. ECKLES: Normally we do see that in this
19 industry, because our customers don't buy just one
20 film type. They normally buy many different types of
21 films that are commodity, semi-commodity, specialty,
22 highly specialty, and their view is that a polyester
23 film is a polyester film and if one price point goes
24 down, the rest of the industry should go down as well.
25 Now, as you look at the array of products, I can say

1 that the products that are closer to the commodity
2 side definitely are affected by a lower price by the
3 commodity films, and the ones that are on the higher
4 scope as far as value oftentimes can escape that
5 trend, but it is very true that a large percentage of
6 our total business is really at that lower end or that
7 commodity to semi-commodity product.

8 So it is very common to see an erosion in
9 price on films other than commodity films when
10 commodity films drop.

11 CHAIRMAN PEARSON: Do you see ever a
12 relationship between some change in the price of the
13 specialty grades having an influence on the price of
14 the commodity grades? Not really? Okay. How about
15 the pass-through of changes in raw material prices?
16 Is that more likely to be noticed in the commodity
17 grades than in the specialty grades, or would it be
18 equivalent?

19 MR. ECKLES: Yes, I think it would be
20 equivalent. When our prices go up, we definitely
21 would increase our films the same price increase
22 across the board. There are exceptions, of course.
23 There's always exceptions, but for the most part, when
24 we announce an increase because of higher raw
25 materials, it's kind of a blanket announcement for all

1 products.

2 CHAIRMAN PEARSON: Okay, so even though the
3 specialty grades would likely be at higher prices,
4 thus the raw material cost increase would be a smaller
5 percentage of the total price, you are still seeing
6 some pass-through of the raw material cost to the
7 higher grade stuff? Okay. In rough terms, and you
8 may have commented on this already, but I'm just
9 coming back to it to make sure I understand, what
10 percentage of the marketplace do you consider to be
11 commodity grade product in the United States, in
12 quantity terms rather than in value terms?

13 MR. WINN: As I testified this morning, we
14 believe that 65% of the total market are these
15 commodity-type grades.

16 CHAIRMAN PEARSON: Okay, and should we see
17 this as a somewhat segregated marketplace with the
18 more specialty grades being subject to some different
19 marketplace forces than is the case for the commodity
20 grades? Listen carefully to Mr. Meltzer.

21 (Laughter.)

22 MR. WINN: No, you know, one of the things
23 that we've already answered is that with price
24 changes, we have customers that buy both. It goes
25 into their plant, they use them in different parts of

1 their process and it's very difficult for me to
2 separate the commodity from the specialty. There may
3 be certain customers that only deal with commodity-
4 type end products and others that are only just the
5 specialty product, but most of our customers are
6 involved in both at the same time.

7 So I would have to say it's the same.

8 CHAIRMAN PEARSON: Okay, and so when, as a
9 matter of -- if you are making a sales call on a
10 customer that needs seven grades of product, seven
11 different types of product, you are kind of bundling
12 that together and making a unified offer, or are you
13 pricing them separately?

14 MR. WINN: We do have customers that are
15 essentially in that situation, buying seven different
16 products. Generally, the pricing will be priced
17 according to the value of that product. There may be
18 some terms in terms of if you purchase certain
19 volumes, there may be certain provisions to go with
20 that, but no, we would never average a price for those
21 seven different products and then just sell it at that
22 price. They would be priced separately.

23 CHAIRMAN PEARSON: Okay, the customers are
24 sufficiently sophisticated that they appreciate the
25 value differences, they want to know what they are

1 paying for each item basically?

2 MR. WINN: Yes, and in many cases they drive
3 very hard bargains on the commodity products.

4 CHAIRMAN PEARSON: That doesn't surprise me.

5 MR. WINN: They understand it.

6 CHAIRMAN PEARSON: Okay. Good. Well, my
7 light is changing, so Vice Chairman Aranoff?

8 VICE CHAIRMAN ARANOFF: Thank you, Mr.
9 Chairman, and I join my colleagues in welcoming you
10 all here this morning. I want to start off with what
11 I think was one of the major arguments that was raised
12 in the Indian producer's briefs, which is the role of
13 the domestic industry in importing non-subject PET
14 film. The data in this case are confidential, but
15 they do show that the domestic industry is responsible
16 for a meaningful share of total imports.

17 In particular, Respondent MTZ claims in
18 their brief that most of the commodity films that are
19 sold by US producers in the US market are not made
20 here, and I wanted to ask you first if you could
21 respond to that.

22 MR. WINN: I can respond from Mitsubishi's
23 case. We have capacity throughout the world. We sell
24 regionally. I think you can look in our questionnaire
25 and there's almost no imports of commodity-grade films

1 by our company into the United States.

2 MR. ECKLES: Toray's polyester film assets
3 here in the US are really kind of specialized. They
4 are considered thin film assets, so we import the
5 films from our sister companies abroad that we do not
6 make here in the US so we can have a full product
7 offering to offer to our customers.

8 MR. GREENWALD: Can you elaborate on -- the
9 question was specifically on the commodity-grade
10 stuff. The allegation is that, let's say, your 48-
11 gauge corona-treated films are imported.

12 MR. ECKLES: All right, we don't make 48-
13 gauge corona-treated films in the US, so we do import
14 some of that film. We do, however, have an issue with
15 the price points here in the US because the price
16 points are so low, so we don't really focus on that
17 business, because we basically lose money on importing
18 film. So we do import it because our customers
19 require it, but it's not a focus for our business.

20 MR. KASSOFF: DuPont Teijin Films does
21 import some 48-gauge commodity films. Very specific
22 customers, very specific cases, and it's really a
23 matter of continual supply to the customers where
24 there's the volumes that we can't always guarantee
25 from the domestic assets and at times we'll need to

1 supplement with imports from China.

2 (Pause.)

3 MR. KASSOFF: Yes, we do make commodity-
4 grade films in the US as well.

5 MR. GREENWALD: What I would like to do in
6 answer to this question in the post-hearing brief is
7 give you a breakdown of the commodity grades
8 production in the US that would answer your question
9 directly. I think what you will find is,
10 overwhelmingly, the US producers' supply of commodity-
11 grade film is in fact made in the United States.

12 VICE CHAIRMAN ARANOFF: Okay, I would
13 appreciate that, and specifically, I would like a
14 company-by-company breakdown for those companies that
15 you represent of what -- and I know there are
16 thousands of grades and types, but within some
17 categories, what it is that they are importing,
18 whether they are importing them from related or
19 unrelated suppliers, why it is for each particular
20 category that they are importing them, whether it's
21 because they don't make it here, they've rationalized
22 their production lines across multiple countries, or
23 price, or whatever the reason is.

24 The more detail that you can supply about
25 that, the more helpful.

1 MR. GREENWALD: We will do that in detail,
2 Vice Chairman.

3 VICE CHAIRMAN ARANOFF: Okay, thank you.
4 Let me turn then to a question about cumulation. As
5 you mentioned in your introduction, cumulation is not
6 required in sunset reviews. I know you've urged us to
7 do so in this case. I note, though, that there are
8 several facts on the record that might weigh against
9 cumulating, and I wanted to hear your response to how
10 we should weigh those, in particular, differences in
11 capacity utilization rates between the countries,
12 differences in the rates of growth of capacity and
13 production between the two countries, and of course,
14 as you've emphasized here today, the fact that Indian
15 producers have substantial investments in non-subject
16 countries, which I don't think is true of the industry
17 in Taiwan.

18 Do any of those affect the conditions of
19 competition that would be likely in the US market such
20 that we might view them as grounds not to cumulate?

21 MR. GREENWALD: I think the answer to that
22 is no. It is true that the Indians and not the
23 Taiwanese have invested in off-shore plants. It is
24 equally true that the Indian investments, when they
25 reach above a de minimis level in terms of exports,

1 are, have been subject to new antidumping cases. It
2 is also true that there is a shift in a difference,
3 which I can't get into it because I think it's
4 confidential, in capacity and what's happened to
5 capacity.

6 So at the margins I think those differences
7 are there, but when you look at the types of films
8 that both countries produce, they are interchangeable.
9 I think the record in the investigation on that is
10 perfectly clear. When you look at the incentive to
11 ship to the US market, and again, I don't recall
12 exactly what is confidential, but we look very
13 carefully, for example, at prices at which -- or
14 values at which different producers sold to different
15 markets, and what we found was a common incentive,
16 economic incentive, to supply the US market, and a
17 capability on the part of both to do so.

18 So while -- I mean, it is true that some
19 Indian producers are able for the time being to shift,
20 or have been able to before we brought the new case,
21 to shift production away from India and into the UAE
22 and Thailand, and Taiwan couldn't do that. I think
23 the fact remains that both sets of producers make
24 essentially the same product and have essentially the
25 same incentive, economic incentive, to sell to the

1 United States, and that they compete directly in these
2 core areas with both one another and with US
3 production.

4 When I was last here, or one of the recent
5 times I was here, it involved OCTG from Japan, oil
6 country tubular goods, and on the cumulation issue,
7 that is now before the Court of International Trade,
8 and there, the difference was in orders of magnitude
9 greater than they are here. In that case, what you
10 had was a Japanese focus on production of very
11 specialized oil country tubular goods, very high-
12 priced.

13 You don't see anything close to those
14 differences in the record here.

15 VICE CHAIRMAN ARANOFF: Okay. I take your
16 point about the goods not being differentiated. I
17 guess I would say that isn't all that goes into an
18 assessment of cumulation which also goes to whether
19 there are differences in motivations in terms of
20 accessing the US market. How much product would
21 someone need or want to move, what incentive would
22 that be for the way that they would price it in the US
23 market, those are the kind of things, and so it goes
24 beyond that the product may be --

25 MR. GREENWALD: And I understand that, but

1 what I would urge you to look at again on the
2 incentive and the motivation is the capacity, and then
3 the distribution of present sales. You look at
4 capacity, unused capacity in both countries, and then
5 the distribution in both countries of current sales,
6 along with the question, given that distribution of
7 sales that they presently have, do they share an
8 economic incentive to ship to the United States, and I
9 think the answer there is clearly yes.

10 VICE CHAIRMAN ARANOFF: Okay, all right.
11 Let me just turn and clarify a factual point. Mr.
12 Winn, in your direct testimony, you were mentioning
13 how much it costs to buy a machine to produce
14 polyester film, and I just want to check. You said 50
15 to \$100 million per machine?

16 MR. WINN: That's what I said, yes.

17 VICE CHAIRMAN ARANOFF: So that is a
18 substantial startup cost, if someone is going to pick
19 up and move to another country. Do people pick up --
20 I mean, have any of the Indian producers picked up
21 machines and moved them or has this all been new
22 machines that have been purchased and set up in third
23 countries?

24 MR. WINN: It's my understanding that it's
25 new equipment that was shipped there. Now, it's

1 possible that they moved one, but I'm not aware of it.
2 Do you guys know? Did they --

3 MR. ECKLES: I've only heard that they are
4 new assets.

5 VICE CHAIRMAN ARANOFF: Okay. All right.
6 Thank you very much.

7 MR. KASSOFF: Concerning the ones -- I do
8 know of assets in China where there are obsolete
9 assets from companies such as DuPont and others that
10 had been purchased that we would think are scrap, but
11 they bought them and put them in to get something
12 going as a starting point, but not the other subject
13 countries.

14 VICE CHAIRMAN ARANOFF: Okay. Thank you all
15 very much for those answers.

16 Thank you, Mr. Chairman.

17 CHAIRMAN PEARSON: Commissioner Okun?

18 COMMISSIONER OKUN: Thank you, Mr. Chairman,
19 and I join my colleagues in welcoming you all here
20 this morning. I appreciate the time you've taken to
21 be here, and some of you do know the chairman was a
22 farmer from Minnesota, and his opening remarks
23 reminded me, you can take the farmer off the farm but
24 not take the farmer out of the man, who is still
25 looking at the moon cycle and the weather every day,

1 so we all benefit from that.

2 Let me ask a couple of additional questions
3 on cumulation, following up on the vice chairman's
4 questions, and some of this, obviously, I would like
5 you to do for post-hearing, looking at it in
6 particular. But a couple of other things that I was
7 interested, in looking at the record and going back to
8 the original investigation, where we did cumulate, but
9 we did find distinctions there, again, in a
10 discretionary environment, I would put greater
11 emphasis on.

12 So that includes channels of distribution
13 where India is selling more to the end users versus
14 those from Taiwan, and I wondered if you could comment
15 on whether you think any of that would be different if
16 the order were lifted, and, if so, why? Is there a
17 difference in the products or anything else?

18 MR. GREENWALD: Well, let me just speak
19 directly to the issue of the distribution as opposed
20 to end user.

21 If what you're doing is reducing your volume
22 of sales, then you would maybe expect to see more -- I
23 don't know that you call can comment on this -- see
24 more directly to end users. But if you are selling in
25 volume, then I think you would expect to see a

1 significant volume of sales going through the
2 distributors.

3 What I would like to be able to do in a
4 post-conference brief is look at those. I did notice
5 them, and you're right. Clearly, this was an issue
6 that was pointed out in the initial investigation.

7 The other thing that we're going to have to
8 look at, frankly, is to see whether or not there is a
9 difference in how the Indian goods that are being
10 imported now from the UAE and Thailand are sold,
11 whether there is a correspondence in channels of
12 distribution or not.

13 COMMISSIONER OKUN: Okay. I appreciate
14 that. The other question I had on that, and I don't
15 know if Mr. Winn -- I know you're familiar with market
16 conditions from other production facilities, and I
17 don't know if that includes having better information
18 about Taiwan, but the other thing I thought was
19 interesting is the prices in Taiwan's home market and
20 whether there is anything that could be added on why,
21 again, going to the incentive question that the vice
22 chairman raised, the Commission has often looked to
23 those.

24 MR. GREENWALD: The industry, I don't think,
25 has seen --

1 COMMISSIONER OKUN: Right. You can't see
2 the confidential record, but whether they know about,
3 based on demand. Several of them commented on demand
4 growing in overseas markets, and if there is a
5 particular growth pattern that they think would
6 explain why prices might be higher in Taiwan than in
7 India.

8 MR. ECKLES: I briefly know the Taiwanese
9 market, and a lot of the companies that purchase
10 polyester from that area are purchasing some higher-
11 value products. A lot of them are companies that are
12 in the electronics business and are involved in really
13 emerging applications, such as LCD TV screens,
14 computer monitors, cell phones, these areas. So those
15 really require higher-value polyester film, and the
16 price points are higher.

17 COMMISSIONER OKUN: Okay. When you say
18 "higher value," again, if we're looking at any changes
19 from the original to now, one of the things that
20 struck me as well -- I know we've had many cases --
21 one of the interesting things is you looking out there
22 and saying, What are these emerging markets? The
23 growth in the flat-screen TVs, the monitors, and all
24 of that, where, several years ago, he would have sat
25 there and said, Am I paying that much for a TV? Now

1 everyone is going out and buying them.

2 So I don't know if there is anything -- is
3 that related to what you might see in a country like
4 Taiwan, with these higher specialized applications
5 that are maybe different than what we saw in the
6 original investigation or not? I don't know, myself.
7 I don't know if there is anything.

8 MR. ECKLES: I don't really quite understand
9 your question.

10 COMMISSIONER OKUN: Well, during the
11 original investigation, what Taiwan producers would
12 have been producing to sell and selling into the U.S.
13 market, whether there would have been a shift in
14 Taiwan towards this higher, specialized -- these uses,
15 whether that would be a difference that we should be
16 aware of in this case.

17 MR. ECKLES: Not so specifically, but I can
18 say that commodity applications in the U.S. usually
19 are around for quite some time, and we build on the
20 economies of scale, and we sell them for many, many
21 years. But also it's true that in any market, U.S. or
22 Taiwanese, there are new products required for new
23 technology that will replace some other dying
24 technologies. So it's kind of a moving target. I
25 can't really generalize as far as what was in 2002

1 versus 2007 or 2008. It's difficult to do.

2 COMMISSIONER OKUN: Okay. Mr. Greenwald?

3 MR. GREENWALD: Commissioner Okun, I
4 remember being struck at the same figures that are
5 striking you in the staff report table regarding
6 Taiwan. It seems to me that the explanation of what
7 is going on in the Taiwanese market rings true, that
8 there may be product-mix issues.

9 What I would urge you to do, when you're
10 considering your decision, is to also look at the
11 export markets, Taiwan sales to export markets, and
12 ask yourself the question, is there a difference in
13 the home market, and what are the relative volumes?

14 COMMISSIONER OKUN: I'll be looking at all
15 of that, and I appreciate that.

16 I guess my last question on that is -- I
17 know you noted, Mr. Greenwald, in your opening or in
18 your other comments, that producers from Taiwan are
19 not at the hearing, but, of course, we did get data,
20 and I wondered if you had any issues with the data we
21 got, because we have good coverage. They are not
22 here, and, during my time here, I've never speculated
23 on why someone decides to show up at a hearing or not
24 because you're damned if you do, damned if you don't.
25 Right?

1 If they are not here, they think it's going
2 to stay on; if they are here, they have an interest in
3 the market, and they are coming back. I've never seen
4 that as being my role, to figure out that part, other
5 than do I have good data to look at, and is there
6 anything else that can be added?

7 MR. GREENWALD: I think the data are, from
8 what I can tell, good data, and I understand that, I
9 think, if I were in your position, I wouldn't draw any
10 implications from present or absent. I think that's
11 right.

12 The data that we emphasize in the brief are,
13 in fact, the data that I've been alluding to in this
14 dialogue, to me, that is dispositive, and I would urge
15 you to look at the discussion -- it's a brief one, but
16 the discussion we have in the brief on the Taiwanese
17 incentive and what appears to be their interest in
18 export sales to different markets.

19 COMMISSIONER OKUN: I appreciate that, and,
20 again, I will be looking, post-hearing, more closely,
21 but the original record, whether there are changes,
22 I'm here to be aware of.

23 Then, Mr. Winn, if I could just go back to
24 you and to the other producers as well, if they could
25 comment on it. You may have said this. I'm just not

1 sure. When you were talking about demand growth in
2 other markets, and then you were talking about, in the
3 United States, where you see growth in the
4 electronics, I think it is, being a real growth
5 market.

6 When you're looking overseas, or when we're
7 looking at demand for overseas, is it the same markets
8 that are growing? I think you had mentioned kind of
9 developing countries are growing. If that's true, are
10 they growing in the same area of electronics, or would
11 that be in more of a commodity market because they are
12 supplying a different type of product. Again, I
13 apologize, if you put some of this in, but, in just
14 listening to you, it struck me that I needed to
15 understand that better.

16 MR. KASSOFF: There are just a few markets
17 that are growing substantially, and the one that we
18 mention the most is the LCD screens, and that's
19 computers and laptops and phones and big TVs and all
20 of that stuff. The growth is being spread around.
21 There are many steps in the value-chain process to get
22 up to a TV, so there could be somebody who buys our
23 film coats in the U.S., sends it to get assembled
24 somewhere else into this big stack.

25 So it's all over, coming together mostly in

1 Asian countries, mostly in Japan and some others as
2 well now. But that's the big one.

3 There is also big growth, however, in
4 packaging and in other industrial uses and commodity
5 uses where film has not been used before, or the
6 standards of living are increasing where the packaging
7 is getting better, and that's where we're seeing also
8 some growth. So maybe those three areas, but it's
9 fairly uniform, I would say.

10 COMMISSIONER OKUN: Thank you. I very much
11 appreciate that. Do the other producers have anything
12 to add on? Okay. Thank you very much, Mr. Chairman.

13 CHAIRMAN PEARSON: Commissioner Lane?

14 COMMISSIONER LANE: Thank you. I would like
15 for you to describe initiatives that you are taking in
16 the specialist segment of the market to offset alleged
17 continuing market penetration by Respondents in the
18 commodity sector.

19 MR. ECKLES: Toray was considered a harvest
20 manufacturing company in the first 10 years of its
21 existence. We didn't have an R&D group. We just had
22 an engineering group. That business went away, and we
23 had to start developing new businesses. That all
24 started at the end of the nineties. The business I
25 referred to is magnetic media, which basically

1 declined and is basically gone today. So our film
2 lines were good at making just that product, and we've
3 had to redefine the products that we make on these
4 lines.

5 It's a continual process. Right now, we
6 have an R&D group that has about five different
7 members in the group that constantly look at new
8 applications that are presented to us by our
9 customers. So it's very common for a customer to come
10 to us and say, "Hey, we have this new application. Is
11 there any way that you can develop this film for us?"
12 They may work in conjunction with us to make the film,
13 or they may just ask us if we can develop it
14 ourselves. That's an ongoing process that happens all
15 of the time in our business.

16 Sometimes the applications are successfully
17 produced at our facilities, and, other times, we can't
18 make them, for whatever reason. But we're actively
19 involved in the development role at my company, Toray.

20 MR. KASSOFF: I would like to add that, for
21 Dupont Teijin Films, we have active R&D in the U.S.
22 and throughout the world, and we are always looking
23 for new opportunities and ways to advance our
24 portfolio.

25 We continually get pressure, economic

1 pressure, to maintain our R&D resourcing, and this is
2 a pretty significant issue. We have reduced it over
3 time to a point that we're comfortable with, but it's
4 constant pressure, and we're looking for also ways to
5 make our R&D more efficient and more productive.

6 Orders that are maintained and are new orders will go
7 a long way in helping us maintain that as well as
8 building upon it.

9 MR. WINN: For Mitsubishi, as I had
10 mentioned earlier, we have basically a regional
11 strategy where we have manufacturing operations in
12 Europe and Asia and the United States, and we
13 basically supply both the commodity and specialty
14 films in those regions.

15 In our case, we certainly do have a dual
16 path. We have to be constantly working to reduce our
17 costs in order to continue to support the commodity
18 grades of film, but we, like Toray and Dupont, are
19 constantly strengthening our R&D group. We have had
20 an R&D group at our site from basically the beginning.
21 We have a pilot line.

22 In our case, we built a new film line in
23 2003, with this high capital, to support some of the
24 newer specialty products. We installed new
25 technologies that we did not have on some of the old

1 equipment.

2 So we're approaching this not only from the
3 organizational side, with new people, new R&D
4 research, but we're also continuing with our regional
5 strategy to support the U.S. market with both types of
6 film: commodity and specialty.

7 COMMISSIONER LANE: Thank you. Can you
8 please describe typical end uses for thin films,
9 ultra-thin films, and thick films in both the
10 commodity and specialty factors and how these films
11 factor into your marketing plans in the United States?

12 MR. WINN: If you don't mind, we would like
13 to answer that in the post-hearing brief. That's a
14 pretty complicated question. Would that be okay?

15 COMMISSIONER LANE: Yes. That will be fine.
16 That will be fine. Thank you.

17 MR. WINN: It's a good question.

18 COMMISSIONER LANE: Commission data
19 indicated that the value of domestic producers' export
20 shipments of PET film decline irregularly over the
21 period of review. Do any of you have a theory as to
22 why these export prices declined, and are these large
23 declines in export prices an indication of things to
24 come in the U.S. market upon revocation?

25 (Pause.)

1 MR. GREENWALD: It is true that the data
2 suggest a fall in export prices. When we looked at
3 the data, and, again, we've been very careful in what
4 we have allowed --

5 COMMISSIONER LANE: Could you talk a little
6 bit closer to your microphone?

7 MR. GREENWALD: Yes. I'm sorry. It is true
8 that we've looked at the same data, and it does seem
9 to me, and what I wanted to say parenthetically is
10 we've been very careful in not giving any of the
11 companies access to data that could conceivably be
12 considered confidential. It does seem to me that what
13 you see in export markets is a function of the global
14 overcapacity that the witnesses have been talking
15 about.

16 I would take the data as suggesting that if
17 the orders are revoked, what you will inevitably see
18 is a similar downward drift in U.S. prices to the
19 level of some of the, let's say, Asian markets, if I
20 could use an example. You have to be careful about
21 reading too much into the data because there is always
22 a problem in this industry of product mix.

23 So I think it's probably a combination of
24 the two, but the global overcapacity has very clearly
25 led to prices in international markets that are, as we

1 read the data, lower than in the U.S. market, and that
2 is the fundamental concern.

3 MR. MELTZER: I think that some of that data
4 would also reflect the fact that some of the exports
5 to overseas markets by U.S. producers are bound by
6 transfer pricing between affiliates, and so it would
7 depend on the transfer-pricing policies at a given
8 point in time.

9 COMMISSIONER LANE: Okay. You're going to
10 explain all of that in your post-hearing brief.

11 MR. GREENWALD: We will, yes.

12 COMMISSIONER LANE: Okay. Thank you. In
13 the prehearing staff report, the channels-of-
14 distribution discussion indicates that a large portion
15 of the PET film produced in the United States is sold
16 to processors. I would like to get a better
17 understanding of who these processors are and what
18 they do. Are the processors separate operations from
19 the producers, or are they affiliated operations of
20 the producers?

21 MR. ECKLES: Yes. Those are our customers,
22 and those are the point in the value chain where they
23 take polyester film, and they add some functional
24 coating or lamination or something onto the film that
25 improves the function of the product, and the

1 polyester film is there just as a carrier or a support
2 for that functional coating.

3 It may then go to just another step in the
4 value chain, which further adds value, until, finally,
5 you get to the end user.

6 Polyester film producers are pretty far back
7 in the value chain. There's quite a few steps our
8 product goes through before it gets to the end user.

9 COMMISSIONER LANE: Could you describe what
10 the processors do and why they seem to be such an
11 important part of the distribution process for U.S.
12 PET film and PET film produced in Taiwan but not so
13 important for film produced in India or nonsubject PET
14 film?

15 MR. GREENWALD: Let me offer to do that in
16 the post-conference brief. Again, we have not
17 discussed those particular data because you get,
18 again, into confidentiality issues. So what we can do
19 is get an answer for you that is consistent with the
20 disclosure rules. We'll do that.

21 COMMISSIONER LANE: Okay. Thank you, and I
22 have one more quick question.

23 For PET film that is used internally by
24 domestic producers, would the internal transfers be
25 reported as sales to processors or sales to end users?

1 MR. KASSOFF: I think the response there was
2 that they were reported as internal transfers, neither
3 one of those, not to distributors or end users.

4 COMMISSIONER LANE: Okay. Thank you.

5 Mr. Chairman, that's all I have.

6 CHAIRMAN PEARSON: Commissioner Williamson?

7 COMMISSIONER WILLIAMSON: Thank you, Mr.
8 Chairman.

9 Mr. Greenwald, you made reference to your
10 belief that when the Mexican plant comes online and as
11 producers move to new locations, that there is going
12 to be dumping. So it raises the question, is there
13 something about the nature of the foreign producers in
14 this industry that means they are is always going to
15 be trading unfairly, or can they be reformed?

16 MR. GREENWALD: I can't answer that other
17 than to say, so far, I don't think the Department of
18 Commerce has found anybody not to be dumping. I
19 suppose, in the case of Kolon, the order was revoked
20 as to them because they had three successive zero
21 administrative reviews, and the Department of Commerce
22 has preliminarily found that they have resumed their
23 dumping.

24 I shouldn't speak as unequivocally as I tend
25 to do. I have no real idea what's going to happen in

1 Mexico. All I can tell you is, if the past is
2 prologue, the likelihood is that we will see in two
3 years or three years hence the same problems with
4 Indian-owned facilities in Mexico that we saw with
5 Indian-owned facilities in India, followed by Indian-
6 owned facilities in the UAE and Taiwan.

7 COMMISSIONER WILLIAMSON: Thank you. Let's
8 turn to a different subject.

9 In your prehearing brief, on page 10, it
10 states that China and Taiwan and other countries have
11 emerged as significant players in the global PET film
12 production. Do you have any information on the types
13 of PET film products these countries are producing and
14 their capacities, and, particularly, what are they
15 producing of commodity and specialty grades?

16 MR. GREENWALD: Like the Indians and the
17 Taiwanese, at least, Taiwan in the export markets,
18 they are predominantly commodity-grade products. I
19 think that was the point -- I'll have to go back and
20 check the testimony -- at the staff conference in the
21 new case, but I believe that is what the facts show.

22 COMMISSIONER WILLIAMSON: Thank you.
23 According to Global Trade Atlas, India's trade surplus
24 for PET film declined in 2006 due to a decline in
25 exports and a rise in imports. Does this indicate

1 increasing consumption and our domestic supply
2 constraints with respect to India?

3 MR. GREENWALD: It could also indicate the
4 decision to, for example, service the United States
5 market from the UAE and supply what are called the
6 "PET chips" out of India to the UAE, process the chips
7 to film. When you're talking about the surplus
8 declining of PET film, that may -- I don't know, in
9 large part or not, but it may be a function of an
10 Indian decision to set up offshore film production,
11 film lines, we would say, to escape the impact of
12 antidumping duties.

13 In other words, what you'll see then is the
14 exported chips from India to the UAE or to Taiwan, and
15 then the export of film, not from India but from
16 Taiwan to the UAE.

17 COMMISSIONER WILLIAMSON: So you're saying
18 that there is an earlier stage of production that
19 would continue in India.

20 MR. GREENWALD: Yes. They would make the
21 material. If you look at the annual report of a
22 company like Flex, what you will see is they supply
23 the polymer, what we call "polyester chips," from
24 which the films are made, from India to their offshore
25 plants.

1 COMMISSIONER WILLIAMSON: Thank you.
2 Turning to Taiwan, again, according to Global Trade
3 Atlas, Taiwan's trade surplus for PET film fell over
4 the period of review and, in 2006, became a deficit.
5 What does this indicate for likely export volumes in
6 the future to Taiwan?

7 MR. GREENWALD: My guess is, when you're
8 talking about surplus, you're not talking about a
9 reduction in exports of significance but more of an
10 increase in imports, and this is just a guess on my
11 part. I think what you may see is high-value imports
12 that go into new applications, like flat-screen TVs,
13 going into Taiwan, where I think you have flat-screen
14 TV production there, don't you? Monitors.

15 I'm not familiar with the data you're
16 looking at. I would be surprised if there were a
17 significant decline in exports. When you're talking
18 about a trade imbalance, I would assume that it's more
19 a function of Taiwan importing more specialty grades.

20 COMMISSIONER WILLIAMSON: Okay. If there is
21 anything you could add, post-hearing, to that, I would
22 appreciate it.

23 MR. GREENWALD: We'll have to look at the
24 data you're looking at, but, yes, we will do it.

25 COMMISSIONER WILLIAMSON: Okay. Is there

1 anything additional, any additional information, you
2 can provide regarding the relative prices in different
3 markets or point us to other good sources that we may
4 not be aware of?

5 MR. GREENWALD: When I was asked the
6 question, is there a good reference for market prices
7 on a global basis, and I assume what you're interested
8 in is going beyond the AUVs.

9 COMMISSIONER WILLIAMSON: Yes.

10 MR. GREENWALD: The initial reaction was
11 nothing comes to mind. We'll try and get something in
12 the post-hearing brief, if we can.

13 COMMISSIONER WILLIAMSON: Okay. Thank you
14 for those answers, and I have no further questions at
15 this time.

16 CHAIRMAN PEARSON: Commissioner Pinkert?

17 COMMISSIONER PINKERT: I want to go back to
18 that question about the possibility that the
19 production from Thailand the UAE might move back to
20 India in the event that the orders are removed, and I
21 note, from other testimony that you've given us today,
22 that it does take capital to establish these
23 production facilities. The production facilities need
24 to run at full tilt in order to gain the necessary
25 economies.

1 So I'm wondering how that testimony is
2 consistent with the idea that these facilities are
3 going to lose a lot of production back to the
4 mothership, if you will, in the event that the orders
5 are revoked.

6 MR. GREENWALD: I think the posit is not
7 that the Indians, in the aggregate, in India and in
8 the UAE, will produce less. I think both they have an
9 interest in India in running 24 hours a day, seven
10 days a week, 365 days a year, and they have that same
11 interest in the UAE.

12 So you have to assume that both facilities
13 continue to produce, but if what you're doing, then,
14 is you're getting to the next question, which is,
15 where does that production go? And there is no reason
16 why, if you had no antidumping or countervailing duty
17 order on India, and you had the prospect of such an
18 order on the UAE and Thailand, what logic would
19 suggest is that the firm you produce in the UAE and
20 Thailand meets demand other than the United States,
21 currently being supplied by India production, and
22 India production, because it would be antidumping-
23 countervailing-duty-free, would come back to the
24 United States.

25 So what you're talking about is an

1 allocation of the distribution of what you produce, as
2 opposed to producing less in one locale.

3 MR. MELTZER: I think another way to say
4 that would be that it would make pointless the
5 intended import relief in these cases that are
6 proceeding now if, at the same time, the orders
7 against India and Taiwan are taken away.

8 COMMISSIONER PINKERT: Thank you. Now,
9 turning to Commissioner Lane's questions about the
10 processors, I'm wondering whether you can tell me, in
11 your estimation, whether the types of customer for
12 imports from India are likely to change, in the event
13 that the orders are revoked.

14 MR. GREENWALD: I don't think so. I mean,
15 there is one specific example that comes to mind, a
16 processor that was purchasing from India prior to the
17 initial orders and that -- I don't know where he is
18 purchasing from now. But if the question is, would
19 there be any reason to suspect a different pattern of
20 supply if the orders were revoked, I think the answer
21 to that is, to the extent there is more supply likely
22 to come in from India, yes, you will sell to more
23 people.

24 But would it be a radical shift from the
25 combination of India supply that is now going, and

1 when I say "India," I mean both from the UAE and
2 Thailand and from India, that is now coming in, would
3 you see a radical difference? I think the answer to
4 that is no, but I would like to think about it more,
5 if it's all right, and respond to that in the post-
6 conference brief.

7 COMMISSIONER PINKERT: I would greatly
8 appreciate that. Thank you.

9 Now, I note that the capacity utilization
10 rates are business-proprietary information, so I can't
11 indicate anything about those rates in this public
12 hearing, but, in light of the reported rates in the
13 staff report, I'm interested in knowing what the upper
14 limits are on a PET film producer's capacity-
15 utilization rate. What factors constrain capacity
16 utilization?

17 MR. WINN: You know, general film lines are
18 built, and there are regular maintenance cycles that
19 have to be taken into consideration. In general, a
20 film line can run basically full rate, let's just say,
21 on average, for two years before there needs any plan
22 maintenance. Usually those plan maintenance periods
23 last anywhere from a week to 10 days.

24 So that would be, at least for the perfect
25 situation, the best film line, no emergencies, in

1 terms of the maintenance time that is required for the
2 line.

3 Then the next part of the time that you have
4 to consider is if you're running one product, one
5 gauge thickness, basically there are very little times
6 when that line has to come down, especially with the
7 commodity products, where the cleaning time, and
8 things like that, are relatively limited. But if
9 you're running 100 different types of specialty
10 products on that film line, then there would be
11 frequent stops, frequent cleanings, and things such as
12 this. So it's somewhat dependent on the mix that you
13 have on the film line.

14 COMMISSIONER PINKERT: Thank you.

15 MR. GREENWALD: Let me just add a footnote
16 to that. When you look at the capacity figures the
17 Commission collects, they seem to me to be almost
18 always the most speculative. The beginning point is,
19 what's your rated capacity? And then the question is,
20 how did you get that rated capacity? And if what you
21 do is you decide that you're going to have a standard
22 product mix that, as Carlton suggested, is 50 percent
23 commodity grade and 50 percent specialty grades of
24 shorter runs, and it turns out you run that plant 100
25 percent commodity-grade films with long runs, your

1 actual capacity is going to exceed your rated
2 capacity.

3 So there is always this question of how do
4 Respondents come up with their rate-of-capacity
5 figures?

6 COMMISSIONER PINKERT: Thank you. Now, the
7 staff report also indicates that operating results
8 varied considerably among domestic producers during
9 the period of review, and some fared considerably
10 worse than others. To the extent that you can discuss
11 this in a public forum, could you address why there is
12 so much variability in the financial data?

13 MR. GREENWALD: I can't discuss it at all --
14 I'm sorry -- in a public forum, but I can discuss it
15 in the post-hearing brief.

16 COMMISSIONER PINKERT: I would appreciate
17 that, and I thank this panel. I have no further
18 questions. Thank you, Mr. Chairman.

19 CHAIRMAN PEARSON: Mr. Greenwald, the vice
20 chairman and Commissioner Okun already have raised
21 some questions regarding cumulation. I would like to
22 follow up by mentioning some other conditions of
23 competition that might be seen to differ.

24 Either now or in the post-hearing, could you
25 comment on different trends in volume prior to the

1 order for the two countries?

2 MR. GREENWALD: I don't have the answer for
3 you because I don't actually recall the data, but,
4 yes, we will -- different trends and volumes and any
5 other specific you would like us to address.

6 CHAIRMAN PEARSON: Different patterns of
7 underselling prior to the order.

8 MR. GREENWALD: Yes, yes.

9 CHAIRMAN PEARSON: And different trends in
10 subject country capacity since the imposition of the
11 order.

12 MR. GREENWALD: Since the order. Okay. I
13 know the latter, the last point, but I think it's
14 confidential. So we're going to have to discuss that
15 in the post-conference brief.

16 CHAIRMAN PEARSON: That's fine. I just
17 wanted to make sure that, since you were going to be
18 writing about cumulation anyway, I wanted you to do it
19 thoroughly. Okay?

20 In the public record, we see that the
21 overselling and underselling pattern by India in this
22 record is very balanced during the period of
23 investigation. I have some familiarity with commodity
24 markets. It looks to me very much like normal
25 business activity in a commodity market where you get

1 some sales, you don't get some sales, and you're
2 priced a little bit above or below the other guy.

3 What should we take of this? Is this an
4 indication that perhaps the Indians now have gotten a
5 sense for the U.S. market and are participating in the
6 commodity-grade business in a normal manner?

7 MR. GREENWALD: Are they being what we would
8 call "responsible"? The answer is no. When you look
9 at those data in the staff report, and, again, I'm
10 circumscribed in what I can say because of
11 considerations of confidentiality, but, on some of the
12 instances of overselling, there is not even a rational
13 relationship between the prices you see in the product
14 from India versus the prices you see in the product
15 from the United States. They cannot be comparable
16 products.

17 The more telling data, which we provided in
18 detail in our brief, are the data on what happens to
19 volumes from India and then volumes in pricing from
20 the UAE and/or Thailand. I forget which. There is
21 another data series in there, and those data, I think,
22 give you a very clear picture on what the Indians, in
23 fact, have done in the U.S. market in terms of pricing
24 and are, I think, what one would expect them to do if
25 the orders were to be revoked.

1 CHAIRMAN PEARSON: Of course, our
2 overselling and underselling data come directly from
3 our seven pricing products.

4 MR. GREENWALD: It is true, but when you
5 look at -- I always find this in cases. You look at
6 the product definition, and then you look at some of
7 those prices, and you have to say to yourself, and
8 it's true in this case, this can't be. Something is
9 wrong.

10 You cannot have, in a product that is
11 nominally identical, gross variations and systematic
12 variations in pricing. It must be true that there are
13 differences either in the product that are not fully
14 accounted for, or it is possible that you would have
15 some very low, very short-term, immediate-need sales
16 that are the difference, or, again, you might have
17 very small quantity sales.

18 But when I looked at those data, to me, they
19 were striking, and my own reaction was something is
20 going on here beyond pricing of normal commodity
21 products.

22 CHAIRMAN PEARSON: Did we establish pricing
23 categories that were too broad? Mr. Meltzer, please?

24 MR. MELTZER: I think some of the instances
25 of the overselling that you are referring to are for

1 very small quantities from the Respondents. So you're
2 having very small amounts being compared to very large
3 amounts, and we don't really know what accounts for
4 those small volumes of sales, but those sales could
5 well have very skewed pricing.

6 CHAIRMAN PEARSON: Okay. Well, you can see
7 what I'm interested in, and, to the extent you can
8 shed more light on it in the post-hearing brief --

9 MR. GREENWALD: We will address that in
10 detail. We can't go through the data publicly,
11 obviously, but, in the post-conference brief, we can
12 give you our reading of the data.

13 CHAIRMAN PEARSON: Okay. Thank you. My
14 final question, and perhaps I should just save it for
15 Commissioner Okun, but let me start. She can clean up
16 whatever mess I create.

17 It's a Bratsk question. What I'm really
18 wondering are how to treat the imports from Brazil,
19 China, Thailand, and the UAE. Are they nonsubject
20 under the law for our Bratsk analysis, or is the
21 better argument that they are subject?

22 MR. GREENWALD: I think the result is that
23 the better argument is that they are subject. It
24 would seem to me to be indefensible to say that you
25 have to treat, for purposes of analyzing what's going

1 to happen if orders go off, and the extent to which
2 nonsubject merchandise can take advantage, and
3 essentially nothing go to the domestic industry, to
4 treat imports that are subject to a separate Title VII
5 proceeding, separate antidumping investigation, as
6 nonsubject.

7 I cannot imagine that the drafters of the
8 statute, or even a court that was interpreting the
9 statute --

10 CHAIRMAN PEARSON: It's the court I would
11 have more concern about.

12 MR. GREENWALD: We understand the point, and
13 our view here is that they are the functional
14 equivalent, if I can use that term, of subject
15 merchandise.

16 CHAIRMAN PEARSON: Okay. But as we analyze
17 them, should we treat them differently, prior to the
18 time of our preliminary finding on that duty order, as
19 compared to what's transpired since then?

20 MR. GREENWALD: Well, to the extent that the
21 sunset reviews are essentially counterfactual and,
22 therefore, prospective in nature -- you're asking
23 yourself the question, what's going to happen? -- I
24 think that treating them as, again, the functional
25 equivalent of subject merchandise going forward is the

1 right way to look at it.

2 CHAIRMAN PEARSON: If we do that, don't we
3 kind of prejudge what our determination will be on
4 final? I would be very reluctant to do anything in
5 public that would be misconstrued as signaling what --

6 MR. GREENWALD: But if you treated them as
7 essentially nonsubject, as if they were to be, in that
8 case, no antidumping discipline on them, you would be
9 doing the same thing. You would be prejudging the
10 situation.

11 CHAIRMAN PEARSON: Well, they'd be innocent
12 until proven guilty would be the presumption.

13 MR. GREENWALD: They have already been
14 proven part-guilty. Let me leave it like that.

15 CHAIRMAN PEARSON: I don't think we should
16 get here into a discussion of the preliminary
17 determination. I'm not sure that all of the i's are
18 dotted and the t's crossed on that case, frankly.

19 MR. GREENWALD: Well, let us address that in
20 -- it is an interesting question. I think it's an
21 easy question for me to say; more difficult for you.

22 CHAIRMAN PEARSON: It has been challenging
23 for me, frankly. Bratsk has not been the easiest
24 thing to absorb, and this is one more instance in
25 which I am striving mightily to figure out how to

1 apply it.

2 MR. GREENWALD: We will address it in detail
3 in the post-conference brief, if that's acceptable.

4 CHAIRMAN PEARSON: Thank you. My light is
5 changing, so, Madam Vice Chairman?

6 VICE CHAIRMAN ARANOFF: Thanks, Mr.
7 Chairman.

8 Mr. Meltzer and Mr. Greenwald, in your
9 brief, you argue that the domestic industry is caught
10 in a cost-price squeeze, but our data for the
11 industry, as a whole, which we need to look at, if we
12 find that the captive-production provision doesn't
13 apply, does not show an increase in the ratio of cost
14 of goods sold to net sales over the period of review,
15 and even if you look only at commercial sales, you see
16 only a modest uptick in the interim period.

17 Do these data represent the actual
18 experience of the domestic industry, or are you basing
19 your claim that there is a cost-price squeeze on
20 different data or certain anecdotal evidence?

21 MR. MELTZER: I think the reported data that
22 you have from the U.S. producers, at least the
23 merchant producers who are the ones that are impacted
24 by the orders, are fairly reported in the data that we
25 have. We're not basing the cost-price squeeze on

1 information that we have that's not reported in the
2 questionnaire responses.

3 MR. GREENWALD: Also, what you have before
4 you is, again, aggregate data, and it is true that, on
5 the lower prices, commodity grades, what you have is
6 less margin and, therefore, less ability to pass along
7 the cost increases, more so on the higher grades.

8 VICE CHAIRMAN ARANOFF: Okay. Well, if you
9 want to take a look at it again and clarify, in your
10 post-hearing brief, whether you are, in fact, making a
11 price-suppression argument and what you're basing it
12 on, that would be helpful because, looking at what we
13 traditionally look at, I don't see --

14 MR. GREENWALD: We will focus on the
15 merchant market, where I really do believe you should
16 focus.

17 One of the things that has not come out in
18 the back and forth is whether or not the rule on
19 captive production should be triggered in this case.
20 It's something in the post-conference brief that we
21 will address, but it is much more, I think, a
22 merchant- market issue than it is a captive-production
23 issue.

24 VICE CHAIRMAN ARANOFF: Okay. With respect
25 to cost-price squeeze and price suppression, I

1 recognize that what's happening during the period now
2 may not be what's likely to happen in the event of
3 revocation, so feel free to go there, if that's what
4 you're arguing. But also, at least when I look at
5 these issues, I look not just at will there be a cost-
6 price squeeze -- that is price suppression -- but
7 whether prices otherwise would have been higher, and
8 that, to me, it matters whether or not demand is
9 increasing or decreasing and other factors like that
10 would whether you might normally expect someone to be
11 able to pass on cost increases.

12 MR. GREENWALD: Thank you.

13 VICE CHAIRMAN ARANOFF: Okay. Thanks.

14 Let me turn back, yet again, to this issue
15 of Indian-owned production facilities in third
16 countries. I just want to clarify because you were
17 commenting in response to one of my colleague's
18 questions with the idea that perhaps some Indian
19 producers are supplying semi-finished product from
20 India to affiliated facilities in other countries. Do
21 we have any information on the record to suggest that
22 that is, in fact, the case, or could you put such
23 information on the record, or is this something that
24 you are just speculating might be possible?

25 MR. GREENWALD: No, no. It's in the annual

1 reports that we've looked at. It is, I think, clear
2 that -- I don't know whether it's Flex, but when you
3 look at the annual reports, what you see is that PET
4 chips -- you take your basic chemicals, and you make
5 your polyester chips. You then take the chips, do
6 what you do to them, extrude them, make the film, and
7 it's the chips that are going from the Indian supply
8 to either UAE or Thailand.

9 What we'll do is we'll provide you, if they
10 haven't been provided already the annual report data
11 which shows it.

12 VICE CHAIRMAN ARANOFF: I appreciate that.
13 Is that the same process that Terfane is using between
14 Brazil and the U.S., or are they dividing up the
15 production process --

16 MR. GREENWALD: Brazil. Again, I never know
17 quite what is confidential or not. This is coming up
18 in a GSP format, but my understanding of the Brazil
19 situation is slightly different -- it's materially
20 different. If I can, again, just to avoid inadvertent
21 disclosure, if I could address that, in written form,
22 in the post-conference brief and draw the distinction,
23 we'll do it.

24 VICE CHAIRMAN ARANOFF: Okay. That would be
25 helpful. If there is anything that you can help our

1 staff to do to make our record complete in this case,
2 as opposed to in the other pending investigation, with
3 respect to exactly the size and capacity of these
4 Indian-related producers in third countries, what
5 their product mix is, and, particularly what I'm
6 interested in is who they are shipping to, who their
7 customers are, with respect to the home markets that
8 they are located in versus the U.S. versus other. The
9 more detail that we have -- looking at their shipping
10 patterns -- that would be helpful.

11 MR. GREENWALD: I assume that what you need
12 is something which would have to be on the public
13 record here because the record in the other case is
14 the record of the other case, not this case.

15 VICE CHAIRMAN ARANOFF: Right, right, but
16 please work with our staff to see what we can do to
17 make our record here as fulsome as we can. Okay.
18 Thank you.

19 All right. With that, Mr. Chairman, I think
20 I have concluded my questions.

21 I'll just say thank you to all of the
22 witnesses for your answers this morning.

23 CHAIRMAN PEARSON: Commissioner Okun?

24 COMMISSIONER OKUN: I have no further
25 questions for this panel, but I did want to thank you

1 very much for all of your responses, and I'll look
2 forward to the post-hearing briefs and your responses
3 there as well. Thank you, Mr. Chairman.

4 CHAIRMAN PEARSON: You're not even going to
5 try to untangle Bratsk?

6 COMMISSIONER OKUN: I'm not even going to
7 try to untangle Bratsk. I'm still waiting for the
8 court to speak a little more clearly about whether it
9 even applies in review.

10 CHAIRMAN PEARSON: Commissioner Lane?
11 Commissioner Williamson?

12 COMMISSIONER WILLIAMSON: No further
13 questions.

14 CHAIRMAN PEARSON: Commissioner Pinkert?

15 COMMISSIONER PINKERT: No further questions.

16 CHAIRMAN PEARSON: I believe there are no
17 further questions from the dais. Do members of the
18 staff have questions for this panel?

19 MR. DEYMAN: I'm George Deyman, Office of
20 Investigations. I have one question.

21 Do you agree with the methodology used by
22 the Commission staff to determine the level of imports
23 from subject and nonsubject sources? If not, do you
24 recommend any alternative methodology?

25 As you know, we used questionnaire data for

1 India and Taiwan, and we used official statistics,
2 with some adjustments, for the nonsubject countries.
3 We think we had good reason to do it the way we did
4 it, but, in the interest of fairness, to make sure
5 that we get the best possible import data, if you have
6 any comments along those lines, we would like to know.

7 MR. GREENWALD: Let me make sure I recall it
8 properly.

9 In the tables that you have provided on
10 nonsubject imports, you have a footnote, as I recall,
11 that says there may be nonsubject imports in terms of
12 material. That's right, and, I suppose, the only
13 thing we would anticipate doing is providing you
14 specifics on where we know that PET film is not made
15 so that the universe of nonsubject imports is clearer.

16 MR. DEYMAN: That's great. Thank you. We
17 have no further questions.

18 CHAIRMAN PEARSON: Does counsel for the
19 Respondents have questions for this panel?

20 MR. JAMES: No questions.

21 CHAIRMAN PEARSON: Thank you, Mr. James.

22 In that case, I think we should break for
23 lunch, before noon, let it be noted. Let's take an
24 hour and return at 10 minutes-to-one. This hearing
25 stands in recess.

1 (Whereupon, at 11:52 a.m., the hearing in
2 the above-entitled matter was adjourned, to reconvene
3 at 12:50 p.m. this same day, Wednesday, February 20,
4 2008.)
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1 MR. BEJOIAN: My name is Chris Bejoian. I'm
2 the president of Alba Sales. Alba Sales is a small
3 company located in Cambridge, Massachusetts, which
4 focuses on North America. In addition, I have entered
5 into a contractual arrangement with MTZ to help
6 develop their international markets outside of North
7 America.

8 Alba's primary business is the sale of
9 packaging-related products, including labels and
10 equipment to apply labels. PET film is an important
11 part of the packaging industry, as labels can be made
12 of PET film, and PET film is also used in conjunction
13 with labels and packaging.

14 As a result, Alba has established contacts
15 with many users of PET film, even though they are not
16 PET film customers.

17 As I mentioned, Alba Sales in North America.
18 One product sold by Alba is PET film manufactured in
19 India by MTZ. Alba has been involved in the sale of
20 PET film since the late 1990's, encompassing the
21 period both before and after the issuance of the
22 order.

23 As I mentioned, in addition to working with
24 MTZ for sales in the North American market, I have
25 also worked with MTZ in developing other markets,

1 including the Ukraine, Germany, France, Brazil, and
2 other countries.

3 I primarily am here today to take questions
4 from the Commission and to clarify any points about
5 the industry that may exist in their mind. I am also
6 here today to provide my overview of the PET film
7 market in the U.S. and elsewhere. I am also going to
8 discuss MTZ's experience, how it has changed over the
9 years and shared in challenges of all Indian producers
10 in selling to export markets.

11 MTZ is a producer of packaging-grade PET
12 film, including film used for metalizing. This is a
13 commodity grade, or vanilla PET film. It ranges from
14 10 to 50 microns in thickness, with most of the film
15 in the 12-micron, of what you have referred to as "48
16 gauge."

17 MTZ was established primarily to be an
18 exporter of film and was anticipated to sell only a
19 small amount of its production in India. Over the
20 years, this has changed, and now MTZ sells a
21 substantial portion of its film in the vibrant and
22 growing Indian home market.

23 I am first going to discuss the Indian home
24 market. I have firsthand knowledge of this, and I
25 have worked with MTZ and Indian producers in

1 developing a market strategy, and my comments will be
2 based on this experience and the other information
3 that I gathered in the marketplace.

4 The most important factor is that the Indian
5 home market for PET film is a vibrant and growing
6 market. As noted in the article attached to the
7 public post-hearing brief of Jindal, the economy in
8 India has grown significantly, and demand for products
9 packaged in PET film have continued to increase.

10 For example, every person India must have an
11 addition card for food and other products. This card
12 is now laminated with PET film. Also, many
13 traditional Indian food products, such as cooking
14 oils, are now packaged in PET pouches. Further, the
15 growing middle class in India is turning to
16 convenience food products, such as prepared versions
17 of traditional Indian cooking. All of these prepared
18 foods are produced in India and packed in India, with
19 Indian PET film.

20 Another use in India, which may not be
21 common in the U.S. market, is the PET film in the
22 clothing industry for yarn. This is another vibrant
23 and growing sector which uses PET film.

24 These and other applications have greatly
25 increased the demand for PET film in India. Indian

1 producers have a strong and growing market for PET
2 film at a very good price, and this is now their
3 primary sales market.

4 MTZ has made it clear that any sales to the
5 U.S. should only be made at a premium price. The home
6 market is their primary focus, and sales in other
7 markets must maximize revenues.

8 An important target for MTZ's U.S. sales are
9 independent metalizers, who purchase PET film from MTZ
10 and metalize the film for sale in the U.S. market and
11 for use in their own advanced applications.

12 MTZ does not sell the metalized film. It
13 sells the PET film, which is converted into metalized
14 film by the unrelated U.S. customers. These
15 metalizers are in an uncomfortable position in the
16 marketplace, as the U.S. producers do not sell, or
17 have no incentive to sell, U.S.-produced PET film to
18 these metalizers.

19 Toray, for example, also produces and sells
20 metalized film. They would not be an acceptable
21 supplier of PET film to these independent metalizers.

22 Other U.S. producers simply do not make the
23 vanilla PET film used for metalizing in the United
24 States; rather, they import it from their non-U.S.
25 sources.

1 I will next discuss the U.S. market. The
2 U.S. market is dominated by a few producers. During
3 the past several years, those producers have imported
4 much of their film needs, particularly the commodity-
5 grade PET film from their related producers outside
6 the United States. To the extent that the Indian film
7 competes with any film for sales in the United States,
8 it competes not with domestically produced film; it
9 competes with the imported PET film made by the
10 domestic industry from its related companies.

11 In my experience, only the very wide vanilla
12 film is produced in the United States. For example, I
13 have seen 80-inch-wide film offered for sales by the
14 U.S. producers produced in their foreign facilities.
15 The 130-inch film, however, is produced in the U.S.
16 facilities. However, 130-inch film is not practical
17 to ship from India. The cost of shipping such film is
18 prohibitive, and the shipment of such film requires
19 specialized packaging and packaging equipment.

20 In a similar fashion, imports of thicker-
21 and thinner-gauge films, both of which sell at premium
22 prices, are also not practical for India as well. For
23 example, due to the high humidity in India during
24 certain times of the year, as well as the nature of
25 the available packaging materials, containers of film

1 will, on occasion, be ruined by mold, moisture, and
2 other similar problems. Much of this relates to the
3 nature of available pallets in India and the type of
4 pallets available in the United States.

5 While thicker and thinner film are not more
6 susceptible to mold and moisture, their values are
7 higher, and the risk of damage makes their sale
8 problematic.

9 Have I seen price competition in the U.S.
10 market for sales of PET film? Certainly. Price is
11 certainly a factor in making the sale. However, it is
12 not the only factor in making the sale. More
13 importantly, the price competition is not with the
14 U.S.-produced film; it is with the imported film sold
15 by the U.S. producers.

16 SKC, for example, has a major facility in
17 Korea. In fact, on their website, www.skcfilms.com,
18 they proudly state that their Korean plant is the
19 largest polyester plant in the world. Dupont Teijin
20 was named as one of the only two mandatory respondents
21 in an ongoing trade case against China. As the
22 mandatory respondents were selected by volume, they
23 must be either the largest or second-largest exported
24 to the United States from China.

25 Even with this price competition, MTZ prices

1 have remained high. In the case of the U.S. market,
2 MTZ's fair and equitable pricing is demonstrated by
3 the results of the two antidumping duty administrative
4 reviews in which it has participated. During these
5 two reviews, MTZ received a rate of zero. In fact, in
6 the most recent review, MTZ received a diminished
7 rate, even before applying for the export offset of
8 nearly 20 percent for the CVD. In other words, MTZ's
9 price to the U.S. was at least 20 percent higher than
10 any price that would have created a dumping margin.

11 MTZ is already pricing well over the minimum
12 price that would be established by discipline. It is
13 ludicrous to believe that the removal of discipline
14 would result in a radical reduction in price.

15 Finally, I want to discuss the other markets
16 to which Indian producers are selling and why those
17 markets are at least as important to the Indian
18 producers as the U.S. market. Accordingly, the Indian
19 producers would not shift their sales from other
20 markets to the U.S. market.

21 Over the past several years, I've worked
22 with MTZ to develop markets in many countries. The
23 primary focus of expanding into those markets has been
24 to make profitable sales and to earn MTZ the maximum
25 return reflected in rupees. These sales have always

1 been made at a profitable level.

2 More importantly, the demand in these other
3 markets has continued to grow, and the demand has
4 continued to be high.

5 My final point involves the fact that, due
6 to the economic changes, the U.S. market is not nearly
7 as important for India. In addition to being an
8 important and therefore competitive market for a
9 number of multinational producers of film that these
10 multinationals produce in the U.S. and produce
11 elsewhere and ship to the U.S., the change in the
12 relative value of the dollar to the rupee and the euro
13 to the rupee have further decreased the value of the
14 U.S. market to the Indian producers.

15 As set forth in MTZ's prehearing brief, the
16 value of the dollar has declined significantly, as
17 compared to the rupee, while the value of the euro has
18 appreciated. This is illustrated by the following
19 example.

20 At the end of 2002, hypothetically, 100
21 rupees-per-unit sale in U.S. dollars would be about
22 \$2.08, and the euro, about 1.99 euros. A sale made at
23 the end of 2007 for \$2.08 in the U.S. dollar would
24 bring a return of only 82 rupees, while the sale of
25 1.99 euros would bring a return of 115 rupees. In

1 other words, the currency depreciation of the dollar
2 and the appreciation of the euro has greatly reduced
3 the value of the U.S. market and greatly increased the
4 value of the European market.

5 Accordingly, based on what I have seen in
6 the market, the elimination of orders on India would
7 have little or no impact on the U.S. production of PET
8 film or on pricing in the market.

9 I wish to thank the ITC for the opportunity
10 to present my views, and I'm prepared to receive any
11 questions. Thank you.

12 (Pause.)

13 CHAIRMAN PEARSON: It's off again now I
14 think. Can you hit the switch one more time? There
15 you go.

16 MR. JAMES: Oh, okay, sorry. Again, for the
17 record, my name is Dennis James and I am here
18 representing Jindal Polyfilms, Ltd., a producer of PET
19 film in India. I apologize, I don't have a
20 representative from the company with me, but as I'm
21 sure you can appreciate, it's a long way to come from
22 India and quite costly.

23 During the original investigation, Jindal
24 operated under the name Jindal Polyester, Ltd. The
25 company was renamed Jindal Polyfilms, Ltd. in 2004.

1 Jindal's main PET film division is located at Nashik,
2 India, approximately 1,400 kilometers from New Delhi
3 and this is the only location where Jindal now
4 produces the subject merchandise.

5 At the time of the original investigation,
6 Jindal, also, had a subsidiary in the United States
7 called Jindal America, Inc. In late 2003, however,
8 Jindal sold this subsidiary and no longer has any
9 affiliations with any U.S. companies, nor does it any
10 longer maintain any inventories in the United States.
11 Jindal does have an affiliation in Europe. In 2003,
12 Rexor S.A., located in France, was acquired by Jindal.
13 Jindal sells PET film to Rexor and that PET film is
14 either processed, that is further metalized, or coded,
15 or sold as is mainly in Europe.

16 Turning now to the issue before the
17 Commission, as the Court of International Trade has
18 noted, the basic inquiry in a sunset review is whether
19 termination of whatever unfair trade discipline has
20 been imposed will likely lead to the material injury
21 to the domestic industry sought to be avoided by the
22 discipline opposed.

23 In the instant matter, Jindal submits that
24 termination of the antidumping and countervailing duty
25 orders on India will not lead to recurrence of the

1 material injury sought to be avoided by the discipline
2 imposed by those orders. As stated in Jindal's pre-
3 hearing brief, because of increased and increasing
4 imports from non-subject countries, the domestic
5 producers of PET film are not now benefitting from the
6 original orders. Additionally, as also stated in our
7 brief, the Indian producers are no longer focused on
8 the U.S. market, rather they are focused on their own
9 home market and on other third-country markets,
10 because of increases in demand in those markets.
11 Given these indisputable facts, Jindal refutes the
12 idea that the domestic industry would be harmed,
13 materially or otherwise, if the orders were to be
14 revoked.

15 With respect to the influx of non-subject
16 imports, as noted in Jindal's brief, a significant
17 percentage of the U.S. PET film market is currently
18 serviced by imports from non-subject countries. The
19 Commission staff's pre-hearing report further shows
20 that apparent domestic consumption, or ADC, has
21 increased significantly since the orders went into
22 effect. However, even though ADC increased, imports
23 from the subject countries, that is from India and
24 Taiwan, decreased. In fact, declines in subject
25 imports occurred every year following imposition of

1 the orders except in 2006. In that year, although
2 imports from India decreased further, imports from
3 Taiwan increased somewhat.

4 The yearly declines may have initially
5 benefitted the U.S. producers. However, by the end of
6 the period, the decrease of imports from India and
7 Taiwan were not benefitting the U.S. producers at all.
8 This is because during the period, imports from other
9 sources, that is from sources other than India or
10 Taiwan, increased significantly. Thus, by the end of
11 the period, the decline in imports from the subject
12 countries was more than offset by increases from non-
13 subject countries and those increases were more than
14 twice as great as the subject country decline.

15 The observation that the U.S. producers are
16 not benefitting from the orders is certainly supported
17 by the share data reported in the staff report. That
18 data show that U.S. producers' share of ADC initially
19 increased in the first three years after the orders,
20 but then declined to the point where the U.S. producer
21 share of ADC in 2006 was actually lower than it had
22 been in 2001, before the orders went into effect. In
23 fact, the U.S. producer share of ADC dropped to less
24 than it was before the orders were imposed. During
25 the same period, however, the share of non-subject

1 imports in ADC increased.

2 Interim 2007 share data show a slight
3 increase in the U.S. producer share of ADC for the
4 interim period. However, when those data are
5 extrapolated based on 2006 and interim 2006 figures,
6 the 2007 share is likely to be no greater than the
7 share held by the U.S. producers in 2001. Thus, the
8 interim data further demonstrate that the U.S.
9 producers are not currently benefitting from the
10 orders. This means, of course, that although the
11 share of subject imports of ADC dropped between 2001
12 and 2006, by the end of the period, this decline did
13 not benefit the U.S. producers, whose share of ADC, as
14 noted, was actually lower in 2006 than in 2001 and
15 about equal to the 2001 share in interim 2007; rather,
16 it benefitted non-subject countries.

17 Analyzing subject imports as compared just
18 to non-subject imports is also instructive. Jindal's
19 brief contains a chart that demonstrates that during
20 the year prior to the orders taking effect, the ratio
21 of Indian PET film imports into the U.S. compared to
22 imports from non-subject countries was fairly high,
23 indicating that imports from India did play an
24 important role in supplying U.S. demand. However,
25 during the first year in which the orders were in

1 effect, that is 2002, that ratio dropped significantly
2 and dropped successively thereafter. Likewise, when
3 combined data for Indian and Taiwan are considered,
4 the chart in Jindal's brief shows that the ratio of
5 combined imports to total imports of non-subject
6 imports was quite high in 2001 and then fell and
7 continued to fall every year thereafter except for
8 2006. It did not fall in 2006, because in that year,
9 Taiwan had a slight up-tick in its share.

10 Conversely, during the same period, the
11 ratio of PET film imports from non-subject countries
12 to total U.S. imports rose steadily, experiencing only
13 minimal negative growth in one full year period. In
14 fact, during the last full year for which data are
15 currently available, that is 2006, almost all U.S.
16 imports of PET film came from countries that are not
17 currently subject to an order. That non-subject
18 imports benefitted at the expense of subject imports
19 may be observed further from the fact that total
20 import share of the U.S. market in 2006 was exactly
21 the same as in 2001, even though the combined share of
22 the market held by subject imports had declined over
23 the period. In short, by the end of the period, the
24 share of the U.S. PET film market lost by subject
25 imports was entirely captured by non-subject imports.

1 The staff report summarizes the significant
2 growth in non-subject imports over the period. The
3 report states, imports of PET film from non-subject
4 countries increased by 65.6 percent, from 129 million
5 pounds in 2002, to 213 million in 2006. That report
6 also notes that PET film imports during 2002 were 92.9
7 percent -- I'm sorry, during 2006 were 92.9 percent.

8 Jindal here also cannot fail to note that as
9 regards non-subject imports, even the U.S. producers
10 recognized in their brief that 'non-subject imports
11 rose sharply after the orders against imports from
12 India and Taiwan.' Rose sharply are the U.S.
13 producers' words, not Jindal's, although Jindal
14 certainly agrees.

15 The foregoing data indicate that other
16 countries that are not subject to the orders have
17 merely taken over the role of supplying the ever
18 growing U.S. demand and that demand is growing cannot
19 be denied. As the staff report notes, subject U.S.
20 PET film demand overall is estimated to be growing at
21 three percent annually with commodity grades growing
22 faster. It, therefore, seems clear that revocation of
23 the current orders on PET film imports from the
24 subject countries will not lead to any harm to the
25 U.S. industry. At most, following revocation, India

1 and Taiwan are likely to merely replace some of the
2 import share lost to non-subject countries.

3 At this point, I should also comment briefly
4 on the Bratsk issue. Jindal noted Bratsk in its brief
5 and the U.S. producers also discussed Bratsk in their
6 brief and Mr. Greenwald discussed it today. But, the
7 U.S. producers argue that 'there is no serious Bratsk
8 issue.' Well, at the risk of making an argument that
9 is indefensible, according to Mr. Greenwald, I will
10 say this: in asserting that there is no serious
11 issue, the U.S. producers base their claim on their
12 observation that the non-subject imports are,
13 themselves, subject to investigations. While this may
14 be true, we believe that it is not relevant for the
15 Commission's analysis in this review. The current
16 investigations are only investigations. There has
17 been no finding of dumping and no finding of injury
18 and such a finding may never occur. Accordingly, for
19 its analysis in this review, the Commission must, we
20 submit, consider the non-subject imports as fairly
21 traded, as that is what they are at this time and will
22 be when the Commission votes.

23 Let me now turn to the change in the focus
24 of the Indian and Taiwan producers. First, with
25 regard to India, alone, the staff report indicates

1 that commercial shipments within India of PET film
2 have increased significantly since 2002. The report
3 further demonstrates that this trend is continuing.
4 Interim 2007 Indian home market commercial shipments
5 were higher than the comparable period in 2006. In
6 terms of value, the increases in the Indian PET film
7 market are even more striking. The value of Indian
8 home market commercial shipments increased
9 substantially from 2002 to 2006. As with shipments,
10 the trend with respect to value is also continuing
11 into the future. In interim 2007, the value of home
12 market commercial shipments in India was higher when
13 compared to the share period for 2006. Unit values of
14 commercial shipments in India also increased. In the
15 average unit value, or AUV, is significantly higher
16 now than it was at the beginning of the period. All
17 of these increases, in shipments, values, and unit
18 values, are a direct result of the very large
19 increases in demand in India for PET film.

20 Jindal estimates that demand in India has
21 increased almost three-fold since 2002 and increases
22 in demand are expected to continue well into the
23 future. This is recognized in the staff report, where
24 it is noted that all other Indian producers predicted
25 demand to grow in India between 12 and 15 percent per

1 year. The increase in demand in India has taken place
2 mainly in the packaging end-use area for PET film and
3 Jindal estimates that demand in India for PET film use
4 just in packaging increased from 60,000 metric tons in
5 2002, to 181,000 metric tons in 2006.

6 With respect to growing worldwide demand for
7 packaging grade PET film, the staff report also
8 confirms, 'packaging commodity markets are growing
9 rapid in certain end-use areas, such as convenient
10 cooking bags, due to technology and changing customer
11 taste.' In India, this demand for packaging quality
12 PET film will certainly increase further, as a result
13 of the burgeoning middle class in that country. In
14 Jindal's brief, we provided language from a Business
15 Week article that bears repeating, 'the Indian middle
16 class currently numbers 50 million people, but by 2025
17 will have expanded dramatically to 583 million, some
18 41 percent of the population. These households will
19 see their incomes balloon to 51.5 trillion rupees or
20 \$1.1 billion, 11 times the level of today and 58
21 percent of total Indian income.' Elsewhere, of
22 relevance here, that article observes that 'for
23 generations, Indians regarded packaged foods as stale.
24 However, a new generation of busy urban Indians is
25 starting to appreciate the convenience and choice

1 offered by packaged food.'

2 Because of the exceedingly large increases
3 in demand for India, the Indian producers are now
4 focusing and will continue to focus more and more on
5 their domestic market. As Jindal noted in its
6 response, today, better than 50 percent of its
7 production of PET film goes to supply the Indian
8 market. Not only are the Indian shipments going more
9 to the Indian market, Indian producers have also
10 increased exports to the other growing markets around
11 the world. The staff report, for example, shows that
12 Indian commercial shipments to the European Union have
13 more than doubled in the period of 2002 to 2006. And
14 we must emphasize here that this tremendous increase
15 has occurred during a time when the European Union has
16 imposed double-digit countervailing duties, as well as
17 antidumping duties on Indian PET film imports.

18 Indian exports to Asian markets and to other
19 third-country markets have also increased during the
20 period. The staff report indicates that this trend of
21 growing sales to other markets is continuing, as
22 exports to other markets is up in interim 2007 over
23 2006. And the values of Indian exports of PET film to
24 other markets than the United States have also
25 increased dramatically. With respect to average unit

1 values for Indian exports, these have trended up for
2 sales in Europe and Asia, albeit not for sales in so-
3 called other markets. The average unit values for
4 other markets were, however, higher in 2006 than the
5 average unit value for Indian exports to the United
6 States, which still makes these other markets more
7 desirable for Indian exporters.

8 It simply cannot be denied that these
9 increases in sales to markets other than the United
10 States are a direct result of growing demand
11 worldwide, that is outside of the United States. That
12 global demand is growing was clearly recognized by the
13 U.S. producers. According to the staff report, 'the
14 two responding producers that commented on demand
15 outside of the United States reported that it had
16 increased since 2002.' Moreover, the staff report
17 notes that according to one report, 'PET film import
18 demand grew by a total of 36 percent or about nine
19 percent per year during 2002 to 2006 and at about 13
20 percent or some six percent per year during the 2004
21 to 2006 period.' This trend of increasing demand is
22 expected to continue well into the foreseeable future.
23 As a result, the Commission should recognize that
24 Indian PET film producers are now more likely to focus
25 on their own strong and growing home market and today

1 are much less export oriented than they were during
2 the original investigation.

3 Jindal cannot, of course, speak for Taiwan,
4 but Jindal does wish to note that the same trends of
5 moving away from the United States appear to apply to
6 Taiwan, as well, albeit to a lesser degree. The staff
7 report shows that home market commercial shipments of
8 PET film in Taiwan increased over the period. Exports
9 to the European Union by Taiwan producers also
10 increased; likewise, exports to Asia are up for
11 Taiwan.

12 When combined, that is Taiwan and India
13 together, the data for India and Taiwan further
14 demonstrate that cumulatively, the two countries are
15 focusing on their home markets or on third-country
16 markets, not on the United States. Table 4-7 of the
17 staff report presents the combined country data. This
18 table indicates that combined commercial home market
19 shipments have increased steadily over the period,
20 from over 155 million pounds in 2002, to over 259
21 million pounds in 2006. This is an increase of almost
22 104 million pounds or better than 66 percent.

23 Table 4-7 also shows that combined internal
24 shipments have increased steadily. In 2002, internal
25 shipments/transfers were about 31 million pounds. By

1 2006, this had grown to just over 67 million pounds,
2 an increase of more than 114 percent and the trend is
3 continuing, with interim internal shipments up more
4 than four million pounds over 2006.

5 Combined exports by India and Taiwan to
6 countries other than the United States have also grown
7 steadily. In 2002, India and Taiwan together shipped
8 about 25 million pounds of PET film to the European
9 Union. This figure grew to 64 million pounds in 2006,
10 an increase of about 39 million pounds or about 156
11 percent. Combined shipments to Asia by the two
12 countries also steadily increased over the period,
13 from less than 70 million pounds in 2002, to almost
14 110 million in 2006, an increase of over 40 million
15 pounds or over 58 percent, and the trend also
16 continued in the interim period.

17 Exports to other markets were also up. In
18 2002, the countries together exported less than 35
19 million pounds to markets other than the European
20 Union, Asia, and the United States. By 2006, this
21 figure had grown to over 51 million and, again, the
22 trend continued into interim 2007.

23 Combined home market commercial values also
24 increased between 2002 and 2006. In 2002, the two
25 countries combined had sales of PET film in their home

1 markets amounting to about \$125 million. By 2006,
2 this had grown to over \$237 million, an increase of
3 over \$112 million or almost 90 percent, and the trend
4 continued in the interim period. The value of
5 combined exports to Europe also increased, from \$26
6 million in 2002, to over six million in 2006.
7 Likewise, the value of sales by India and Taiwan
8 combined to other Asian markets have more than doubled
9 over the period, and the trend continued into 2007
10 with interim 2007 value nearly \$18 million more than
11 the interim 2006 value.

12 With respect to average unit values, the
13 combined figures for India and Taiwan show increases
14 in all foreign markets except for the European Union,
15 where the 2006 AUV was equal to the 2002 value of
16 \$1.04. Significantly, unit values for home market
17 commercial shipments have increased in both countries
18 combined in 2006 over 2002; that is, in 2002, the
19 combined average unit value for both countries' home
20 market shipments was 81 cents, whereas in 2006, it was
21 92 cents, that is up 11 cents or 13.6 percent. And in
22 interim 2007, the combined unit value is higher still
23 at \$1.05. This AUV of \$1.05 is higher than the
24 combined AUV for sales to the United States, which in
25 interim 2007 was \$1.02.

1 The foregoing discussions of India and
2 Taiwan home market and global demand, consumption and
3 sales, both separately and combined, demonstrated that
4 revocation of the countervailing duty and antidumping
5 duty on PET film from India would not likely lead to a
6 continuation or recurrence of material injury in the
7 reasonably foreseeable time. Producers in India and
8 Taiwan would not likely return in large numbers to the
9 United States, given the tremendous increase in demand
10 for PET film in their own home markets, as well as in
11 other global markets other than the United States.
12 There can be little doubt, given the data, that both
13 India and Taiwan are now focusing their production on
14 those markets. This change of focus is not the result
15 of the orders imposed in 2002, but rather is the
16 result of growing demand in India and in Taiwan and in
17 other third-country markets. There is simply no
18 reason to assume that India and Taiwan would abandon
19 those markets simply because the orders were revoked.

20 Finally, in this regard, we must note that
21 the staff report indicates that combined, both
22 countries' producers are currently operating at better
23 than 89 percent capacity utilization. This is a
24 relatively high capacity utilization rate and given
25 the huge growth in demand in these producers' home

1 markets and in other markets than the United States,
2 this does not leave much capacity, if any, to allow
3 significant increases in exports to the United States.

4 In conclusion, contrary to the U.S.
5 producers' claims, Jindal submits that the domestic
6 industry will not be harmed if the orders are revoked.
7 Global markets have changed significantly since the
8 orders were issued. Global demand outside of the
9 United States is quite high and demand in Asia and the
10 EU is significantly higher than it was in 2002. Even
11 if the orders are revoked, Indian producers will
12 continue to export and to ship to these areas that are
13 becoming more profitable to them. Accordingly, Jindal
14 requests that the Commission revoke the orders on
15 Indian PET film, because there is little likelihood of
16 recurrence of material injury.

17 Thank you. I will be happy to answer any
18 questions and to the extent that I cannot answer them
19 at this time, I will, of course, ask Jindal to provide
20 answers for our post-hearing brief. Thank you.

21 CHAIRMAN PEARSON: Does that conclude the
22 presentation?

23 MR. BEJOIAN: Yes.

24 CHAIRMAN PEARSON: I would like to welcome
25 you here this afternoon. I appreciate your

1 willingness to take the time to be here with us,
2 especially those of you, who traveled some distance.
3 The snowflakes I've seen so far have been very gentle
4 and those, who are from Chicago, are accustomed to
5 this stuff anyway. So, no big deal, right?

6 We will begin this afternoon's questioning
7 with Commissioner Williamson.

8 COMMISSIONER WILLIAMSON: Thank you, Mr.
9 Chairman. I express my appreciate for the testimony
10 of the witnesses. I'd like to begin with Mr. Bejoian
11 and I think you mentioned several times that, I guess,
12 the primary imports from MTZ are what you call
13 metalized PET film?

14 MR. BEJOIAN: It was for the metalized
15 industry, but we make corona-treated regular PET film.

16 COMMISSIONER WILLIAMSON: Can you give us --
17 sort of expand on what metalized is, what types of
18 industries is used, and how significant of share of
19 the trade is?

20 MR. BEJOIAN: Metalized is primarily used --
21 where our use is, primarily for the food industry, all
22 right, like similar to the pouches, which, you know,
23 was described earlier by the other people here. You
24 know, you put a straw in it and you have the septic
25 packaging, stuff like that, that kind of industry.

1 And there is, like I said, the other metalized uses
2 for the clothing industry in the yarn.

3 COMMISSIONER WILLIAMSON: Okay.

4 MR. CRAVEN: Yeah, the metalized film, of
5 course, is not subject to the order. It's one of the
6 exemptions from this particular order; not film for
7 metalizing, but the actual metalized film.

8 COMMISSIONER WILLIAMSON: So, Mr. Bejoian,
9 importing -- you're importing film for metalizing?

10 MR. BEJOIAN: Right, to metalizers here in
11 the United States. We don't manufacture metalized
12 film.

13 COMMISSIONER WILLIAMSON: Okay. So, how
14 significant is the share -- of the production of the
15 film for that purpose in the use?

16 MR. BEJOIAN: Explain that.

17 COMMISSIONER WILLIAMSON: I'm trying to get
18 an idea of how significant is this category of film,
19 film that is used for metalizing.

20 MR. BEJOIAN: Well, for us, it's a very big
21 part of our business, because our primary business, as
22 I said before, was basically the vanilla 48-gauge, 12
23 micron type film. So, you know, predominantly in the
24 metalized business, that's a large part of our --
25 that's a great part of our business. So, size-wise,

1 I'd have to address that in a post-hearing brief,
2 because that would be proprietary.

3 COMMISSIONER WILLIAMSON: Okay. I was
4 wondering how significant was that for the U.S.
5 producers, if you have an idea?

6 MR. BEJOIAN: I'd say it's probably small.
7 It's not -- I wouldn't say it's the largest use of it,
8 all right. I'd say it was -- it's hard to determine
9 how it falls into the whole PET film business, but I
10 wouldn't say it's the largest part of it, that's for
11 sure.

12 COMMISSIONER WILLIAMSON: And film from
13 metalizing, is that a -- well, would we consider that
14 a commodity film, at this point, or --

15 MR. BEJOIAN: Well, the fact it's 12 micron
16 would make it a commodity-type film.

17 COMMISSIONER WILLIAMSON: Okay, good. Okay,
18 thank you. I just wanted to get the context for that.

19 Mr. James, I was -- you do address the fact
20 that, I guess, a lot of the non-subject imports are
21 subject to investigations and you're basically saying
22 the fact that they're subject to investigations, we
23 should ignore that in our determination?

24 MR. JAMES: Is that a question?

25 COMMISSIONER WILLIAMSON: Yes, that is a

1 question.

2 MR. JAMES: Yes, I do believe so, because it
3 is totally impossible to know and there was some
4 discussion in this regard earlier, it's totally
5 impossible to know what the outcome of those
6 investigations will be. First of all, it's possible
7 that there will be no finding by the Commerce
8 Department of dumping and the final decision by the
9 Commission could very well be no injury. In addition,
10 there are numerous permutations that the ultimate
11 outcome could take, because the Commerce Department is
12 investigating, I imagine, two companies from each
13 country times four countries. There are numerous
14 different outcomes that could result and I think it
15 would be very inappropriate for the Commission to
16 prejudge, which was the word that was used earlier
17 today, what the outcome of any of those reviews will
18 be. So, I believe you have to take the situation as
19 it is, at this time, and when you vote. And the
20 situation now is that these are still fairly traded
21 imports.

22 COMMISSIONER WILLIAMSON: And what weight we
23 should give it, the fact that other countries, other
24 major importing countries are -- some are found that
25 these imports are unfairly traded and impose

1 significant duties, as I think you mentioned,
2 yourself.

3 MR. JAMES: I do believe that's a different
4 issue. You obviously are to take that into account in
5 analyzing the situation. But, I don't think for
6 purposes of the so-called Bratsk analysis, that that
7 should be relevant.

8 COMMISSIONER WILLIAMSON: Assuming that we
9 have to do a Bratsk analysis.

10 MR. JAMES: Excuse me? Yes, I'm aware that
11 the Commission has real problems with that analysis
12 and, frankly, if I can just say, I think, even though
13 I represent Respondents, I do have problems with that
14 kind of analysis for an original investigation. To
15 me, it doesn't make a lot of sense. But, I think in a
16 sunset review, it's more reasonable to look at what
17 has been happening with non-subject imports and to see
18 what will happen if the orders are revoked, not only
19 vis-a-vis the U.S. producers, but also vis-a-vis those
20 non-subject imports.

21 COMMISSIONER WILLIAMSON: One point that I
22 don't think you addressed in your testimony was the
23 argument of Petitioners, that some of the major Indian
24 producers are actually shipping, I guess, the polymers
25 to a place like UAE and Thailand. So, some of the

1 non-subject imports that are growing in the U.S.
2 market are actually from Indian producers.

3 MR. JAMES: I didn't address that, because
4 Jindal does not have any facilities outside of India.
5 So, it is not engaging in that practice to the extent
6 it is occurring. So, it is difficult for me to say,
7 in the context of Jindal, what that means.

8 I don't think there's anything wrong with
9 doing that and it seems to me a perfectly reasonable
10 reaction to dumping orders imposed on a country. And
11 I would also like to comment that, with all due
12 respect to Mr. Greenwald, he seems to have backtracked
13 on his argument that even though these companies from
14 India have set up operations elsewhere, that they
15 would then run back to India as soon as the orders
16 were revoked. Because if I heard him correctly, he
17 backed off of that and said, well, really, I don't
18 mean that they would put the facilities back in India;
19 what I mean is they would reallocate from India. And
20 that seems to me completely opposite of the argument
21 that the companies would take their product -- their
22 production out of the UAE or Thailand and put it back
23 into India.

24 COMMISSIONER WILLIAMSON: Okay. Thank you
25 for those responses. This morning is was pointed out

1 that the price for the commodity-type PET film would
2 effect the price of the more specialized product in
3 the U.S. and I was wondering whether or not either one
4 of you have comments on that.

5 MR. BEJOIAN: Yes. I would like to address
6 that issue, because one of the things that -- you
7 know, we don't get involved with those kind of
8 projects, but I noticed in the past, and for what I
9 understand, if my understanding is correct, is that if
10 there's a thicker gauge film or a specialty film, one
11 has no relationship to the other, because of just the
12 demand and the relationship.

13 And another thing you have to address here
14 is relationships with customers, okay. I think Mr.
15 James pointed this out in the fact of what Mr.
16 Greenwald said about the factories being in these
17 other countries and the fact that these people set up
18 relationships with people obvious in the Orient and
19 different places, as well. And I'm sure that my
20 competitors here in the U.S. that are addressing this
21 issue against us would not want to lose any customers.
22 If you take your time to develop a client and it's a
23 lot of work to make sure that the quality is right and
24 that the manufacturing process is correct and it takes
25 a while to develop the manufacturing process in some

1 of these plants. It's not just putting the piece of
2 equipment in and running it, even though it's \$100
3 million piece of equipment or a \$50 million piece of
4 equipment, it takes time and almost a year to develop
5 it to run right and to get all the bugs out of it and
6 everything else. And once you do that, you're not
7 just going to cut and run and go back to India or
8 wherever country you come from. And, plus, you're
9 going to develop customers with that material
10 manufacturing there. So, that effort of time and
11 dedication in getting it right and building the
12 relationship with that customer, he's not going to
13 want to know that that product is going to go back,
14 all right, to India and someone else is going to start
15 from scratch again and start making their product.
16 That would be a very foolish thing to do, if you are a
17 businessman.

18 COMMISSIONER WILLIAMSON: Okay. I see my
19 yellow light is on, so, thank you.

20 CHAIRMAN PEARSON: Commissioner Pinkert?

21 COMMISSIONER PINKERT: Thank you, Mr.
22 Chairman, and I would like to thank the panel for
23 appearing today and for your testimony. I'd like to
24 begin with the issue of cumulation. I think you heard
25 a little bit about that when the other panel testified

1 and I note that your briefs didn't address the
2 question of whether we should cumulate India and
3 Taiwan for purposes of this sunset review. So, do you
4 have a position on that issue and could you articulate
5 it for us?

6 MR. CRAVEN: I think our position is that it
7 really doesn't matter to us whether you cumulate or
8 not. We think the data supports revocation whether
9 you cumulate India with Taiwan or whether you don't
10 cumulate India with Taiwan. And, frankly, at least in
11 the case of MTZ, we're a small company -- they're a
12 small company and don't have lots of resources to
13 devote towards very expensive large law firm briefing.
14 And so, we focused, we thought, on the important
15 issues. And while cumulation is certainly an
16 important issue to the Commission, we think it doesn't
17 ultimately have a significant impact on the outcome.
18 And so, whatever the Commission decides, we think will
19 be the correct decision.

20 MR. JAMES: Let me just add that I agree
21 with that statement.

22 COMMISSIONER PINKERT: Perhaps just for
23 purposes of my understanding of the cumulation issue,
24 if you could give me some idea of whether you believe
25 there are any conditions with respect to imports from

1 the two countries that are likely to persist for the
2 reasonably foreseeable future and that would limit
3 competition between the two country -- imports from
4 the two countries or between either of them and the
5 domestic like product. I would really appreciate if
6 you could either address that now or address it in the
7 post-hearing.

8 MR. CRAVEN: I think, Chris, could you
9 address briefly your view of the quality and the type
10 of product that comes out of Taiwan vis-a-vis what
11 comes out of India?

12 MR. BEJOIAN: Okay. From my understanding,
13 my past experience, because when I first came into the
14 business in the late 1990s, Taiwan was really -- it
15 was really a country that had a lot more specialized
16 film. They were very good at the custom films and the
17 high-end film. They did some in the 48 gauge, the 12
18 micron, not really to a great degree, all right. I'd
19 say that predominantly, the Indian market basically
20 was the country of origin for more of the 48 gauge and
21 the 12 micron.

22 COMMISSIONER PINKERT: Thank you. Now, you
23 probably also heard earlier today that -- I asked the
24 question about the upper limits of capacity
25 utilization for PET film producers. And I understand

1 that we can't discuss the capacity utilization figures
2 in public session, but perhaps without discussing the
3 actual figures, you could give me some indication of
4 what the upper limits are and what factors constrain
5 capacity utilization in the PET film industry.

6 MR. CRAVEN: I think that we would like to
7 address that in the post-hearing brief, in part,
8 because we would also like to consult with the
9 managers in India.

10 MR. JAMES: Likewise, I would have to
11 discuss it with Jindal, to have an answer.

12 COMMISSIONER PINKERT: Thank you. Now, a
13 question for Mr. Bejoian. Is there an overlap of uses
14 for certain types of PET film, such that the same
15 product may be sold into different end-use markets, in
16 your experience?

17 MR. BEJOIAN: Well, first of all, as far as
18 the 48 gauge goes, is corona treated and is chemically
19 coated. Corona treated would probably be more -- lend
20 itself to the metalized business. The chemically
21 coated would have other properties, as well, to it,
22 you know, for printing capabilities and that kind of
23 situation. But, yes, there is different usages and
24 there's constantly, you know, I think as my
25 predecessors had discussed earlier, a lot more

1 research and development in trying to develop new ways
2 to utilize the PET film, you know, be it for labels or
3 be it for food products with barriers and electronics
4 and that kind of thing.

5 But, predominantly, you know, we really tend
6 not to go after those other markets. I mean, we found
7 our niche. I mean, when I came into the United States
8 and I brought MTZ here, into the United States, it was
9 very difficult, I must say, to try to break into the
10 market with the Dupont, CICI, Teijin, Mitsubishis, and
11 the other people out there. Toray really wasn't a
12 factor, because as they stated earlier, they really
13 don't make 48 gauge. They were really more going
14 after the media type business for the tapes and CDs
15 and those kind of things. But, what I would say is
16 the way I wanted to build the company's reputation was
17 purely on quality, service, and, you know, price
18 wasn't really that much of a factor. And we basically
19 had just built our plant in 1999, somewhere around
20 there, and we were just getting on line when this
21 thing came about. So, we weren't really -- I mean, it
22 just hit us in the all other category. But, the
23 reality is, I built the reputation of MTZ on its
24 ability to make a high-end, 48 gauge material. And it
25 was difficult in the beginning, but once I started to

1 get some success, honestly, when this came into
2 effect, when the order came into effect, it really
3 hurt us greatly and we were playing by the rules the
4 entire way, all right, irregardless of other
5 situations out there. But, I think, overall, that
6 that's the truth that we've taken in the past.

7 COMMISSIONER PINKERT: Okay. So, if it's
8 your testimony that there is some overlap in uses for
9 certain types of PET film, such that the same product
10 could be sold into different end-use markets, my next
11 question is does the price differ based on the end use
12 or the customer, in your experience, in the market?

13 MR. BEJOIAN: Well, again, as I said, if
14 it's chemically coated, it would be probably maybe
15 five percent to eight percent higher in cost, okay.
16 So, it would -- there wouldn't be a drastic difference
17 in the cost. It would be pretty close to what is
18 being sold at, at this present time.

19 COMMISSIONER PINKERT: But, that's cost.
20 I'm asking you about price in the market, would there
21 be a difference based on end use or customer?

22 MR. BEJOIAN: It's not that simple of an
23 answer, because the reality is that, say, you're
24 laminating, you would have to have, you know, a film
25 that was not the end cuts. It was more the middle,

1 all right, because it would have to be made in a
2 certain way, because of the fact of how it laminates
3 and things of this nature. So, that kind of product
4 would require a little more, all right, as far as
5 cost. But, it wouldn't be just one particular way.

6 (Discussion off the record.)

7 MR. BEJOIAN: I'd rather not say this -- I
8 would rather not give my prices out here. I would
9 rather save that for the post-hearing.

10 COMMISSIONER PINKERT: Yes. If you could
11 address that in the post-hearing. I am specifically
12 interested in whether the price differs based on the
13 end use or the customer.

14 MR. BEJOIAN: Okay.

15 COMMISSIONER PINKERT: Now, looking at the
16 Petitioner's brief at page 15, they caution that the
17 Commission should be circumspect about crediting
18 instances of reported overselling by imports from
19 India. I'm interested to know how you, that is, I
20 think, the lawyers on the panel might respond to that
21 argument.

22 MR. JAMES: I'm not quite clear what kind of
23 response you're looking for.

24 COMMISSIONER PINKERT: Well, do you agree
25 that the Commission should be circumspect about

1 crediting instances of reported overselling by imports
2 from India.

3 MR. JAMES: Okay. I believe that the data
4 are what the data are. And if you assume that the
5 responding companies are providing correct
6 information, then I think you have to accept what it
7 shows. And so, I agree, it should be circumspect, but
8 I don't think that means you should throw out the
9 data. If you believe the data is, as they saw, robust
10 and useful, then it should be used.

11 MR. CRAVEN: I would complete agree. The
12 only other point I would make is in the two times that
13 MTZ has been specifically reviewed for antidumping.
14 In fact, they've been found to have a zero margin,
15 which indicates no underselling at all, in light of
16 the current practice vis-a-vis zeroing.

17 COMMISSIONER PINKERT: Now, Mr. Craven, I
18 just have a little bit of time left in this round.
19 How do you respond to Petitioners' argument that low-
20 priced imports are forcing domestic producers out of
21 the high volume, commodity grade sales that they need
22 in order to run their production lines economically?

23 MR. CRAVEN: I think, as Mr. Bejoian has
24 mentioned, they have produced a large percentage of
25 their -- in his view, a large percentage of their

1 commodity grade in their own foreign facilities. I
2 think in his testimony, he talked about the size issue
3 and how the vanilla-based commodity film essentially
4 is being produced only in the very large -- very wide
5 rows and the more narrow rows are being sourced from
6 their other facilities.

7 MR. BEJOIAN: Exactly. I mean, like, you
8 know, if it's 130 inch, they get a premium for that.
9 So, the reality is that, you know, if it's a specialty
10 film, I don't think it's affecting -- I don't believe
11 it's affecting them at all, from a price standpoint,
12 that the fact that to the vanilla film or the
13 commodity grade film is selling at such a such a
14 price, because it has no effect on them, because the
15 reality is that the people that are making the
16 specialty film are very few, all right. So, if
17 someone wants to buy that type of film, they have to
18 go to that particular type of individual, whether it
19 would be Dupont, Teijin, Mitsubishi, or Toray. So --

20 COMMISSIONER PINKERT: Thank you. Thank
21 you, Mr. Chairman.

22 CHAIRMAN PEARSON: Following up on the
23 question posed by Commissioner Pinkert regarding
24 pricing of Indian product in the United States, this
25 morning with Mr. Greenwald, we had a discussion about

1 the mixed pattern of overselling and underselling, a
2 rather balanced pattern, frankly. And as I understood
3 his views on that, he thinks that the relatively high
4 pricing on some sales of Indian product into the
5 United States is related to the fact that those might
6 be relatively small quantities and that larger sales
7 might be made at lower prices. Can you comment on
8 that?

9 MR. BEJOIAN: Well, I mean, it's just common
10 sense to me. If you have a customer that buys a large
11 volume of material, he's going to negotiate the best
12 deal for himself and his company. I mean, it's just
13 commonsense that tells you that. And the reality is,
14 these people, like he told you earlier, they run the
15 machines 24 hours a day, 365 days a year. They have
16 to keep the light bulbs lit and they have to keep the
17 machines running. So, they're going to do whatever
18 they can and price whatever they can to do that. I
19 know for a fact some of these people send out notices,
20 saying they want to increase their prices. But, they
21 have no intention of ever holding those prices. They
22 say, we're not going to come down. And I know for a
23 fact that they've brought their price down lower than
24 the imports, all right. So, the reality is that what
25 is said isn't always exactly what appears to be. And

1 I think that if you look at history, all right, of
2 what's going on out there in the marketplace, if you
3 have a customer and they're a large customer and
4 they're a good customer, like say a Kraft or a General
5 Foods or someone like that, and they're going to make
6 sure Alcoa or some of these people, they're going to
7 make sure that they make those people happy from a
8 quality standpoint, as well as from a price
9 standpoint. It's just good business.

10 CHAIRMAN PEARSON: So, I would understand
11 that from that, that it's entirely probable that the
12 bulk of Indian shipments into the United States are
13 sold at a price that is somewhat below average rather
14 than a price that is somewhat above average.

15 MR. BEJOIAN: I would say absolutely not,
16 because if we're an Indian supplier, we want to make a
17 profit. We have \$4,000, \$4,500 to ship that container
18 into the here, okay. It's costing money on that.
19 It's costing us money to bring it into the country, to
20 once it gets here, if they ship it here, as opposed to
21 if you're shipping from South Carolina or you're
22 shipping from Rhode Island or you're shipping from one
23 of these places, you don't have those kind of costs.
24 You can actually warehouse it in your facility and you
25 can ship it a lot cheaper. They can even come up and

1 pick it up at your facility. So, they have the price
2 advantage over us.

3 I mean, oil is oil and whether it's the
4 United States or someplace else in the world -- you
5 just spoke about, as far as the dollar. I mean, the
6 fact is the dollar is really hurt very badly right now
7 and the fact is, if you want to sell into the United
8 States, you're going to take a loss. You're going to
9 take a hit. So, actually, the people that are
10 producing here in this country right now have an
11 advantage over the people that are importing into the
12 country.

13 MR. CRAVEN: Again, I would just point out,
14 again, going back though, at least in the case of MTZ,
15 the price data clearly shows from the results of the
16 administrative reviews, that we're selling above a
17 profitable price.

18 CHAIRMAN PEARSON: Right. But, we --

19 MR. CRAVEN: I know you're looking at the --

20 CHAIRMAN PEARSON: -- have to look behind
21 Commerce's calculation of dumping margins. That's a
22 project we're pleased to leave to them.

23 MR. CRAVEN: I am pleased to have you leave
24 it to them, also.

25 CHAIRMAN PEARSON: Rather, what we do is we

1 look at our pricing products and look at sales by the
2 domestic industry of those products and we compare the
3 sales of imported products. And as I understood the
4 point that Mr. Greenwald was making, I think he was
5 saying, yes, you do have a balanced pattern of
6 underselling and overselling when you look at numbers
7 of sales, individual sales. But, if you look at the
8 quantity of product that's sold at the various prices,
9 my understanding of his point was that he was saying
10 for the overselling, you have relatively smaller
11 quantities and then for the underselling, perhaps
12 because the customer can negotiate a good discount on
13 the large volume, you have a lower price. So, if
14 that's correct, then my sense was that more than 50
15 percent of the Indian product that we have in the
16 period of review is likely to have been sold at a
17 price somewhat below the average U.S. price. Is that
18 analysis not correct?

19 MR. BEJOIAN: I don't believe that is
20 correct.

21 CHAIRMAN PEARSON: And why not?

22 MR. BEJOIAN: Because the reality is why
23 should we leave money on the table? Why should we
24 come in at lesser price? This is a very small
25 industry, all right. There are very players, unlike a

1 lot of other industries where there are lot of
2 players. Everybody knows everybody. Everyone knows
3 the prices that are given, basically, or a good idea
4 where it has to be the cost. And, you know,
5 basically, we're going to be out there and we're going
6 to try to get as much money as we can for our product.
7 We're not going to come in and try to undermine our --
8 we're not going to leave money on the table. That
9 would be very foolish. That's not good business.

10 CHAIRMAN PEARSON: Okay. Well, let me
11 approach the question another way, because I think I'm
12 not understanding things completely, which happens
13 fairly often. This is not unusual, okay. What the
14 size of a typical sale that you might make of product
15 for MTZ? I mean, give me -- I really don't have a
16 sense for that. And if it's business confidential,
17 we'll take it in the post-hearing. But, I'm trying to
18 get some -- get my arms around the type of variability
19 and the size of sale that Mr. Bejoian might make in
20 the U.S. market.

21 MR. CRAVEN: I think that's something that
22 we'll definitely have to address in the post-hearing
23 brief, in terms of sale size. But one thing we can
24 say is that MTZ does not have any warehousing in the
25 United States, so everything is sold --

1 MR. BEJOIAN: A container, 40-foot
2 container.

3 CHAIRMAN PEARSON: Okay. So when you are
4 selling product, you're selling a customer a
5 container?

6 MR. BEJOIAN: Or I would split it with
7 another customer. It comes into the United States in
8 a container.

9 MR. CRAVEN: We'll discuss the details of
10 this in the post-hearing brief.

11 CHAIRMAN PEARSON: Okay, because, obviously,
12 if there's very little variability in the size of
13 average sale of Indian product to a U.S. customer,
14 then the point that Mr. Greenwald was making would not
15 be correct; whereas if there is substantial
16 variability in the size of those sales, then his point
17 could be correct. I just wanted to understand that.

18 MR. BEJOIAN: Right. I didn't think his
19 point was correct, but we'll address it.

20 CHAIRMAN PEARSON: Okay, thank you. Let's
21 see, let me go then to another question that
22 Commissioner Pinkert raised and I heard you clearly on
23 cumulation. But, this morning, we did ask Mr.
24 Greenwald about several specific conditions of
25 competition that we often consider when we look at

1 cumulation. And so perhaps for purposes of the post-
2 hearing, could I ask you to address those same points?
3 And as I have them listed here, they are the different
4 trends in volume between India and Taiwan prior to the
5 imposition of the order; whether the imports move in
6 the same channels of distribution; different patterns
7 of underselling prior to the order; different trends
8 in subject country capacity since the imposition of
9 the order; and how to understand the reality that the
10 Indian industry has established overseas production
11 facilities during the period of review, whereas the
12 Taiwanese industry has not. Were there any others,
13 Mr. Greenwald? Okay, good. Thank you. So, if you
14 could comment on those, then we would have either a
15 single view from both sides or separate views from the
16 two sides and I will be interested in seeing what we
17 get.

18 Mr. Bejoian, I want to go back to a point
19 that you raised earlier and this was something that
20 hadn't occurred to me. But, you talked about the risk
21 of damage of shipments in transit or whatever due to
22 moisture, mold, that sort of thing. Do you have in
23 mind some reasonable percentage of shipments of PET
24 rolls from India that might arrive damaged in the
25 United States?

1 MR. BEJOIAN: It's not consistent. It's
2 probably like during the monsoon season. See, one of
3 the unfortunate points about India is that we don't
4 have wood, all right. So, we have to import our wood
5 from different places around the world and a lot of
6 times it might have moisture. One of the advantages
7 of the local producers here in the United States is
8 that they basically use plastic type packaging methods
9 that they can return back to their plant. So, they
10 save that money. Again, they have more savings than
11 us. And the fact that they don't have pallets, they
12 use returnable pallets, okay, and they're able to do
13 that kind of system that they have worked out with
14 some of the people that they sell to.

15 CHAIRMAN PEARSON: And the Indian product is
16 shipped on wooden pallets?

17 MR. BEJOIAN: Correct.

18 CHAIRMAN PEARSON: Okay. So, that brings
19 with it more risk of moisture.

20 MR. BEJOIAN: Right. And during monsoon
21 season, when they're sitting on the dock or on a boat
22 and the rains are coming at tremendous rates, you
23 know, its tough.

24 CHAIRMAN PEARSON: Would it be correct to
25 assume that that damage is an insurable risk?

1 MR. BEJOIAN: It is. Of course, it's
2 insurable.

3 CHAIRMAN PEARSON: Okay. Fine. Well, my
4 time is expiring, so let me turn now to Vice Chairman
5 Aranoff?

6 VICE CHAIRMAN ARANOFF: Thank you, Mr.
7 Chairman. Just one more question about cumulation,
8 because I wanted to clarify something that was in
9 Jindal's brief. In the introductory section of your
10 pre-hearing brief, you assert that revocation of the
11 order on India would be likely to have no discernible
12 adverse impact on the domestic industry. But, I take
13 it from the fact that all of you are now saying that
14 you don't really care about how cumulation turns out,
15 are you, in fact, making a no discernible adverse
16 impact argument under the statute or were you using
17 that phrase more broadly to talk about causation?

18 MR. JAMES: More broadly, yes. The reason
19 it says just India is because we represent just India.
20 But, as we said before, we don't believe -- we believe
21 that either cumulation or non-cumulation would still
22 result in the same outcome, at least we hope it would.
23 So, we're not arguing one way or the other at this
24 point.

25 CHAIRMAN PEARSON: Okay. I just wanted to

1 clarify if you were actually making that argument,
2 because if you were, of course, we would need to
3 address that in making our determination. But, I
4 understand that you're not.

5 Okay. Mr. Bejoian, let me ask you, I don't
6 think the question has been asked quite this way yet,
7 but can you tell me what are price negotiations with
8 your customers like in this industry? Is this the
9 kind of industry where a customer might ask for bids
10 from multiple suppliers for a particular purchase or
11 would they just call you up, in your experience, and
12 say, listen, I'm looking for about this much of this
13 product? How does it usually work?

14 MR. BEJOIAN: Probably a little bit of both.
15 I mean, sometimes, you'll get a customer and he'll
16 call up and just ask like, you know, I need a price on
17 such and such gauge material and I want to buy this
18 much and he'll tell me the quantity and he'll tell me
19 what it's being used for. And then, I'll come back
20 and work up something and give it. But every time we
21 do a particular order for someone, we have to do a
22 separate price at that particular point in time,
23 because this is a commodity that's based on oil and
24 there's an oil derivative. So, you know, it depends
25 what the market is, as far as the material cost to

1 manufacture. It fluctuates.

2 VICE CHAIRMAN ARANOFF: Okay. But, the kind
3 of customers that you deal with are not the sort that,
4 for example, would put their annual requirements up
5 for bid or --

6 MR. BEJOIAN: No, no, really not.

7 VICE CHAIRMAN ARANOFF: Nobody uses internet
8 auctions or --

9 MR. BEJOIAN: No. We don't really go
10 through the internet. I mean, there was once someone
11 that did that, but they were in a fact-finding mode.
12 They weren't into really doing anything, you know, to
13 be seriously -- people, when they come to you, they
14 normally tell you that this is what we want and we
15 negotiate it separately with the individual.

16 VICE CHAIRMAN ARANOFF: And you generally
17 are dealing in spot sales or contract sales?

18 MR. BEJOIAN: No. It could be a six-month -
19 -

20 VICE CHAIRMAN ARANOFF: Okay.

21 MR. BEJOIAN: -- situation. But most likely
22 -- I mean, or it could be a situation that would go on
23 and then if they have the -- it just depends on
24 whether they have the business, because, like I said,
25 I'm dealing with metalizers and they would -- you

1 know, they're out there bidding for businesses, as
2 well as I am. So, what I give them a price on, they
3 would need to take that price and put their price on
4 it and what they're going to do to it. So, it just
5 sort of depends, like I said, what their end use or
6 what their customer is going to be.

7 VICE CHAIRMAN ARANOFF: Is it a take or
8 leave it? You tell them what you're going to give it
9 to them for and they can either take that or go
10 somewhere else? Or would they come back to you and
11 say, you know, I can get it from so and so for less;
12 you're going to come down and meet that price?

13 MR. BEJOIAN: I would say that, if it was a
14 matter of something close to, like they were a little
15 bit off, they might come back to me. But, normally,
16 what I give -- when I give a price, I give a price,
17 and that's basically what it is, because we have to
18 try to give our lowest price. But, like I said, it
19 gets back to relationships, because -- I mean, this is
20 a small industry. So, people, you know, they trust
21 you. They know you. And I have strong relationships
22 with the people we do business with.

23 VICE CHAIRMAN ARANOFF: Okay. And so, just
24 to clarify, 100 percent of your customers for the MTZ
25 product in the U.S. are in the metalizing industry?

1 MR. BEJOIAN: No.

2 VICE CHAIRMAN ARANOFF: No?

3 MR. BEJOIAN: Not 100 percent. But, I'd say
4 the larger part of our volume is in metalizing.

5 VICE CHAIRMAN ARANOFF: Okay. If you want
6 to tell us confidentially in the post-hearing, I would
7 be interested in knowing who else you're selling to
8 and about what proportion.

9 MR. BEJOIAN: sure.

10 VICE CHAIRMAN ARANOFF: Okay, thank you.

11 Mr. Craven, I had this conversation with the domestic
12 producers this morning; but, of course, in your brief,
13 you assert that the majority of commodity PET film
14 that's offered for sale in the U.S. by the U.S.
15 industry is produced outside the United States. And I
16 asked the domestic producers, who were present here
17 this morning, to answer that and all of them said that
18 is not the case with respect to their companies.
19 Well, some of them said they sell some types of
20 commodity products that are made outside the United
21 States, but it didn't seem to fit the description that
22 you were giving. Are you referring specifically to
23 the companies that are not present today? I mean, is
24 there any information that you can provide us with, so
25 that we can assess that claim?

1 MR. CRAVEN: Well, I think we're referring
2 to what Chris and what my client also did on their own
3 research on the market. And I think Chris talked
4 about -- Mr. Bejoian, I'm sorry, Mr. Bejoian talked
5 about this in his testimony when he talked about the
6 difference, for example, between the 80-inch wide
7 vanilla film and 130-inch wide vanilla film and how,
8 in his experience in the marketplace, he has basically
9 only seen imported 80-inch vanilla film and the 130-
10 inch, which is a vanilla film, but a more specialized
11 product, is what he has seen that's been produced by
12 the domestics.

13 Now, in terms of the actual data, I am --
14 sorry, go ahead.

15 MR. BEJOIAN: I mean, I think if you listen
16 to the testimony today, it was perfectly clear. Toray
17 said that they don't make 48 gauge here, but they do
18 sell 48 gauge. So, they're importing that film from
19 somewhere, okay, or they're getting it from somewhere
20 outside this country. And Dupont, Teijin said the
21 same thing. They have a facility in China, which they
22 produce a lot of material and it's coming into the
23 United States. Now, if it's a 30-inch or 50-inch or
24 60-inch roll, then it's coming here into the United
25 States. And I don't know how much it is coming, but I

1 know that some of it is coming in here. I know that
2 they're really -- like I said, if it's 130-inch,
3 they're not shipping it from China, because it's too
4 costly to ship it by container into the United States.
5 So, they're probably making that 48 gauge here. But,
6 I believe very strongly, and I've seen it, that they
7 are bringing material in.

8 And he addressed -- he said some -- he is
9 bringing some material in. So, if I could correct you
10 on that, he did -- both of those people did say that.
11 And as far as Mitsubishi is concerned, I know they
12 have a facility in Malaysia or somewhere in the
13 Orient, as well, that they're producing 48 gauge
14 material. So, I mean, I think that's a point that's
15 been made by them when they testified just now.

16 VICE CHAIRMAN ARANOFF: Okay. I mean, I
17 recognize a lot of this information is in the
18 possession of the domestic producers and I've asked
19 them already to send it in. When they do -- well, I
20 guess you'll have the opportunity in your final
21 comments to comment on it, because they will have it
22 in their post-hearing briefs.

23 MR. CRAVEN: We'll also expand on that in
24 our confidential submission, to the extent we have any
25 other market research and the like.

1 VICE CHAIRMAN ARANOFF: That would be
2 helpful. I mean, I'm obviously really trying to
3 identify the extent to which any imports that are
4 being brought in by the domestic industry, what
5 exactly they are relative to what they're making here.

6 Okay. Let's see, last question. This
7 actually was a question that Mr. Deyman of the staff
8 asked this morning that I had meant to ask, so I will
9 ask you. With respect to the way that our staff has
10 compiled the import data by using questionnaire data
11 for the subject product and then adjusting the import
12 statistics for other products. Are you satisfied with
13 the way that the staff has assembled the import data
14 or do you have any comments on that?

15 MR. JAMES: I don't have any comments. I
16 don't really see any other way that it can be done.
17 But --

18 MR. CRAVEN: I think the staff as done an
19 admirable job as usual.

20 VICE CHAIRMAN ARANOFF: Okay. Mr. Deyman,
21 you don't need to ask that question again. I think
22 for right now, I don't have any further questions.
23 Mr. Chairman, thank you.

24 CHAIRMAN PEARSON: Commissioner Okun?

25 COMMISSIONER OKUN: Thank you, Mr. Chairman,

1 and I join my colleagues in welcoming you here this
2 afternoon. I appreciate your willingness to take the
3 time to be with us and answer our questions.

4 Let me start, I think, Mr. James, I'll start
5 with you and Mr. Craven, I'll also ask you to comment
6 on this. One of the arguments you have made is that
7 if we're looking at what would happen when the order
8 is lifted, that India doesn't have an incentive to
9 ship a lot of product here and it's a growing Indian
10 market and if we look at the data, it would show that
11 all of it is going into these other markets. And what
12 I would like you to do for post-hearing, because,
13 again, this data is confidential in the staff report,
14 but when I look at the data and the percentages from
15 the original investigation and look at the period
16 we're looking at now, the period of review, I don't
17 see -- I mean, there are some cases that come before
18 us where you see a country that maybe had home market
19 shipments, very low home market shipments, were
20 exporting everything, and then during this intervening
21 period, they become -- their home market becomes huge.
22 And so the percentages switch, you know, go from 10 to
23 80 or let me just throw some numbers out there.
24 That's not what I see here. And so, I guess, what I
25 would like is further help from you, in trying to

1 understand that argument. I mean, why if the
2 percentages of where the Indians are shipping haven't
3 changed much and the volumes have changed, as all the
4 markets have grown, why I should find that if the
5 order were lifted, that they wouldn't kind of readjust
6 their percentages to ship to the U.S. market? Maybe I
7 don't understand your argument correctly, so let me
8 put that up and Mr. Craven, if you have anything to
9 add. And, again, I'm using just general numbers here.

10 MR. JAMES: I think we're going to have to
11 address that in the posthearing brief. I'll have to
12 give it some thought.

13 COMMISSIONER OKUN: Okay, so again, I mean
14 hopefully I'm making myself clear this afternoon. You
15 don't know; I haven't had the second coffee, yet. So
16 I may not be that clear.

17 But it's mostly, we hear this argument often
18 in sunset reviews; that during the intervening time,
19 either the home market in the subject country has
20 grown so much that it is now taking its shipping a lot
21 more to its home market and, therefore, it doesn't
22 have the incentive to come to the United States; or it
23 has another growing market, China or the EU or some
24 other place.

25 So I guess I just need better information

1 from you in this record of where do I see that with
2 regard to India. Mr. Craven, I'd appreciate if you
3 would comment on that, as well.

4 MR. CRAVEN: Again, I think the post-hearing
5 brief is the place for this. There are, I think, a
6 lot of ways of reading the data that would support
7 what we're presenting here.

8 COMMISSIONER OKUN: Okay, and I think you
9 had covered this, and it might have been Mr. Bejoian.
10 But just so I understand, to the extent -- and again,
11 obviously, we've seen the data on the growing India
12 market; in other words, the apparent consumption
13 numbers in India.

14 You talked about what type of product that
15 is or where the growth is. You talked a lot about the
16 packaging. I wasn't sure if you had an opportunity to
17 respond specifically on whether you think that's the
18 same in Taiwan, as well. Have you had an sense of
19 that, seeing the product?

20 I know you talked about before. But I
21 wasn't sure if you had talked about in the future. I
22 mean, do you see India and Taiwan having growth in
23 different parts of their market, if you have any
24 knowledge of that?

25 MR. BEJOIAN: I really can't address the

1 Taiwan market. But obviously, the electronic business
2 is growing. Yes, also, Taiwan is really shipping to a
3 lot of Mainland China. So, I mean, that's a very big
4 market for them, as well.

5 But to address the Indian market, I mean, if
6 you just read the newspaper in the business section in
7 the Wall Street Journal every day, the growth is
8 phenomenal. I've been there a couple of months ago,
9 and if you see what's going on there.

10 Like I said, you have to understand, it's
11 the largest democracy in the world. These people are
12 learning and seeing and enjoying a whole revolution as
13 far as different ways to live their lives.

14 One of the things, even from a very small
15 level is, they used to go the market and get a five
16 gallon pale, which they used all the time, to take
17 their cooking oils back to their homes to cook in
18 their homes. Now they go there and buy a sanitary
19 pouch made of PET film, and they bring it home. It's
20 disposal, and you can just think of the health
21 implications here of what we're talking about.

22 I mean, change comes slowly there, but it's
23 coming. It's just amazing to see the buildings and
24 what they're doing there. It's phenomenal. So, I
25 mean, I can't help it if it was coincidentally after

1 this petition came down and this order came down that
2 this happened; but it did happen like that. It was
3 inevitable it was going to happen because of what's
4 transpiring in India and Asia and places of this
5 nature.

6 Their economies are going out of control.
7 They are doing manufacturing and they're doing
8 wonderful things. Their schools are growing, and
9 their children are being sent to schools. One child
10 in every family, you know, they put them into college.
11 They are getting them out there and taking the rest of
12 the family with them. I mean, it's a wonderful,
13 wonderful sight to see this. These people want to
14 work very hard. So, I mean, it's amazing.

15 You know, one of the benefits as opposed to
16 China is, they speak English. So, you know, there's a
17 lot of similarities to the United States and India,
18 and what they're doing. It's really remarkable.

19 But that's one of the reasons why this
20 growth has happened here, and that's why I say that
21 they're not going to come here and start dumping all
22 their materials here, like these people have talked
23 about, because they can't keep up with the demand in
24 their own country.

25 COMMISSIONER OKUN: On that point, and again

1 now we'll turn back to counsel, now that I've seen
2 more of the data -- but what I'm trying to understand
3 is, with regard to the capacity expansion plans, the
4 domestic industry this morning and certainly in their
5 brief, had talked about their expanded capacity in
6 India, and we talked a little bit about that.

7 I didn't know if there's any other data that
8 you all have available to you, to help us understand
9 both when some of these capacity expansions will come
10 on line; but also more importantly, to understand
11 where you think demand in India is going.

12 Because again, if you look at the record we
13 have before, I think I could look at it and say, you
14 know, you have growing demand and you have growing
15 capacity. But they're certainly not in line, yet. So
16 if you think there's better data out there, or other
17 data that we should see, I'd appreciate that for post-
18 hearing, as well.

19 With that, Mr. Chairman, I don't believe I
20 have any other questions. I will look forward to the
21 post-hearing submissions, and I thank you for all your
22 responses.

23 CHAIRMAN PEARSON: Commissioner Lane?

24 COMMISSIONER LANE: Thank you; Mr. James,
25 you may have answered this in response to Vice

1 Chairman Aranoff's question. But I'm not quite sure
2 that I understood the answer, so I'll ask it again.

3 I think you said that the competition in
4 this country for the product is coming from product
5 that is produced by the U.S. producers, rather than
6 the subject imports.

7 MR. JAMES: I don't believe it was my
8 statement. It may have been Mr. Bejoian's statement.

9 COMMISSIONER LANE: Okay, Mr. Bejoian, is
10 that what you said?

11 MR. BEJOIAN: Could you repeat that?

12 COMMISSIONER LANE: Did you say that the
13 competition in this country for the product is not
14 coming from subject product, but is coming from the
15 product that is produced by the U.S. producers in
16 foreign countries, and bringing into the United
17 States?

18 MR. BEJOIAN: I don't believe I said that.
19 I don't remember saying that.

20 COMMISSIONER LANE: Okay, well, then I just
21 took the note down wrong.

22 MR. BEJOIAN: Yes.

23 COMMISSIONER LANE: So that's not what you
24 were saying.

25 MR. BEJOIAN: No.

1 COMMISSIONER LANE: Okay, one of you
2 testified that there is a growing demand for
3 production of this product, and that the subject
4 imports are meeting this demand in their home market.
5 What is driving the demand for this product in the
6 Indian or the Taiwanese home market?

7 MR. BEJOIAN: Well, I think as I stated
8 before, I think that, you know, number one, I can't
9 speak for the Taiwanese, all right? But I can speak
10 for the Indians.

11 It's the food industry. It's the fact, like
12 I said before, they have identification cards that
13 they've been using. They're laminating those now with
14 PET film. It's the clothing industry. They have
15 something called polyester yarn. So these are
16 industries that are growing and continue to grow,
17 especially in the food industry.

18 COMMISSIONER LANE: Okay, thank you.

19 MR. JAMES: May I just add to that?

20 COMMISSIONER LANE: Yes.

21 MR. JAMES: PET film is not really a demand
22 of people who are very low income. But as people
23 become more middle class, they tend to buy products
24 that require PET film.

25 The point we tried to make in our brief and

1 in my testimony is that it is beyond doubt that the
2 middle class in India is growing faster than the
3 middle class anywhere else in the world. The article
4 that I quoted indicates that's the case.

5 We believe that because of the growing
6 middle class in India, the demand for PET film
7 products will increase exponentially. Because it's
8 not just that they will buy one meal a year that they
9 put in the microwave oven; they will start a trend
10 which will grow.

11 We believe that demand will continue to grow
12 in India, at least at 12 or 15 percent per year. I've
13 been doing this for quite awhile. I don't do every
14 case. But that's awfully high growth in demand, as
15 far as I'm aware. Everybody expects that growth to
16 continue in India, and it's because the middle class
17 is growing so rapidly.

18 MR. CRAVEN: We'll try to supplement this,
19 as well. There's also the cultural issue, in that
20 India traditionally, as Chris had mentioned, had
21 viewed pre-packaged food as stale or unhealthy, and
22 that whole view of the product as changed. As the
23 product becomes more available on the market, the
24 acceptability rises and the demand increases.

25 So it's not just the growth of the middle

1 class, but it's also the growth of the middle class
2 being willing to accept, for example, a pre-cooked dal
3 in PET film, as opposed to taking the lentils and
4 cooking the dal on the stove top from scratch.

5 MR. JAMES: If I can just clarify, dal is an
6 Indian word for lentils.

7 COMMISSIONER LANE: Oh, good, I just thought
8 maybe we were eating Barbie or something.

9 (Laughter.)

10 MR. CRAVEN: It's D-A-L.

11 CHAIRMAN PEARSON: Okay, thank you.

12 MR. CRAVEN: It's very flavorful.

13 MR. BEJOIAN: Can I just add one more
14 scenario here? Walmart has stepped into India. One
15 of the problems they have right now is, they need
16 companies to get products into the stores. They just
17 can't have the products here from the States and
18 everything else; but they need local products.

19 Unfortunately, people who were manufacturing
20 in the past have done it on a very small basis, and
21 they have to bring their means of manufacturing up to
22 a higher level. One of the ways they need to do that
23 is through using products like PET film.

24 COMMISSIONER LANE: Okay, thank you; Mr.
25 James, let me stick with you for a minute. Your

1 testimony focused on the increasing presence of Indian
2 and Taiwanese PET film in non-U.S. export markets over
3 the period of review, when arguing that subject
4 producers will not return to the U.S. market in large
5 volumes upon revocation.

6 However, one could also view these
7 significant increases in exports as an indication that
8 subject producers have proven over the period of
9 review that they can easily shift their exports
10 between export markets, and that they will therefore
11 once again flood the U.S. market with PET film upon
12 revocation.

13 Please explain to me why India and Taiwan's
14 increases in its exports indicate that they will not
15 return to the U.S. market in large volumes, as opposed
16 to the view that this shows that they can seamlessly
17 return to the U.S. market upon revocation.

18 MR. JAMES: Well, first of all, I think once
19 a producer and an exporter develops a market and a
20 customer base, they don't just lightly throw that
21 customer base away.

22 Additionally, although it is irregular, I
23 think the data demonstrates that prices in other
24 markets are quite high. Compared to the U.S., those
25 markets are much more profitable now than they were

1 previously. So there really is no reason to come back
2 to the United States.

3 Additionally, with what was discussed as the
4 exchange rate at the moment, that makes shipments to
5 the United States very unfavorable, and that's true of
6 many, many products.

7 I represent some Brazilian shrimp exporters
8 who are literally out of the market; not because of
9 the dumping duties, but because with the Brazilian
10 currency to the dollar, it's not possible to export to
11 the United States.

12 So I think you have to take all those
13 factors into account. Yes, the Indians are selling in
14 other countries, and they've increased their exports
15 to those countries considerably. But they've
16 increased their exports because there is a growing
17 demand within those countries, and they've developed
18 customer bases, and the pricing in those countries is
19 more favorable, as is the exchange rate.

20 COMMISSIONER LANE: Thank you; now domestic
21 producers characterize PET film production as capital
22 intensive. Do you agree with this assertion? If so,
23 please explain.

24 MR. CRAVEN: PET film is absolutely capital
25 intensive. It require a major expenditure of capital

1 to install the machinery. It requires, frankly, a
2 major commitment of capital to take the time to go up
3 on line, and it's a very capital intensive process.

4 MR. JAMES: My understanding from Jindal is
5 that's the case. It does not require a lot of labor
6 to produce PET film. You mix the product, put it on
7 the machines, and it rolls through. As a result, it's
8 certainly not labor intensive, and it's much more
9 capital intensive.

10 COMMISSIONER LANE: Can you please describe
11 relative production economics and technology
12 differences between domestically produced and subject
13 country PET films?

14 MR. JAMES: I cannot do that now. But I
15 will ask Jindal for their explanation and give it to
16 you in the post-hearing brief.

17 COMMISSIONER LANE: Okay, thank you; now are
18 the PET film grades that your firms sell in its home
19 market or in non-U.S. export markets the same as those
20 sold in the U.S. market?

21 MR. BEJOIAN: Are you saying, are the 12
22 micro and 48 gauge materials the same sold here as it
23 would be in South Africa?

24 COMMISSIONER LANE: Yes.

25 MR. BEJOIAN: Yes, it is.

1 COMMISSIONER LANE: Okay, thank you; Mr.
2 Chairman, that's all I have.

3 CHAIRMAN PEARSON: Commissioner Williamson?

4 COMMISSIONER WILLIAMSON: Thank you, Mr.
5 Chairman.

6 For the two attorneys, do you agree with
7 Petitioners on the definition of like product?

8 MR. JAMES: Yes, I asked that question of
9 Jindal and they have no problem with that.

10 MR. CRAVEN: We don't really have a dispute
11 with it, no.

12 COMMISSIONER WILLIAMSON: Okay, thank you, I
13 just wanted to clarify that.

14 What types of specialty and commodity PET
15 films and products are expected to experience future
16 growth in the U.S. market? Where do you see the U.S.
17 market going?

18 MR. BEJOIAN: I would probably say, I'd
19 probably go for the electronics; but more importantly,
20 probably in the food industry with the barrier films
21 and things like that for some of the food products in
22 the future.

23 COMMISSIONER WILLIAMSON: Okay, thank you,
24 and these would be both commodity and specialty
25 grades?

1 MR. BEJOIAN: It would be definitely a
2 specialty film. It would have some properties to it
3 probably -- you know, the existing regular 12 micron
4 corona-treated probably didn't have; but it could be
5 the same. It just depends. It's not a simple
6 question to answer.

7 COMMISSIONER WILLIAMSON: Okay, thank you;
8 the domestic producers argued that the Commission
9 should focus on sales to the merchant market and its
10 analysis. Do you agree with this?

11 MR. JAMES: No, we believe you should
12 include the entire industry.

13 COMMISSIONER WILLIAMSON: Why?

14 MR. JAMES: Because I believe that's the
15 appropriate way to approach it. I mean, we can
16 address that further in the post-hearing brief, if you
17 like.

18 MR. CRAVEN: I think it would be distortive
19 to try to analyze the merchant and the captive
20 separately. The fact is there are relationships,
21 among other things, with import costs and demands and
22 the like. I think you have to consider the industry
23 as a whole, and not try to limit it to a single
24 market.

25 COMMISSIONER WILLIAMSON: What difference

1 would it make in our analysis if we do one or the
2 other?

3 MR. CRAVEN: Well, I think, again, we'll
4 expand upon that in our post-hearing brief, as well.

5 COMMISSIONER WILLIAMSON: Okay.

6 MR. JAMES: The simple answer is, it would
7 reduce all the percentages of comparison. But we will
8 address it further.

9 COMMISSIONER WILLIAMSON: Thank you, and
10 lastly, this would be for post-hearing briefs. In
11 Table 4-4 and that's on page 4-13, that table talks
12 about the AUV data for India of PET film shipments.
13 We want to know what conclusions you think the
14 Commission should draw from that table and the data
15 presented on there. With that, Mr. Chairman, I have
16 no further questions.

17 CHAIRMAN PEARSON: Commissioner Pinkert?

18 COMMISSIONER PINKERT: I have just one or
19 two additional questions. I note that you argue that
20 the European Union anti-dumping and countervailing
21 duty measures have had little effect on inhibiting
22 Indian exports to Europe. What accounts for the
23 measures, having had in your view, such a limited
24 impact?

25 MR. JAMES: I would have to analyze that

1 more for the post-hearing brief. But I would say,
2 it's probably the result of growing demand within the
3 market.

4 In addition, the exchange rate that was
5 discussed earlier, the euro is now much more favorable
6 to India than the dollar is to India. So the impact
7 of the duties that are being imposed in Europe are
8 less than the impact would otherwise be, because of
9 the exchange rate.

10 COMMISSIONER PINKERT: If you could address
11 that further in the post-hearing, I'd appreciate that.
12 Also, Indian producers' questionnaire responses cited
13 at page 414 of the staff report indicated that there
14 are ongoing anti-dumping investigations of Indian PET
15 film in Korea and Brazil. Can you give us an
16 indication of the status of those investigations?

17 MR. JAMES: I will have to ask Jindal what
18 the status is and give it to you.

19 COMMISSIONER PINKERT: Thank you; thank you,
20 Mr. Chairman. I'm sorry, Mr. Craven, did you have an
21 additional comment?

22 MR. CRAVEN: We'll have to ask MTZ.

23 COMMISSIONER PINKERT: Thank you, I have
24 nothing further.

25 CHAIRMAN PEARSON: Mr. Bejoian, you had

1 mentioned that you have been involved in market
2 development for MTZ in several countries, including
3 the United States. You, no doubt, have an interesting
4 perspective because of that.

5 I was wondering whether you could comment on
6 whether your market development efforts in the United
7 States have been complicated by the imposition of the
8 orders. Were you involved in the market before the
9 orders, and all the time since?

10 MR. BEJOIAN: Yes, I was. I was involved
11 with it before, as well as afterwards. Could I
12 understand your question a little bit better?

13 CHAIRMAN PEARSON: Sure, you know, basically
14 we can see from the data that imports from India did
15 drop after the orders went into place. But Indian
16 product still comes into the U.S. market and obviously
17 is adding value in the marketplace, okay?

18 So I'm just wondering how your market
19 development efforts here in this country have been
20 affected by the imposition of the orders. Have you
21 been able to continue?

22 MR. BEJOIAN: Yes, I can address that. I
23 mean, when we came in here, like I said before, I
24 built the business on quality, service, and
25 dependability, and giving, most importantly, a quality

1 product.

2 What happened was, we had some customers
3 that were really very loyal to us, and we kept up the
4 sales with them and paying the duty, which has cost
5 us. But now, it's really become an issue. Because
6 like I said, it's quite a considerable amount of
7 money.

8 But MTZ is dedicated to the United States.
9 You know, like I said, we don't want all the customers
10 in the world. We have selective customers. We get a
11 premium for our product. They believe we have a
12 quality product. It's a great relationship, and we
13 just want to continue that, with the limited amount of
14 customers, the few we have, all right? That's all
15 we're looking to do.

16 CHAIRMAN PEARSON: Okay, so in some other
17 countries during this time, have you been able to grow
18 your customer base and build the business?

19 MR. BEJOIAN: Yes.

20 CHAIRMAN PEARSON: Whereas, in the United
21 States, the focus has been more on hanging onto key
22 customers who could really benefit from your product?

23 MR. BEJOIAN: Right, exactly.

24 CHAIRMAN PEARSON: Okay, thanks for that.

25 Mr. James, you had made the argument, I

1 think, in your direct statement that non-subject
2 imports have displaced subject imports, and that's
3 clearly correct, okay?

4 But why should we conclude that lifting the
5 order wouldn't lead to an increase in imports from
6 India that would displace some domestic production in
7 this country, plus some non-subject imports? I mean,
8 if the orders are lifted, is there an argument on this
9 record to say that it would just be a matter of
10 swapping the Indian imports for currently non-subject
11 imports, with no effect on the domestic industry?

12 MR. JAMES: Obviously, that's a very
13 difficult question to answer. Obviously, I can't
14 guarantee that what you're suggesting would not
15 happen.

16 It just seems to me that the data that is
17 currently available suggests that that's not the
18 scenario that would occur. Because the U.S.
19 producers' share of ADC has remained pretty even
20 throughout the period that you're looking at; but
21 Indian imports went down and non-subject imports went
22 up.

23 So the real change in the data that we're
24 looking at is between Indian imports and Taiwan
25 imports, and then the non-subject imports. It's not

1 so much in the area of the U.S. producers' production.

2 CHAIRMAN PEARSON: I realize, looking back
3 at the data, what you described is exactly what
4 happened. Of course, we have this challenge of trying
5 to do a counter-factual analysis to figure out what
6 would happen, going forward.

7 MR. JAMES: Yes, I understand that, and
8 that's why obviously it's a difficult question to
9 answer. Because likewise, you're asking me to predict
10 what would happen.

11 It's just, given the data that we see, plus
12 the fact that India is now much more of a market for
13 this product, we do not see India coming in and
14 flooding the market here in the U.S. with product.
15 What we see happening is that, yes, there will
16 probably some replacement.

17 I mean, obviously, we wouldn't be here if we
18 didn't want to sell in the U.S. market. So what we're
19 hoping is that the orders will be revoked, and that
20 India will be able to replace some of the non-subject
21 imports that are currently in the market, thus taking
22 the share from India because of the orders.

23 We believe that that will not, in any way,
24 cause a recurrence of injury to the United States'
25 producers. It may be damaging for some of the non-

1 subject imports. But it should not hurt the U.S.
2 producers.

3 I believe, if I remember correctly, that the
4 staff report does suggest that there is some ability
5 of the U.S. industry to absorb some additional impact
6 from imports. So again, we are hopeful that what will
7 happen -- and this is what we expect, but cannot
8 guarantee it -- that if the orders are lifted, then
9 the Indian imports, to the extent they increase, which
10 we don't think will be very much, will replace the
11 non-subject imports.

12 MR. BENJAMIN: If I could, I'd like to add
13 something to that.

14 CHAIRMAN PEARSON: Please.

15 MR. BENJAMIN: You have to refer back to my
16 past testimony as far as qualifying. The thing is,
17 what we're selling here isn't salt or something like
18 that, that's really a true commodity. This is a
19 product that has to be qualified and quantified, and
20 it has to be accepted by the end user, all right? So
21 it's not just, you know, a piece of matter. It's
22 something that's very specialized.

23 As my predecessors had spoken about, you
24 know, it has to run, and has to run through a piece of
25 equipment, and run specially through that piece of

1 equipment, with special tensions and special chemical
2 mixtures of the chemicals that make the product, okay?

3 So I think one of the things we have to take
4 in consideration here is that we are in a global
5 market. If all of us want to compete in a global
6 market, we have to compete, I think, in a way that we
7 have a qualified product, and this is a qualified
8 product. It has to have a very high quality control
9 involved with it.

10 The fact of the cost involved, what you're
11 trying to get at right now, why would things change
12 drastically here? I don't think it would. No one is
13 going to leave money on the table here and come in and
14 try to underprice the scenario of what's going on in
15 this country. We're going to try to get as much money
16 as we can, especially with the dollar the way it is
17 right now. We can't come in and under-price the U.S.
18 market.

19 With all the factors I brought to your
20 attention as far as the packaging and the freight and
21 everything else that goes along with this, you know,
22 we're really at a disadvantage, rather than at an
23 advantage.

24 With the Indian market being so overwhelming
25 right now, you know, I can't speak for the whole

1 thing, but I've got to tell you, from at least my
2 customers' standpoint, there's not going to be a
3 drastic change in what's going on. If there is, it
4 will be a quality issue, and that means that the
5 people we are competing against haven't done their job
6 to compete with a quality product.

7 If they're bringing it in from China or
8 Malaysia or wherever they're bringing it in from to
9 compete with us, then that means they're going to have
10 to do their homework to make a better product, all
11 right?

12 So I think that if you take that into
13 consideration, that's a big consideration of why
14 things are going to be fine, if we end up having you
15 respectively allow us to come back to the United
16 States again; thank you.

17 CHAIRMAN PEARSON: Mr. Craven, I had one
18 question relating to a point in the MTZ brief. That
19 is that you had indicated that the European Union
20 market would be fully open to Indian PET within the
21 next two years. But we know that there's an anti-
22 dumping duty order in effect now. Is that duty order
23 ending at some time soon?

24 MR. CRAVEN: That's operating under the
25 presumption that the European Union is going to follow

1 their normal practices with anti-dumping duty orders.
2 They have a somewhat similar process for reviewing
3 orders for sunset purposes; although my understanding
4 of the process is that they far more frequently end
5 orders. It's a different process, but it's based on
6 that process and the belief that it will not continue
7 when it comes up again in about two years. I'll be
8 glad to supplement that in the brief.

9 CHAIRMAN PEARSON: Okay, please do, if
10 there's more that we should know about that; and Mr.
11 Greenwald, if there's more that we should know about
12 it from your side, we'd be happy to receive that,
13 also.

14 I believe that that completes my questions.
15 My time is running out, too. So that's good timing.
16 Are there further questions from the dias? I believe
17 the Vice Chairman told me that she had no further
18 questions. If she does, I'm sure she will return
19 shortly to let me know that. Are there any further
20 questions from the dias?

21 (No response.)

22 CHAIRMAN PEARSON: Okay, do members of the
23 staff have questions for this panel?

24 MR. DEYMAN: George Deyman, Office of
25 Investigations -- the staff has no questions.

1 CHAIRMAN PEARSON: Okay, Mr. Secretary, do
2 you have a time allocation or time remaining? Oh,
3 thank you, yes; Mr. Greenwald, does counsel for the
4 domestic industry have questions for this panel?

5 MR. GREENWALD: No questions.

6 CHAIRMAN PEARSON: Okay, thank you; the
7 reason we don't do these hearings with just one
8 Commissioner is that there would be no one to point
9 out the minor errors that sneak in from time to time.

10 What I have is that those in support of
11 continuation of the orders have 33 minutes left from
12 their direct questioning, plus five minutes for
13 closing, for a total of 38. Those in opposition to
14 the order have 26 minutes left from their direct
15 presentation, plus five for closing, for a total of
16 31.

17 Now we've had such good exercise of economy
18 in terms of time usage so far, that if you choose not
19 to use all of your 38 and 31 minutes, I don't think
20 that that would be a problem, as we would see it. But
21 what we should do now is thank the afternoon panel
22 very much for your contributions. We'll excuse you,
23 and we will go to closing.

24 Mr. Greenwald, how would you like to
25 proceed? Would you like to separate rebuttal and

1 closing?

2 Mr. GREENWALD: What I'd like to do is take,
3 it's probably going to be no more than five minutes to
4 both rebut and close.

5 CHAIRMAN PEARSON: Okay, very well, as soon
6 as we can reposition here, you may begin, thank you.

7 (Whereupon, a short recess was taken.)

8 CHAIRMAN PEARSON: So Mr. Greenwald, are you
9 ready to speak to the rest of us now? Please proceed.

10 MR. GREENWALD: Thank you, Mr. Chairman,
11 John Greenwald from Wilmer Hale -- yes, I'm looking
12 forward to having an extended conversation with the
13 Commission.

14 I'd like to make six points in sort of a
15 combined closing. Well, it's really a rebuttal
16 closing. I hope it comes together elegantly, but
17 there's no guarantee. It may be a series of dots,
18 rather than a whole picture. Anyhow, if you'd bear
19 with me.

20 The first point I would like to comment on
21 really is to correct the record, to the extent that
22 the gentleman from MTZ and counsel for MTZ left the
23 impression that they are in a position to compete in
24 the U.S. market without any unfair trade cloud hanging
25 over them, because there was repeated reference to the

1 results of various anti-dumping reviews.

2 The problem with statements like that is,
3 they have to continue if they are to give you a clear
4 picture of what's going on to the other part of these
5 series of cases, which is countervailing duty results.
6 The most recent countervailing duty margin found for
7 MTZ was 33 percent ad valorem, which I submit is a
8 prohibitive margin.

9 The second point, and this takes off on the
10 testimony we heard, both on behalf of MTZ and on
11 behalf of Jindal, was an argument without underlying
12 reasoning for collapsing captive market and merchant
13 market, for purposes of doing your injury and
14 causation analysis.

15 To the extent there was any reasoning, it
16 was that the bigger the market, the lower the numbers,
17 the better their case. What I would like to point out
18 in rebuttal to that, is that in discussing the
19 business -- and this is necessarily limited to MTZ's
20 testimony -- to the extent you have facts before you,
21 those facts show that the subject imports compete
22 entirely in the merchant market for PET film.

23 There is no impact -- based at least on
24 today's testimony, and I would submit, the broader
25 record, that the subject imports have any impact

1 whatsoever, positive negative or neutral, on the
2 production of PET film for captive consumption. We'll
3 elaborate on this point in the post-hearing brief.

4 But if you're looking to make a decision
5 that is based on the economics of competition and the
6 impact of dumping on that competition, it seem to me
7 that the focus must be on the merchant market, because
8 that really is all that it is at issue in this
9 particular case.

10 A third point -- and again, it's a bit
11 related -- goes to the issue of cumulation. Now we
12 have been given an extensive list of cumulation points
13 that to which we are to supply you answers in the
14 post-conference brief, and we will do so.

15 But again, listening to the testimony you
16 heard, it seemed to me beyond dispute that the imports
17 from India are to processors overwhelmingly, I think,
18 was the testimony to metalizers. It occurred to me
19 that when the Commission sends out questionnaires, the
20 answers are frequently less exact than you may assume
21 when you just sort of read the compilation.

22 It may very well be that somebody will
23 decide to put a metalizer that takes the base PET film
24 and metalizes it and then sends it on to a packager,
25 as an end user in the sense that that customer is

1 buying PET film for the product that he makes. But it
2 is not the end user of the PET film in a packaging
3 application.

4 My fourth point -- and again, there is a
5 relationship to the prior points -- has to do with
6 these commodity grades of PET film. They are frankly
7 at the core of this case. Commissioner Aranoff had an
8 exchange where the Respondents spoke of their
9 interpretation of our testimony. Because I do think
10 this is an important issue, I went back to ask
11 specifically, do each of the domestic producers for
12 the merchant market produce commodity grades of PET
13 film in substantial volumes? The answer in each case
14 was yes. We've given them instruction from the
15 Commission to provide you company-by-company detail,
16 and we'll do so.

17 But in closing this hearing, for purposes of
18 the public hearing, I want to make it perfectly clear
19 that every one of the U.S. producers for the merchant
20 market does indeed produce commodity grade PET films.

21 Fifth point, here I'm going to branch out a
22 bit into the question of injury. We have said and we
23 believe that the record shows that what will happen if
24 these orders are revoked is that imports from India
25 will re-enter the United States in volume, as was the

1 case before the initial investigations. They will not
2 simply replace imports from other countries; but
3 rather will displace U.S. production. That is our
4 basic contention, and we believe the facts show that
5 out.

6 But let me accept, for the purpose of
7 argument, what I believe it was counsel for Jindal
8 said, which is that what you will have is a situation
9 in which the subject imports displaced, whether it's
10 imports from China or imports from Brazil or imports
11 from the UAE or imports from Thailand. So what you
12 will have is the status quo, simply substituting one
13 pot of imports for the others.

14 Please remember that three months ago, maybe
15 less, this Commission unanimously ruled that the
16 status quo provides the basis for a conclusion of a
17 reasonable indication of material injury. You heard
18 testimony today from the various producers that it is
19 true that the benefits of the anti-dumping order
20 eroded over time; and as a result, we -- and I say we,
21 but it's really they -- have been forced to bring
22 another set of anti-dumping petitions.

23 They filed that set of anti-dumping
24 petitions because the status quo is intolerable. Yet,
25 even if you accept the base premise of Respondents'

1 arguments, what they are saying is that all that will
2 happen if the orders are revoked is that the status
3 will continue, because you'll have shifting of import
4 sourcing.

5 Again, that is, in effect, saying that
6 revocation of the orders, using their own analysis,
7 means a continuation of material injury.

8 Lastly, and I'll close with this, I am
9 interested in the Bratsk analysis. I think it raises
10 a whole series of issues. After we spoke, and then
11 listening to Respondents' counsel on that issue, I
12 wanted to take issue with the proposition that non-
13 subject imports, or the imports not from India and
14 Taiwan, are necessarily non-subject imports, fairly
15 traded imports. I believe Chairman Pearson said,
16 well, innocent until proven guilty.

17 In fact, when you look at the way the
18 statute is structured, and the assumptions you make
19 routinely, you must bear in mind that when an industry
20 files anti-dumping petitions, they have a burden to
21 meet. We must come forward with evidence to support
22 the dumping allegation that is sufficient to persuade
23 Commerce to open an investigation.

24 In other words we, as Petitioners, have a
25 burden of proof to meet, and we have met that. I have

1 been in countless preliminary injury hearings where
2 Respondents have said, there is no dumping; and the
3 Commission's response is, that is an issue for
4 Commerce. We assume, as a matter of operating
5 principle, that the dumping allegations that Commerce
6 has accepted are accurate until Commerce informs us
7 otherwise.

8 That is exactly the situation that you have
9 here. Commerce has accepted petitions that make
10 allegations of significant dumping against imports
11 from China, Thailand, the UAE and Brazil. I don't
12 think, as a matter of law, you as a Commission can
13 consider those "fairly traded."

14 So what I would urge you to do, and again, I
15 think the phrase I used when I was up here before was
16 that these are the functional equivalent of subjects,
17 and I would stand by that.

18 But I do not think that the law permits you
19 to make either the assumption that Mr. James and
20 counsel for MTZ would like you to make, or to make any
21 assumption other than as things now stand, the weight
22 of evidence is that the imports from these four
23 countries that are subject to investigation are
24 unfairly traded and, for purposes of Bratsk, they must
25 be considered as such. With that, I'll close; thank

1 you.

2 CHAIRMAN PEARSON: Thank you, Mr. Greenwald;
3 thank you for leaving us some time. You may be
4 excused.

5 MR. GREENWALD: Thank you.

6 CHAIRMAN PEARSON: Mr. James?

7 MR. JAMES: Thank you, I will try to be
8 brief, because I believe we've covered all of the
9 issues in our testimony and in the questions and
10 answers, as well as in our briefs. But I would like
11 to summarize some of the points we've made, and
12 dispute some of the comments that were just made.

13 It is beyond doubt that the Indian market
14 will grow, and will grow considerably. This is clear
15 from the data. It's clear from reports. It's clear
16 from articles that have nothing to do with the
17 investigation. The Indian middle class is growing
18 exponentially, and middle class consumers use PET
19 film.

20 So we think that the situation now is
21 considerably different from the situation that faced
22 the Commission when it first investigated these
23 imports.

24 Additionally, other countries' imports are
25 growing and they will continue to grow, and those are

1 all factors that have to be taken into account in
2 determining whether revocation of the order will lead
3 to a surge of imports into the United States from
4 India and Taiwan.

5 We believe that that just will not happen,
6 because the Indian producers now have established
7 customer bases in India and other global markets, and
8 it is very unlikely that they will return to the U.S.
9 market in large volume.

10 The other markets for these Indian producers
11 and for the Taiwan producers are clearly profitable,
12 and there is absolutely no reason to assume that they
13 will just abandon those markets and return at
14 injurious levels to the United States.

15 We also again want to stress that non-
16 subject imports have taken shares of the Indian and
17 Taiwan production, and what we believe will happen is
18 that India will likely reclaim some of this share. It
19 will not reclaim all of the share because as I said,
20 India is now focusing more on other markets.

21 But again, the situation has changed since
22 the original investigation, and we believe that there
23 will not be a surge or influx of imports from India,
24 should the orders be revoked.

25 I also want to remind the Commission that it

1 is not just a little injury that you have to consider.
2 It has to be material injury. Yes, if the Indian
3 imports do replace, or as the other term states,
4 displace some of the U.S. production, it has to be at
5 a level that is material, not just a sale here or a
6 sale there. It must be material.

7 We submit that that is just not going to
8 happen. There will not be imports at a level that
9 will create material injury.

10 Mr. Greenwald's question, our basic premise,
11 the one that I've just espoused -- what our position
12 is, it's that yes, there may be some replacement. But
13 it's not going to replace all of the non-subject
14 imports, and it is not necessarily going to grow to
15 the level that it was prior to the original order.
16 Because, as I've said, India is now a growing market,
17 and that is the focus of the Indian producers.

18 As I said, earlier, Jindal, in the original
19 investigation, was selling mostly in the export
20 markets. Now it says 50 percent of its production
21 goes to service the Indian market.

22 With respect to cumulation, as we said
23 before, we believe that cumulation or not cumulation
24 leads to the same results. If you don't cumulate
25 India and you don't cumulate Taiwan, we believe that

1 the country should be excluded from the order. But if
2 you do cumulate, we also believe that the countries,
3 as cumulated, should be excluded from the order.

4 Finally, I would like to address the final
5 point made by Mr. Greenwald. He claims that because
6 they filed dumping allegations, the Commission must
7 take that as proof that there is dumping.

8 We simply do not agree to that statement.
9 The Commerce Department has made no finding of
10 dumping. It is true that the Commission has made a
11 finding of reasonable indication of injury, but the
12 Commerce Department must determine whether there is
13 dumping.

14 It is quite possible, notwithstanding your
15 finding of a reasonable indication of injury for the
16 preliminary results, that the Commerce Department will
17 find none of the countries are dumping; that some of
18 the countries may dumping; or that companies within a
19 country may be dumping or may not be dumping. You
20 simply cannot, and it is wrong to presume that all of
21 those countries and all of the companies being
22 investigated will ultimately be found to be dumping.

23 So we submit that, at this point in time,
24 the Commission must view those non-subject imports --
25 irrespective of the fact that they are subject to

1 allegations of dumping -- the Commission must consider
2 those as non-dumped, non-subject imports that are now
3 being sold at fair value.

4 Thank you, that's all I have.

5 CHAIRMAN PEARSON: Thank you, Mr. James.

6 Now I can read the closing statement. In
7 accordance Title VII of the Tariff Act of 1930, post-
8 hearing briefs, statements responsive to questions and
9 requests of the Commission, and corrections to the
10 transcript must be filed by February 29, 2008; closing
11 of the record and final release of data to parties on
12 April 1; and final comments due on April 3rd.

13 Thank you all very much. This hearing is
14 adjourned.

15 (Whereupon, at 3:03 p.m., the hearing in the
16 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: PET Film, Sheet and Strip

INVESTIGATION NOs: 701-TA-415; 731-TA-933, 731-TA-934
(Review)

HEARING DATE: February 20, 2008

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: February 20, 2008

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 E. 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: Christina Chesley
Signature of Court Reporter