

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
SODIUM METAL FROM FRANCE) Investigation No.:
) 731-TA-1135
) (Preliminary)

Pages: 1 through 164

Place: Washington, D.C.

Date: November 13, 2007

HERITAGE REPORTING CORPORATION
Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005
(202) 628-4888

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Tuesday
November 13, 2007

Room 101
U. S. International
Trade Commission
500 E Street, SW
Washington, D.C.

The preliminary conference commenced pursuant to notice, at 9:31 a.m., before the Commissioners of the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

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Staff:

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In Support of the Imposition of
an Antidumping
Duty Order:

On Behalf of DuPont:

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Duty Order:

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P R O C E E D I N G S

(9:31 a.m.)

3 MR. CARPENTER: Good morning and welcome to
4 the United States International Trade Commission's
5 conference in connection with the preliminary phase of
6 Antidumping Investigation No. 731-TA-1135 concerning
7 Imports of Sodium Metal from France.

8 My name is Robert Carpenter. I am the
9 Commission's director of investigations, and I will
10 preside at this conference. Among those present from
11 the Commission staff are, from my far right: Fred
12 Ruggles, the investigator; Douglas Corkran, the
13 supervisory investigator; on my left, David Fishberg,
14 the attorney/adviser; Gerry Benedick, the economist;
15 David Boyle, the auditor; and Jack Greenblatt, the
16 industry analyst.

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

Are there any questions?

25 (No response.)

1 MR. CARPENTER: If no, welcome, Mr. Gagne.

2 Please proceed with your opening statement.

3 MR. GAGNE: Thank you and good morning. My
4 name is Chris Gagne. I'm an associate with Crowell &
5 Moring, representing the Petitioner, DuPont.

6 The Commission's mandate in a preliminary
7 determination is to determine whether there is a
8 reasonable indication that a domestic industry is
9 materially injured or threatened with a material
10 injury by reasons of allegedly unfairly traded
11 imports.

12 As you are about to hear, there is every
13 indication that the domestic sodium metal industry,
14 DuPont, has been, and continues to be, materially
15 injured by unfairly traded imports from France.

16 In determining whether a domestic industry
17 suffers from material injury, the Commission considers
18 three factors: the volume of subject imports, the
19 effect of subject imports on prices in the United
20 States, domestic like products; and the impact of
21 subject imports on domestic producers.

22 As you will hear, imports of sodium metal
23 from France are up. Prices for sodium metal are
24 depressed, and DuPont's sodium metal business has lost
25 sales, lost market share, and lost revenue and

1 continues to do so.

2 This is exactly the kind of situation that
3 the antidumping law was made for.

4 The facts of this case are classic and
5 simple. There is one product, sodium metal. There is
6 one U.S. producer, DuPont. Subject imports are coming
7 from one country, France, and they are coming from one
8 producer in that country, Mato, and those imports are
9 soaring. Those imports have depressed prices, and
10 DuPont has lost sales, market share, and revenue and
11 continues to do so.

12 What is the one product? Sodium metal. As
13 you will hear, sodium metal, at any industrial grade,
14 regardless of what you call it, is usable for
15 practically any application requiring sodium metal.
16 In short, French and U.S. sodium metal is
17 interchangeable.

18 Imports of sodium metal from France are
19 soaring, and they have been for some time, despite a
20 contraction in demand. In Europe, that contraction in
21 demand culminated in 2000, when the European Union
22 phased out leaded gasoline, which had been a major end
23 use for sodium metal.

24 That same year, Mato doubled its sodium
25 metal production capacity, and, a few years later, its

1 imports of sodium metal in the United States had
2 tripled.

3 With this increase in sodium metal imports
4 has come a precipitous decrease in DuPont's market
5 share, and, as you will hear, given the nature of the
6 sodium metal industry, every account Mato gains is an
7 account that comes at DuPont's expense.

8 Meanwhile, prices have been, and continue to
9 be, depressed. Over the past few years, the average
10 unit customs value of sodium metal imports from France
11 has dropped at least to 17 percent. This has had a
12 corresponding effect on U.S. prices. Moreover, DuPont
13 is unable to increase its prices to offset the
14 increased raw material costs and the high fixed costs
15 inherent in sodium metal production.

16 This cost-price squeeze is unsustainable for
17 DuPont. In a little over three years, DuPont's sodium
18 metal business has gone from being profitable to
19 seriously unprofitable, with no relief in sight. The
20 impact is clear: Dumped imports from Mato have
21 depressed DuPont's prices for sodium metal, siphoned
22 off its market share, and snuffed out the profits of
23 DuPont's sodium metal business.

24 The threat of further injury is imminent.
25 Mato is the largest sodium metal producer in the

1 world. Moreover, it has declared itself to be export
2 oriented. The data presented in DuPont's petition and
3 in its testimony, which you'll hear today, make clear
4 what that means for the future of DuPont's sodium
5 metal business.

6 This is the testimony that you will hear
7 this morning from DuPont. With classic facts like
8 these, there can be no doubt. There is a reasonable
9 indication that the domestic industry is materially
10 injured and that it is threatened with more of the
11 same. Thank you.

12 MR. CARPENTER: Thank you, Mr. Gagne.

13 Mr. Silverman now, please?

14 MR. SILVERMAN: I'm William Silverman with
15 the Law Firm of Hunton & Williams on behalf of the
16 Respondent.

17 Mr. Chairman, when I first read the petition
18 in this case, you know, it sort of looked like the
19 typical chemical case that the Commission sees: Price
20 is everything, the chemical is supposedly totally
21 fungible, you know, like a bag of salt that you get at
22 the Safeway. It doesn't matter who makes it; it's
23 just a bag of salt.

24 But I've learned, in the last couple of
25 days, an entirely different picture from the

1 purchasers. Sodium metal is not a commodity product,
2 and price does not explain patterns of trade.

3 Here is what I learned from the purchasers:

4 First, sodium metal has a myriad of uses in
5 entirely different markets: titanium metal, bio-
6 diesel, steel, anti-knocking for gasoline, which, of
7 course, all have different derived demands and
8 different purchasing preferences.

9 Second, purchasers recognize substantial
10 quality differences between DuPont's sodium metal and
11 the French sodium metal. DuPont's product contains
12 higher amounts of calcium and sludge coming from
13 calcium. This clogs the purchaser's pipes and forms
14 unwanted residues in storage tanks, and that's bad
15 news for purchasers, and they will tell you so.
16 Matos's product does not have such quality defects.

17 Third, certain purchasers cannot rely on
18 DuPont for sodium metal because they compete with
19 DuPont in the downstream market. In other words,
20 these purchasers cannot be secure in their downstream
21 market, vis-à-vis sales to DuPont, when DuPont can
22 squeeze them on the raw material input. We'll hear
23 testimony to explain that, and that's why these
24 purchasers need to buy from France.

25 Fourth, other purchasers do not want to rely

1 on DuPont as a sole supplier of a critical input for
2 them. If there were a strike, or any other production
3 delay at DuPont, these purchasers would be left high
4 and dry. So they need a second source of sodium
5 metal, and that's why they buy from France. One
6 purchaser, for example, as you'll hear in the
7 testimony, buys 80 percent from DuPont and 20 percent
8 from France.

9 Fifth, other purchasers choose the French
10 product because it has a logistical advantage at its
11 location in Texas right next to a major customer, so
12 the deliveries are by pipe. What could be more
13 convenient than having your customer next door? And
14 the customers recognize that.

15 In other words, Mr. Chairman, the simple
16 mantra of "price, price, price" in a chemical case
17 does not fit this case. Check with the purchasers.
18 They know what's really going on.

19 Now, in addition, data in the record provide
20 further support for a negative determination. By
21 that, I mean, the record data do not show correlations
22 between the indices of material injury and changes in
23 import volumes and prices from France, and when there
24 is no correlation, there is no causation. This is
25 true in the present tense and in the future tense,

1 especially in a growing market for sodium metal, and
2 you'll hear a lot today about the growing demand for
3 sodium metal in the United States.

4 Now, if DuPont has any financial problems,
5 they are not caused by imports from France, and let me
6 just point out three major reasons they may have some
7 problems. You didn't hear that in the testimony so
8 far.

9 Number one, DuPont's second-largest customer
10 stopped buying sodium metal altogether because it was
11 paraquat, and it's being replaced by another
12 downstream product. The French imports did not cause
13 that loss of their second-largest customer.

14 Number two, DuPont's largest customer buys
15 sodium based on a global negotiation with its
16 customer, Romenhaus. Whatever prices are agreed to in
17 Europe, as Romenhaus dictates, will apply to the
18 United States. In other words, DuPont's prices for
19 Romenhaus in the United States are not influenced by
20 the prices of French imports.

21 To the contrary, Matos' U.S. prices are
22 irrelevant because Romenhaus and DuPont determine the
23 price on a global basis. By the way, Matos sells zero
24 to Romenhaus, so let's not here about price
25 suppression or lost customers.

1 Number three, French imports do not cause
2 the DuPont product to clog up the pipes. French
3 imports don't cause DuPont's products to cause
4 damaging and dangerous storage tank problems when the
5 residues are sitting there. That's their problem.
6 They caused it, not imports from France. Thank you.

7 MR. CARPENTER: Thank you. Mr. Silverman,
8 Mr. Jaffe, and Mr. Gagne, if you could bring your
9 panel up now, please.

10 (Pause.)

11 MR. CARPENTER: Please proceed.

12 MR. JAFFE: Good morning. Matthew Jaffe
13 with the Law Firm of Crowell & Moring on behalf of the
14 Petitioners, DuPont. We're going to have two
15 presentations today.

16 Ken Hilk, who is the business/marketing
17 manager for the sodium metal business at DuPont, will
18 do the first presentation, and he will be followed by
19 Brian Merrill, who is the global sales leader, and he
20 will be doing his presentation via teleconference.

21 We also have with us today Bruce Petrovick.
22 He will not be doing a direct testimony but will be
23 available to respond to your questions on this
24 particular subject.

25 With no further ado, then, I'm going to turn

1 the mike over to Mr. Hilk.

2 MR. HILK: Thank you, Matthew.

3 Good morning. My name is Ken Hilk. I'm the
4 business/marketing manager for reactive metals at the
5 DuPont Company, and I'm based in Wilmington, Delaware.

6 I've been closely associated with the sodium
7 metal industry throughout my career at DuPont. For
8 five years in the late 1980s, I supervised the sodium
9 metal manufacturing operations at DuPont's plant in
10 Niagara Falls, New York.

11 From 1998 to 2002, I was the business
12 manager for the reactive metals business, and in my
13 current position, I oversee the global business and
14 marketing operations of three industrial chemical
15 segments, including the reactive metals business, of
16 which sodium metal is a part.

17 This morning, my colleague, Brian Merrill,
18 and I would like to address four topics: the product,
19 the production process, conditions of competition in
20 the United States market for sodium metal, and the
21 adverse and unfair impact of French imports on
22 DuPont's business.

23 Let me begin with a description of the
24 product. Sodium metal is an element, which you may
25 recall from your high school chemistry classes. It

1 appears on the periodic table as the symbol, Na. It
2 is silver in color until exposed to air, at which
3 point it becomes dull gray due to the formation of a
4 sodium-oxide coating. It is a soft and malleable
5 metal and highly reactive as a reducing agent.

6 It is that high reactivity that sets sodium
7 apart from other metals and explains why it is the
8 best product that can be used in various applications.

9 Sodium metal has an unlimited storage life,
10 provided that you protect it from contact with
11 moisture, but when exposed to water, sodium metal
12 reacts pyrophorically.

13 With a few rare exceptions, the purity level
14 of sodium metal does not materially affect its end use
15 application. DuPont's customers use sodium metal for
16 a wide range of applications, including an
17 intermediate product for the production of chemicals,
18 pharmaceuticals, and for high-value metal refining,
19 such as tantalum and titanium.

20 I want to turn to production. Because of
21 its high chemical reactivity, sodium metal does not
22 occur in nature in a free state. It must be isolated
23 and produced commercially.

24 You make the sodium metal by splitting apart
25 sodium chloride, commonly known as salt. You place

1 the molten salt compound in process equipment called a
2 "Down's cell" with other raw materials. The Down's
3 cell is essentially a large, brick-lined, stainless
4 steel vessel containing a cathode at the top and an
5 anode at the bottom. Electrolysis splits the salt
6 compound. Sodium goes one way, and chlorine goes the
7 other.

8 The sodium metal is collected through a
9 primary filtration process. At this point, the sodium
10 metal is at least 98 percent pure, but, more likely,
11 it's actually 99 percent pure.

12 Usually, the product, in this state, is
13 ready for sale to customers. It can be used in this
14 form for almost every application except for rare
15 circumstances, such as use in nuclear breeder
16 reactors.

17 Here, then, are three key points to remember
18 about the production of sodium metal. It is highly
19 capital, labor, and energy intensive.

20 What do we mean by "capital intensive"?
21 There is a huge sunk investment in sodium metal
22 production facilities that is often four to five times
23 annual revenue. Sodium metal facilities are most
24 efficient when operating at levels close to 100
25 percent of their available capacity because the

1 manufacturing operations have a high ratio of fixed-
2 to-variable costs.

3 Thus, due to the nature of the sodium metal
4 business, it is essential for us to run our Niagara
5 plant at or above our critical break-even point. We
6 require a significant amount of capital each year to
7 maintain minimum essential operating standards to
8 ensure the health and safety of our employees and to
9 protect the physical environment.

10 It has become increasingly difficult for
11 DuPont to justify this capital, given Matos's
12 egregious pricing action in the market.

13 Second, the production of sodium metal is
14 energy intensive. DuPont originally located our plant
15 next to Niagara Falls in order to take advantage of
16 the hydropower there. This is also why the French
17 producer, Mato, located its plant in the French Alps
18 next to a hydroelectric power source. However, if
19 DuPont cannot effectively use its hydro power, our
20 manufacturing unit costs rise sharply.

21 Finally, sodium metal production is labor
22 intensive relative to other chemical processes.
23 Sodium metal production requires a high number of
24 operators performing physical and annual tasks.
25 Because the production cells have to run 24 hours a

1 day, flexibility of manpower is limited.

2 Due to rising costs and lost market share,
3 DuPont has had to cut jobs from our Niagara facility,
4 which, in turn, hurts the greater Niagara community.

5 Let me make a few final comments about
6 production. The primary stage of filtration results
7 in what we refer to at DuPont as "technical grade
8 sodium metal."

9 To produce more pure forms of sodium metal,
10 you can use secondary filtration systems. This
11 higher-purity sodium metal can then be marketed and
12 sold as a specialty grade.

13 However, to be clear, in the U.S. market,
14 technical grade sodium metal can be used in any
15 downstream production process. The only difference
16 between technical grade and specialty grades is the
17 rate of buildup in process residues. Since most
18 systems that use sodium metal need to be cleaned,
19 maybe once or twice a decade, we are not talking about
20 an actual difference.

21 Producers may distinguish between sodium
22 metal at different purity levels for marketing
23 purposes, but, essentially, all sodium metal is
24 interchangeable.

25 At the end of the day, sodium metal produced

1 by DuPont and Mato are functionally the same. Every
2 single U.S. customer who now purchases sodium metal
3 from Mato has, at some time in the past, purchased
4 their requirements from DuPont.

5 When you look at the conditions of
6 competition here in the United States, you first need
7 to recognize why the supply for sodium metal in the
8 United States has changed so significantly over the
9 last 25 years.

10 Sodium metal was the predominant raw
11 material in the production of tetraethyl lead, an
12 anti-knock additive in gasoline. Five large U.S.
13 sodium metal producers service this industry. As
14 leaded gasoline was phased out, the demand for sodium
15 metal in the United States dropped dramatically.

16 DuPont has endured as the sole remaining
17 producer of sodium metal in the United States, yet we
18 find ourselves under continuing attack from injurious,
19 unfairly priced imports from the French producer,
20 Mato.

21 On the other side of the supply-and-demand
22 equation, the drop in sodium metal consumption over
23 the last 25 years is certainly the major reason for
24 the drop in supply as well, but there is still
25 sufficient demand for sodium metal to make it a viable

1 industry in the United States because there are
2 applications in which sodium metal is the best option.

3 There are no clear substitutes. With that
4 said, the universe for demand still is finite and
5 small. There are only so many U.S. customers for
6 sodium metal, and they represent the best opportunity
7 for Mato to expand their U.S. market share. If Mato
8 takes a commercial account through unfair pricing,
9 DuPont clearly loses a customer and is materially
10 injured.

11 That is a basic introduction to the
12 business. I would like to now turn to my colleague,
13 Brian Merrill, DuPont's global sales leader for
14 reactive metals. Brian will outline in more detail
15 the basic competitive conditions facing DuPont today
16 in the global and U.S. market for sodium metal.

17 Unfortunately, Brian couldn't be here today
18 in person, but because this proceeding is so critical,
19 we felt it necessary to make himself available by
20 phone. Brian?

21 MR. MERRILL: Thank you, Ken.

22 Good morning. As Ken mentioned, my name is
23 Brian Merrill. I apologize that I'm not able to be
24 with you in person today. Can you hear me okay?

25 MR. CARPENTER: Yes. We can hear you fine.

1 Thank you.

2 MR. MERRILL: Okay. Thank you.

3 I'm the global sales leader for reactive
4 metals at DuPont. I have been with the company for 33
5 years. I've spent 10 years in the sodium metal
6 industry. Currently, I supervise the sales and
7 marketing of sodium metal and other reactive metals
8 worldwide.

9 The sodium metal industry is a mature
10 industry. After the market contraction, due to the
11 decline in demand for leaded gasoline, the U.S. sodium
12 metal market stabilized, but the market demand is not
13 really changing to any significant degree. In other
14 words, although sodium metal remains a very useful and
15 important product for our economy, there are few new
16 commercial accounts to be had.

17 DuPont has invested heavily in this business
18 for many years and wishes to remain a U.S. producer of
19 sodium metal and a reliable supplier to U.S.
20 customers. Increasingly, it is losing customers to
21 imports from France. The question now is, can DuPont
22 continue in the sodium metal business?

23 DuPont's main competitor in the field is
24 Mato. DuPont doesn't fear competition, as long as it
25 is fair. Mato is not a new competitor. In fact, Mato

1 has been in the U.S. market for at least the last 10
2 years.

3 However, starting in 2003, Mato engaged in
4 an aggressive price campaign to increase its U.S.
5 market share. Its impact is readily apparent.
6 According to the Department of Commerce, Mato's sodium
7 metal imports increased, in absolute terms, from 5
8 million pounds in 2004 to 15 million pounds in 2006,
9 an increase of around 200 percent, tripling their
10 imports to the United States. This dramatic increase
11 was made by Mato selling at what we believe are prices
12 below the company's net prices in Europe.

13 For example, I have reviewed a report that
14 shows that the average unit customs value reported for
15 subject imports from France has decreased by 18
16 percent from January 2004 to September 2007.

17 Specifically, in January 2004, the average unit
18 customs value of subject imports was one dollar a
19 pound. The most recent available data show that, in
20 September, the average unit value was just 83 cents a
21 pound.

22 This has put tremendous pressure on U.S.
23 prices, first, depressing DuPont's prices for sodium
24 metal and then preventing us from increasing prices to
25 offset increases in our production costs since 2004.

1 Both DuPont and Mato use the same production
2 process. Both, then, are exposed to rising
3 manufacturing and transportation costs. DuPont needs
4 to raise prices to cover those costs, but we can't as
5 long as Mato refuses to do so, even in the face of the
6 euro's recent dominance over the dollar.

7 Moreover, Mato is export oriented. It has a
8 turnover of 50 million euros, of which 90 percent
9 comes from exports. Mato, then, for the foreseeable
10 future, is likely to continue to suppress the domestic
11 industry's prices and flood the market with dumped
12 imports. Because the U.S. sodium metal is a mature
13 market, low prices will not result in an increase in
14 demand.

15 Finally, as Ken has mentioned a number of
16 times, DuPont's and Mato's sodium metal is fully
17 interchangeable. Customers in all market segments
18 purchase sodium metal according to the demand for
19 their end product. As a result, a low price will not
20 typically cause customers to purchase more sodium
21 metal. Instead, depressed prices will simply cause
22 customers to shift between manufacturers.

23 In sum, the combination of increased per-
24 unit production costs and low prices plus the other
25 factors I have mentioned has turned DuPont's sodium

1 metal business from a profitable enterprise in 2003 to
2 barely profitable in 2004 to unprofitable from 2005
3 through today. We have lost customers to Mato and
4 have barely managed to maintain prices at other
5 accounts. Ken?

6 MR. HILK: Thank you, Brian.

7 I would like to start the last part of our
8 testimony today by quoting a statement made by Mato's
9 president, Bruno Gastine, in 2004, concerning his
10 company's plans for the U.S. market. We found this
11 statement on the Web site belonging to the company
12 that assisted Mato in establishing its U.S.
13 subsidiary, which appears in Exhibit 3-4 in our
14 petition.

15 Mr. Gastine is reported to have said as
16 follows, and I quote: "Before creating this
17 subsidiary, our market share in the United States was
18 10 percent, and our aim was to have 30 percent in two
19 years. Today, in less than 10 months, we have already
20 reached 20 percent. That says it all!"

21 Now, to increase market share by 20
22 percentage points in a mature market, like the one we
23 have with sodium metal, takes more than the creation
24 of a subsidiary; it requires aggressive attack. From
25 what we have seen, Mato's U.S. market penetration was,

1 and remains, driven by a strategy to capture DuPont's
2 customers by offering sodium metal at less than a fair
3 market value.

4 As Brian testified, Mato has, indeed,
5 grabbed market share unfairly. As we have seen, and
6 as the import statistics demonstrate, sodium metal
7 imports from France increased, in absolute terms,
8 about 200 percent from 2004 to 2006, and the
9 combination of increased per-unit costs and price
10 depression has turned DuPont from a profitable
11 enterprise in 2003 to an unprofitable enterprise,
12 beginning in 2005.

13 In 2007, DuPont's reactive metals business
14 remains unprofitable, and the trend looks only worse
15 for the foreseeable future.

16 In short, price has been, and continues to
17 be, the key factor in sale of sodium metal in the
18 United States. Mato and DuPont sodium metals are
19 readily interchangeable. We have already lost major
20 customers to Mato's unfair pricing and are under
21 continued pressure from existing customers to meet and
22 beat Mato's unfair pricing each time.

23 DuPont cannot maintain both sales volume and
24 current prices at a level that will cover rising
25 costs. The inroads that French imports have made into

1 the U.S. market share mean that Mato is now serving
2 all segments of the market and that the dumped prices
3 are establishing unrealistic price levels throughout
4 the marketplace.

5 DuPont is confronted with a no-win
6 situation. We cannot escape the pressure to reduce
7 our price further, and we cannot raise prices to
8 become profitable.

9 So, in conclusion, imports of sodium metal
10 from France have already had a significant adverse
11 impact on DuPont's production, shipments, and sales.
12 Absent relief from Mato's unfairly traded sodium
13 metal, it is virtually certain that the domestic
14 industry will suffer further material injury within
15 the near future. This business, for DuPont, may cease
16 to exist altogether.

17 Therefore, on behalf of DuPont and for the
18 sake of the employees at our Niagara plant in New York
19 State, we respectfully request that you find that
20 imports of sodium metal from France are causing
21 material injury, and threatening to cause material
22 injury, to the U.S. sodium metal industry. Thank you.

23 MR. JAFFE: Thank you, Ken. That concludes
24 our direct presentation. Mr. Merrill, unfortunately,
25 has commitments and will be available until ten-thirty

1 to respond to your questions. However, we have
2 brought with us Mr. Bruce Petrovick, who is a senior
3 account manager for sales, and he will be able to
4 respond to those questions. Also with me today is
5 Sabina Neumann, an economist at Crowell and Moring,
6 also available to respond to questions.

7 Probably the best thing we ask is just
8 panel, and we'll try to direct it to the correct
9 person.

10 Finally, I would just like to indicate for
11 the record, I do apologize. I know our U.S. importer
12 questionnaire is still outstanding, and we plan to
13 file it today and serve it on the opposing party
14 today. Thank you.

15 MR. CARPENTER: Thank you, Mr. Jaffe, Mr.
16 Hilk, and Mr. Merrill.

17 We will begin the staff questions, at this
18 point, with Mr. Ruggles.

19 MR. RUGGLES: Fred Ruggles, Office of
20 Investigations. I just have a couple of quick
21 questions.

22 One, do you see any significant performer
23 out there of sodium metal, say, in China, India, any
24 of the other countries, that would be coming into the
25 United States?

1 MR. HILK: Thanks, Fred. At this point,
2 because the market is well supplied by DuPont, we've
3 got excess available capacity. Clearly, we have a
4 competitor who has come in and taken a lot of share.
5 We don't see the China entries in the market.

6 MR. RUGGLES: Would there be any interest in
7 your going to China or to India with your product from
8 here?

9 MR. HILK: At this point, China has actually
10 gotten themselves in an overcapacity situation, so for
11 us to take our available capacity over to China isn't
12 logistical for us.

13 MR. RUGGLES: At this point, I have no
14 further questions.

15 MR. CARPENTER: Mr. Fishberg?

16 MR. FISHBERG: Good morning. For the
17 record, David Fishberg from the General Counsel's
18 Office. First, I would like to thank the members of
19 the panel for their presentation this morning. Most
20 of my questions will be directed to probably either
21 Mr. Gagne or Mr. Jaffe, but all members are free to
22 respond, if they like.

23 Initially, I just want to confirm that
24 you're asking the Commission to define the domestic
25 like product as one domestic like product coextensive

1 with -- is that correct?

2 MR. JAFFE: Matthew Jaffe on behalf of
3 Crowell & Moring and DuPont. That's correct.

4 MR. FISHBERG: Okay. I know that you
5 addressed the six factors the Commission traditionally
6 looks at in your petition, but anything else that you
7 can provide in your post-conference brief on this
8 subject, based on Respondent's discussion later this
9 morning, would be helpful.

10 MR. JAFFE: Matthew Jaffe again. Yes, we
11 will respond accordingly.

12 MR. FISHBERG: One thing, you do distinguish
13 between technical grade and specialty grades of sodium
14 metal but say that they are interchangeable. Are
15 there specific end uses that require specialty grade,
16 and, if so, why?

17 MR. HILK: Yes. This is Ken Hilk. There
18 are some small applications, such as the nuclear
19 breeder reactor that I mentioned earlier that requires
20 a fairly high purity, and that would be a specialty
21 grade. But even though there are some slight
22 differences in impurity levels and impurity profiles
23 between the technical grade and many specialty grades
24 which DuPont makes also, a number of specialty grades,
25 we have found that there isn't any material difference

1 in most chemical applications.

2 MR. FISHBERG: So, I take it, when you sell
3 it to a customer, you disclose to that customer what
4 grade they are getting. In their contract, is there a
5 requirement that they are getting, I guess, a
6 technical grade or a specialty grade? If so, is there
7 a price premium for a specialty grade?

8 MR. HILK: A couple of questions there. I
9 think the answer to the first question is that
10 contracts almost always specify the specification.
11 Sometimes it could be a technical grade that's agreed
12 on, but there will be special customer specifications
13 for purity levels, and that will be spelled out.

14 The other part of the question, help me
15 again.

16 MR. FISHBERG: Is there a --

17 MR. HILK: -- a premium? Often, there is a
18 price premium. Almost always, DuPont either gets a
19 price premium or certainly attempts to get a price
20 premium for the additional value because there is
21 certainly an additional cost normally associated with
22 the higher purity.

23 MR. FISHBERG: Perhaps, in your post-
24 conference brief, may be the best time to do this, but
25 if you could give us an indication of the percentage

1 of your sales that are specialty grades versus the
2 technical grade, and if you can, if you want to
3 comment on that now with a rough estimate, or if you
4 prefer to do that in your post-conference brief, that
5 would be fine as well.

6 MR. JAFFE: Matthew Jaffe. I think we'll
7 respond to that in our post-hearing brief because of
8 the business-proprietary nature of such a discussion.

9 MR. FISHBERG: Okay. That's fine. If you
10 could also, along with that, just provide examples of
11 the price differentials between the two, that would be
12 helpful.

13 I also just wanted to confirm that -- I
14 think you mentioned this in your direct testimony --
15 that you're the sole domestic producer of sodium metal
16 and that, therefore, I guess you don't believe that
17 there are any related-party issues in this
18 investigation.

19 MR. JAFFE: Matthew Jaffe. DuPont is the
20 sole U.S. producer of sodium metal in the United
21 States. I would just like to comment also that the
22 Department of Commerce has not conducted any polling
23 or indicated in any of their questions any
24 disagreement with that statement.

25 MR. FISHBERG: It also appears that the vast

1 majority of imports of sodium metal are from France,
2 and I think probably the panel, later today, will be
3 able to answer this question more fully, but I just
4 wanted to get your viewpoint. Is there any reason why
5 that is? Does it have to do with the capital costs
6 for building a plant, and France has it, and,
7 therefore, that's why the vast majority comes in from
8 France? Is there a reason why other countries do not
9 seem to be importing that much sodium metal into the
10 United States?

11 MR. HILK: I would answer the question by
12 stating that you have to have a unique set of
13 circumstances to have economical sodium manufacturing.
14 We talked about it in our statement today: One, an
15 economical source of power, i.e., hydro power,
16 normally. We didn't really talk about it in the
17 statement, but you need a reliable, consistent, high-
18 purity and low-cost source of salt. And then, third,
19 there is the large economic barrier to the sunk
20 investment required for the facility itself and the
21 infrastructure of moving sodium across oceans. There
22 is a very significant investment required to do that.

23 MR. FISHBERG: Are you saying that other
24 countries don't have the capability, or, at this time,
25 don't have the capability? Is there further capacity

1 out there that just is not coming into the United
2 States, or that really France is the only real other
3 major producer out there?

4 MR. HILK: Again, I think, because of the
5 overcapacity that exists in France and in the U.S. now
6 with DuPont, and because of this financial barrier of
7 investment, such a high barrier of building, it's not
8 attractive enough for a company in another country to
9 build a new facility. And then for those other
10 reasons I mentioned as well, the economical sources of
11 power and salt.

12 MR. FISHBERG: Unfortunately, we're having
13 to ask this question more and more. Could you please
14 discuss the impact of nonsubject imports on the sodium
15 metal market? What, if any, impact are nonsubject
16 imports having at this time?

17 MR. HILK: At the moment, there are very,
18 very negligible imports from countries other than
19 France, very small, less than 1 or 2 percent of the
20 whole market.

21 MR. FISHBERG: Okay. I think you mentioned
22 that subject imports and domestically produced sodium
23 metal are interchangeable. Is all sodium metal
24 interchangeable no matter what country? Are there any
25 differences from Chinese or any other country, or is

1 it basically that sodium metal is interchangeable no
2 matter what?

3 MR. HILK: I mentioned kind of that minimum
4 standard, technical grade, 98 percent, 99 percent, as
5 long as a country has manufacturing plants that have
6 that capability, then the product is essentially the
7 same.

8 MR. JAFFE: I assume you're addressing the
9 Court of Appeals decision in Bratsk, and you would
10 like us to respond as well to that, as part of our
11 post-conference brief, and we will.

12 MR. FISHBERG: That was going to be my next
13 question. I would appreciate it if you could do that,
14 thank you.

15 Just a couple more questions. In your
16 direct testimony, I think you mentioned that the aim
17 of sodium metal plants have arrived at 100 percent
18 capacity utilization I guess. What is the domestic
19 industry's view? Is it full practical capacity
20 utilization? Is it possible to really run at 100
21 percent, or isn't it?

22 MR. HILK: In the testimony, I stated that
23 we need to try to run close to 100 percent of our
24 available capacity. These investments that I
25 mentioned, that are made on an annual basis, are

1 aimed, in part, at rebuilding parts of the operation,
2 these down cells, on almost a piece-meal basis if you
3 will.

4 So, as you build a certain level of those,
5 you anticipate the demand, you then run that equipment
6 that's been installed nearest to 100 percent of its
7 capacity. If you can't do that, and you have to run
8 significantly less than that, you're materially harmed
9 by just that in and of itself, that was the point of
10 that. So we try to run at 100 percent of that plant's
11 available capacity.

12 MR. FISHBERG: On page 19 of the petition,
13 you note that DuPont's production plant is currently
14 running at, and it's a confidential number, but could
15 you please provide some historical context, in your
16 post-hearing brief, as to the capacity utilization
17 rates prior to 2004?

18 MR. JAFFE: Matthew Jaffe will provide that
19 information as part of the post-conference briefing.

20 MR. FISHBERG: Great. Another thing, just
21 commenting on Respondent's opening that seemed to
22 suggest that the movement towards some French, you
23 said your sodium metal is just customers attempting to
24 diversify their supply.

25 Would you like to comment on that statement?

1 Is that what you see in the market, or do you see
2 something different?

3 MR. HILK: Brian, if we still have you, let
4 me ask Mr. Fishberg to re-ask the question; and,
5 Brian, if you can answer that?

6 MR. MERRILL: I can't hear well enough to
7 know even what the question and comments are.

8 MR. HILK: I'm going to ask Mr. Fishberg to
9 ask the question again.

10 MR. FISHBERG: Hopefully, you can hear this.

11 In their opening, Respondents stated that
12 sort of the movement towards more usage of French
13 sodium metal is a reaction by purchasers to diversify
14 supply.

15 And I was wondering if you would like
16 comment on that. Is that what you're seeing in the
17 marketplace, or do you see something different from
18 that?

19 MR. MERRILL: Kim, I'm sorry. You'll have
20 to answer the question. I just can't hear.

21 MR. HILK: No problem, Brian. I fully
22 understand the question. I think Brian had some
23 unique perspective on this. But, basically, if the
24 customers were looking for reliability, I would expect
25 them to pay for it.

1 I would expect the secondary supplier to
2 come in and get a premium, not drop the price by 10,
3 20, 30 percent. I will also say that the customers
4 that we were servicing that supposedly needed a
5 reliable second supplier, never win on force majeure
6 in three decades that I'm aware of in the business.

7 And the nature of the sodium operations,
8 itself, 24/7, salt in, electricity in, always from
9 Niagara Falls, and the production out. It's the
10 reliability is extremely high.

11 So could a customer, who had a very high
12 return on its financials, want a second supplier?
13 They could. I'd expect them to pay a premium, and not
14 pay 30 percent less in price.

15 MR. FISHBERG: I thank you, and you can also
16 comment in your post-conference brief, if you'd like
17 to get further statements.

18 Finally, just one more question. Again, in
19 your post-conference brief, I know in your position,
20 you provided information on the factors the Commission
21 traditionally considers in determining threat of
22 material injury.

23 So, again, based on what you hear today, if
24 there is anything for you to add in terms of the
25 threat argument, I would appreciate if you could put

1 that in your post-conference brief.

2 MR. JAFFE: Yes, we'll do so, thank you.

3 MR. FISHBERG: Great, thank you. I have no
4 further questions.

5 MR. CARPENTER: Mr. Benedick?

6 MR. BENEDICK: Good morning. For the
7 record: Gerry Benedick, Office of Economics.

8 I do have several questions because, as the
9 sole producer in the United States, a lot of these may
10 involve confidential responses. Please don't feel
11 pressured to do that here. Certainly, a post-
12 conference brief would be more than satisfactory.

13 Before I start with my questions, I wanted
14 to follow up on a question that David had; that regard
15 the price premium that Mr. Hilt said customers pay for
16 different specialty grades.

17 Now, the pricing product for which we
18 requested price data in the questionnaire specifies
19 sodium metal with a calcium content equal to, or less
20 than, 550 parts per million.

21 Now what we get in pricing data from DuPont,
22 and from the importers, involves some product-
23 agreation issues. Since I would presume, if it's less
24 than 550 parts per million, that would include
25 specialty grades as well.

1 MR. HILK: Let me try to clarify my previous
2 answer. As a marketer, and you, as a customer, I
3 certainly want to try to capture that value for the
4 extra costs that we incur for the specialty grade.

5 It has been virtually impossible to get a
6 premium in the last two to three, four years, in the
7 competitive situation in the United States. So we've
8 actually gone in to the customers where we were
9 supplying technical grade, which would be generally
10 less than 400-parts per million. In accordance with
11 the data you asked for, typically closer to 300
12 probably.

13 We've gone in to the customers and supplied
14 a higher grade. Normally, we would call it a
15 specialty grade. But, in fact, we were forced to that
16 at a lower price even than what our technical grade
17 was being sold at. I guess it's one specific example
18 regarding millions of pounds of sodium; and Brian and
19 I personally were involved in this account and what
20 happened.

21 Pricing was above \$1.12 per pound, above
22 \$1.12. And today, we're supplying that customer with
23 a specialty grade, if you will, costing us more money
24 to produce it with better, let's say calcium, purity
25 level, and actually getting far less than a dollar per

1 pound, so that's what's happened.

2 To clarify: Do we want to get premiums? Yes,
3 sometimes we do. In the last three years, premiums
4 have been non-existent.

5 MR. BENEDICK: So your position would be: If
6 there's any product-aggravation issues, they would be
7 very minimal?

8 MR. HILK: Very minimal, I would say.

9 MR. BENEDICK: Okay. Let me ask one follow-
10 up to that. You had mentioned that there was a very
11 high purity grade for nuclear reactors. Is that
12 produced here by DuPont, or is that sold in the United
13 States?

14 MR. HILK: It's really interesting: In the
15 1980s, DuPont did make that very high purity grade;
16 and sold, in this case, to Japan, sodium for nuclear
17 breeder reactor-grade material. It had less than 10
18 parts per million of calcium in this case, and other
19 impurities.

20 Because of what we saw the future of that
21 industry, we choose to back away from it. So Niagara
22 Falls dismantled that equipment, and DuPont no longer
23 has the capability.

24 MR. BENEDICK: Is that product exported to
25 the United States by anybody? Are you aware of any --

1 MR. HILK: Not that I'm aware of.

2 MR. BENEDICK: Okay. I mean there wouldn't
3 be any use for it, would there, since we don't have
4 breeder reactors here?

5 MR. HILK: There certainly aren't any
6 breeder reactors.

7 MR. BENEDICK: Or there might be some other
8 use for it?

9 MR. HILK: If there is, it would be small,
10 and I'm not aware of it.

11 MR. BENEDICK: Okay. Let me ask you: Does
12 DuPont produce molded or ingot formed sodium metal in
13 the United States?

14 MR. HILK: We do not currently.

15 MR. BENEDICK: When did you last produce
16 that, and, again, if you consider that confidential --

17 MR. HILK: I think we should respond to that
18 in the post-brief.

19 MR. BENEDICK: All right, that would be
20 helpful. Do you import sodium metal in the ingot or
21 molded form?

22 MR. HILK: Small amounts.

23 MR. BENEDICK: Okay. What are the calcium
24 contents in those molded or ingot forms that you would
25 import?

1 Again, if you consider that confidential, or
2 you just don't have it at the top of your head, please
3 feel free to respond post-conference.

4 MR. HILK: I think we should respond post-
5 conference.

6 MR. BENEDICK: Okay. Here's a general
7 question: What are the drivers for U.S. demand for
8 sodium metal? For instance, is the demand in specific
9 product sectors, or does it react to changes in real
10 GDP in the U.S.?

11 MR. HILK: It's a good question. It's one
12 that my senior management asked me as well.

13 MR. BENEDICK: Okay.

14 MR. HILK: I would say that GDP certainly
15 has an impact, global GDP.

16 MR. BENEDICK: What about in the United
17 States, though?

18 MR. HILK: In the United States --

19 MR. BENEDICK: If we all of a sudden start
20 growing real fast GDP is there an increase in demand
21 for sodium metal if the growth slows down, or God
22 forbid, there should be a recession?

23 MR. HILK: What I would say influences
24 growth more is changes in market trends: a new
25 application, gaining some momentum, beginning to make

1 some inroads into other technology, such as silicon
2 for photovoltaic, biodiesel fuels.

3 Now assume a catalyst that can be produced
4 with sodium. So, these trends to these newer
5 products, which replace other demands in the micro-
6 economic environment, these trends will tend to grow
7 sodium in an application more rapidly or not.

8 There was a reference to Paraquat being
9 phased out in the United States earlier today. That's
10 a trend that went the other way, so those things
11 influence, I think.

12 MR. BENEDICK: Let me follow-up with this
13 question, then. You might want to do this again in a
14 post-conference brief.

15 Are there any future uses for sodium metal
16 in the United States in the next one to three years
17 that may increase total U.S. demand for sodium metal?

18 If there are, indicate what the size of that
19 increase would be and what the time period for that
20 would be?

21 MR. HILK: I think, since the mid-'90s,
22 we've been trying to answer that question by saying:
23 Absolutely, yes, we're going to stay in this business
24 and keep investing millions of dollars in it, so that
25 we can enjoy this higher demand growth.

1 I'd say the answer to your question, from my
2 personal standpoint, is: that's uncertain. But
3 there's certainly the possibility for growth in the
4 U.S. market.

5 MR. BENEDICK: Okay.

6 MR. HILK: On the other hand, as we've seen
7 with other industries, they decline sometimes even
8 more rapidly. So there's a mix effect of the demand.
9 There are clearly some uses that could grow. Could
10 some of the applications decline? Yes, they could, as
11 well.

12 MR. BENEDICK: Okay. Getting back to the
13 ingots or molded form, since you had indicated that
14 DuPont currently doesn't produce those, do you, then,
15 compete with any imports from France of the sodium
16 metal ingots or molded form?

17 MR. HILK: I would say: Yes, we do compete.

18 We still have the capability at Niagara
19 Falls, New York to produce it if we wanted to. So
20 there is a definite customer base, and there is
21 competition.

22 MR. BENEDICK: How can there be competition
23 if you're not producing it?

24 MR. HILK: We have an alternate source.

25 MR. BENEDICK: But you're not competing with

1 a U.S.-produced product?

2 MR. HILK: Right.

3 MR. BENEDICK: Okay. Since you mentioned
4 earlier that there was a myriad of uses for sodium
5 metal, do you produce and sell sodium metal for
6 purposes for research or development?

7 What I'm thinking of here is probably in
8 laboratories at universities, that kind of thing?

9 MR. HILK: We do, but that, again, is pretty
10 small.

11 MR. BENEDICK: But you do sell to that
12 sector as well?

13 MR. HILK: Yes.

14 MR. BENEDICK: Okay. When you say small,
15 could you compare a shipment of that to a shipment
16 let's say a commercial or industrial customer?

17 MR. HILK: I would answer that by saying
18 that: Often we'll donate the product. It would be in
19 5 kilos, 10 kilos, a pound, two pounds, of material
20 packed specially in a drum. It takes us a lot of
21 effort. We pack it carefully, and then we ship it to
22 some lab or whatnot, and that's the extent of it.

23 We're not talking of usually large
24 applications.

25 MR. BENEDICK: In a sense, then, would you

1 compete with any sales, let's say from France, that
2 would be directed to that sector?

3 MR. HILK: We have in the past. We
4 certainly have in the past. I'm thinking of larger
5 containers, one ton. So there has been competition in
6 the past. I think, if pricing weren't so low, we
7 would probably do more of it.

8 MR. BENEDICK: But your smallest container
9 would be 100 pounds, or --

10 MR. HILK: Actually, we better answer some
11 of this in our post-hearing brief.

12 MR. BENEDICK: That would be helpful if you
13 could.

14 MR. HILK: We had amounts that were much
15 larger than 100 pounds.

16 MR. BENEDICK: Okay. Does DuPont sell its
17 U.S.-produced sodium metal in bulk form in fused
18 drums?

19 MR. HILK: Yes, we do.

20 MR. BENEDICK: Okay. If you could answer
21 again in the post-conference, approximately what share
22 of your 2006 sales in the U.S., of your U.S.-produced
23 sodium, was in fused drums, that would be helpful.

24 Does DuPont sell, via pipeline, here in the
25 U.S.?

1 MR. HILK: We don't believe we currently do.

2 MR. BENEDICK: Okay. Did you at any time
3 since January 2004?

4 MR. HILK: I don't believe we have.

5 MR. BENEDICK: Okay. Again, this is
6 probably a post-conference brief response: What share
7 of DuPont's reported inventories of its U.S.-produced
8 sodium metal in 2006 were available to supply
9 additional U.S. demand; or what share was committed to
10 its current customers in both the United States and
11 off-shore?

12 One of the supply factors that we look at
13 is: inventory. The question is: Is that inventory
14 available for sale, or is it already committed to a
15 customer?

16 And we'd like to know, for 2006, what share
17 would be committed and what share would be available?

18 MR. HILK: I think we should include that
19 answer in our post-brief.

20 But I'd like to go back, though, to the
21 pipeline question. I think we'll put some additional
22 information in our post-brief.

23 But the reason that I'm sitting here looking
24 at my colleague, Bruce, we're trying to remember and
25 answer the question accurately and correctly. We can

1 supply in pipeline. We have internal plants where we
2 take sodium into tankage, and then we move the sodium
3 through pipelines.

4 MR. BENEDICK: Okay.

5 MR. HILK: That's internal in DuPont
6 facilities. It's not the exact answer to your
7 question, but I think it indicates the capability.

8 MR. JAFFE: Can I just add to that. There
9 is one customer that we know that actually receives,
10 via pipeline, but one does not receive via pipeline
11 from France.

12 What it does is: It shipped from France in
13 an ISO container. It arrives in the United States,
14 and it is then shipped from that port to the area
15 which just happens to be next door. It could be, and
16 in other circumstances, inside the industrial complex,
17 but it's not; and it's pipelined.

18 So one shouldn't get deceived that this is
19 being shipped via pipeline from a factory directly to
20 the customer.

21 MR. BENEDICK: If you were to ship by
22 pipeline, would the customer have to be fairly
23 proximate?

24 MR. JAFFE: I imagine that one could ship by
25 a rail car, or a ISO container, from the Niagara Plant

1 to the place where the pipeline is located; and then
2 pipeline from that particular location to that
3 particular customer, just as Mato currently does.

4 MR. BENEDICK: But, apparently, DuPont has
5 not done that, at least since January 2004?

6 MR. JAFFE: And that's called a lost sale.

7 MR. BENEDICK: Because they couldn't ship by
8 pipeline?

9 MR. BENEDICK: No, because they lost the
10 sale to --

11 MR. JAFFE: That's a different issue.

12 MR. BENEDICK: Could you please explain any
13 increases in U.S. shipping costs since January 2004?
14 For instance, an increase in fuel costs, a shift in
15 composition of customers towards more distant
16 customers, changes in the shipping regulations, or
17 even a difference in the composition of specialty
18 grades?

19 Again, I don't know whether one specialty
20 grade requires a different shipping container, or
21 shipping mode, or shipping logistics than another
22 specialty grade?

23 MR. HILK: Gerry, clearly, this is an area
24 we would want to respond in the post-brief.

25 MR. BENEDICK: That would be fine, thank

1 you.

2 Could you describe for me what is an ISO
3 container since I've seen that term, and I still don't
4 know: Is it a truck, is a tank that's attached to a
5 truck, or could be moved by some other means, on rail?

6 MR. HILK: The best analogy is: It looks
7 like a tank truck that you see on the highway. It's
8 specially designed. It's a little bit different
9 shape. It normally has, because you're dealing with a
10 material like sodium, it has a protective environment:
11 ribbing, extra steel around the tank, so it looks like
12 a tank in a box.

13 MR. BENEDICK: Is that moved by a truck, or
14 is it moved by rail, or some combination of both?

15 MR. HILK: Both.

16 MR. BENEDICK: So it can be moved to a
17 truck, or it could be moved to sit on a rail car? When
18 you ship by rail car, is that the way it's typically
19 done with the ISO container?

20 MR. HILK: It's shipped by both. We often
21 refer to it as an air-model transportation. So a
22 truck might take it over to a terminal, to a rail
23 spur, put it on a rail. It might go cross country;
24 and then, again, from a truck onto a truck.

25 MR. BENEDICK: Okay. But there isn't a tank

1 rail car that's set up just for sodium metal? It's
2 the ISO container that's sitting on that rail car
3 which is what you're talking about?

4 MR. HILK: Again, he ISO containers are
5 generally in the 20-to-25-metric-ton volume, and they
6 can be placed on a rail car. Then we have specially
7 designed rail cars, which we also own and ship with
8 sodium in them.

9 MR. BENEDICK: What about tank trucks? Are
10 there specially designed truck that has a tank that's
11 permanent to the truck?

12 MR. HILK: Yes.

13 MR. BENEDICK: Do you have some of those
14 that you ship?

15 MR. HILK: We have some of those. I don't
16 know that we're currently utilizing them.

17 MR. BENEDICK: Have you used them during the
18 January 2004 time frame?

19 MR. HILK: We will put that in the post-
20 conference.

21 MR. BENEDICK: That would be fine. I think
22 I read somewhere that sodium metal is not allowed to
23 be shipped in liquid form. It has to be in a solid
24 form.

25 Is that true? How does that apply to

1 pipeline?

2 MR. HILK: There are, across-the-road-and-
3 rail regulations that require the sodium to be in a
4 solid form.

5 MR. BENEDICK: Please discuss how your firm
6 negotiates prices with its customers for which it
7 supplies sodium metal for one, or more years, under a
8 single contract or agreement?

9 And under that discussion, indicate to what
10 extent a bid process is used; and do larger sales,
11 typically, receive lower prices than smaller sales,
12 such that volume is important in achieving a lower
13 price?

14 Again, if you want to reserve this for post-
15 conference, I can certainly understand why.

16 MR. HILK: I think that would be reasonable
17 to include in the post-conference briefing.

18 MR. BENEDICK: Then, within that discussion,
19 could you also explain the effect on prices in the
20 U.S. when you sell to a customer and ship to both his
21 U.S. and off-shore locations, such that that agreement
22 involves shipments both here in the U.S. and off-shore
23 to its locations?

24 How does that affect the price here in the
25 U.S.? Does that result in a lower price, a higher

1 price?

2 MR. HILK: We'll respond in the post-brief.

3 MR. BENEDICK: Okay. You had mentioned
4 earlier that in the United States there were no direct
5 substitutes for sodium metal.

6 Could you discuss again, and probably in a
7 post-conference brief it would be more manageable, for
8 any major uses of sodium metal in the United States,
9 please discuss other types of processes that may use
10 something other than sodium metal to produce competing
11 down-stream products?

12 In addition, discuss the extent to which
13 imports of competing down-stream products, which may
14 use either sodium metal or some other input, affect
15 demand in the U.S.-produced products using sodium
16 metal?

17 Then, finally, based on all these factors,
18 would you estimate the U.S. price elasticity of demand
19 for sodium metal to be inelastic or elastic?

20 In other words, there's more factors other
21 than direct substitutes that may affect the price
22 elasticity. For instance, your customer may only be
23 able to pay so much for sodium metal because he's
24 competing with the down-stream product that's maybe
25 imported, or produced by somebody else using a

1 different process?

2 MR. JAFFE: This is Matthew Jaffe on behalf
3 of DuPont. We'll certainly do our best to respond to
4 all these questions within the three days that we're
5 allowed to do so.

6 However, of course, I would note at this
7 particular point that if we need an extension to
8 respond to all these questions, I would hope that the
9 Commission, in and of itself, will be courteous in
10 that respect.

11 MR. BENEDICK: I would suggest that you do
12 what you can within the three-day time limit. I
13 understand it may be difficult because you're in the
14 business of producing sodium metal, not the down-
15 stream products.

16 But to the extent that you have any such
17 information, that would be helpful.

18 MR. JAFFE: Okay.

19 MR. BENEDICK: My final question has to do
20 with: What role has the weakened dollar had on any
21 exports of sodium metal by DuPont? And to what extent
22 has this led to increased sodium metal exports by
23 DuPont?

24 Again, if you want to answer that post-
25 conference, please feel free.

1 MR. HILK: Yes, I think we would respond to
2 that in the post-conference brief.

3 MR. BENEDICK: Okay, thank you.

4 I have no further questions at this point.

5 MR. CARPENTER: Mr. Boyland?

6 MR. BOYLAND: Good morning, David Boyland,
7 Office of Investigations.

8 How does DuPont measure sodium-metal
9 activity operations in terms of financial performance,
10 in its normal course of business, gross profit,
11 operating income, cost of capital?

12 MR. HILK: Are you asking: Do we measure
13 operating income?

14 MR. BOYLAND: I guess more of a general
15 question: As a business, when it's looking at its
16 sodium-metal activity, how is it measuring the
17 performance on its own basis, not on the way we asked
18 for it?

19 MR. HILK: I think we clearly measure gross
20 profit and operating income.

21 MR. BOYLAND: So you have something similar
22 to what we asked for as an income statement for sodium
23 metal?

24 MR. HILK: I would say that's --

25 MR. BOYLAND: Obviously, there could be some

1 differences, but, in essence.

2 In terms of the financial performance during
3 the period, there's public testimony today about the
4 changes in profitability to a loss.

5 What I'm looking at: 2004 to 2006. The
6 beginning of the period versus prior, what would I be
7 looking at 2004 as being similar to previous financial
8 performance, and then a decline?

9 I guess I'm trying to look to see what was
10 DuPont experiencing prior? Was 2004 a number that was
11 expected, reasonable, or was 2004 already a decline?

12 You can answer that in the post-conference
13 as well.

14 MR. HILK: I think we can clearly answer it
15 in the post-conference. I guess if we could go back
16 to 2003 --

17 MR. BOYLAND: Okay.

18 MR. HILK: -- we would.

19 MR. BOYLAND: So if I was looking at 2003,
20 which we're not, but if I was, it would be
21 substantially higher than what we're looking at now
22 for 2004?

23 MR. HILK: I think what we believe is that
24 we would show an even markedly dramatic deterioration
25 in pricing levels in the profit margins.

1 MR. BOYLAND: Between 2003 to --

2 MR. HILK: For 2003 to 2007 would be an even
3 market change versus 2004 to 2007.

4 So, obviously, we're limited to the 2004 by
5 the boundaries of the proceeding.

6 MR. BOYLAND: So the primary raw material is
7 salt. Do you have multiple sources for this?

8 MR. HILK: We do.

9 MR. BOYLAND: Where are they located?

10 MR. HILK: They're in New York State.

11 MR. BOYLAND: New York State, and how does
12 the company receive the salt: by truck, barge?

13 MR. HILK: Obviously, we're getting into
14 ground here that --

15 MR. BOYLAND: Barge might be tough if you're
16 --

17 MR. HILK: It comes in bulk in a very
18 economical delivery system.

19 MR. BOYLAND: In terms of the pricing of the
20 raw material cost itself that I'm looking at, the
21 trend: If transportation is the primary cost that's
22 going up, is that true also with respect to the raw
23 material cost?

24 Is the salt itself essentially the same in
25 terms of --

1 MR. HILK: The salt-molecule price has gone
2 up, as fast, if not more quickly, than the
3 transportation costs.

4 MR. BOYLAND: So it is not just the
5 transportation freight end. It's the underlying cost.

6 MR. HILK: Yes.

7 MR. BOYLAND: In terms of capacity, you
8 discussed -- I believe in the opening statement, there
9 was a reference to a critical break-even point.

10 What is that? What is the critical break-
11 even point?

12 MR. HILK: Again, it has to do with the
13 balance of pricing. and the available capacity we
14 have. The available capacity is defined by the
15 numbers of down cells we've planned for, prepared and
16 built and invested in. That includes not just the
17 down cells themselves, but the infrastructure.

18 A competitive run is a very similar
19 operation, so we're very familiar with the same issue.

20 There is this available capacity that you're
21 dealing with. If you haven't been able to run close
22 to that point, you're talking about a very big swing
23 in whether the business can show profits, or whether
24 the business is actually losing significant money.

25 MR. BOYLAND: Okay.

1 MR. HILK: Thanks, Brian. Sounds that you
2 made it longer.

3 MR. BOYLAND: With respect to the capacity
4 itself that's being reported, that's a proprietary
5 number. But I believe the number itself did not
6 change during the period.

7 And that sort of suggests that whatever the
8 critical break-even point was, while it could change
9 given the factors you've just described, it wouldn't
10 be different from period-to-period, if what your
11 reporting is capacity, didn't change.

12 MR. BOYLAND: Is that --

13 MR. HILK: I think the point we were really
14 trying to make is that it's a little bit like a
15 flywheel. There is a lot of inertia built up in the
16 investment; and the capacity that you have in place,
17 and the power that you're contracted to receive.

18 And many other factors like: how the
19 chlorine is being handled and sold and liquified; and
20 the infrastructure around that. And there is a large
21 fixed investment, fixed cost associated with that.

22 So, as you drop below a certain level of
23 volume and that volume level is confidential, but we
24 can share that with you --

25 MR. BOYLAND: I think that's what I was --

1 MR. HILK: -- in a post-conference brief,
2 but, yes.

3 MR. BOYLAND: In terms of the production
4 itself, you discussed the down cells and the related
5 infrastructure.

6 In terms of actually this available
7 capacity, is it fairly modular in terms of being able
8 to take off certain down cells in order to reduce, or
9 contract, the available capacity? Is that something
10 you do?

11 MR. HILK: Yes.

12 MR. BOYLAND: But during a period, again, if
13 what's being reported as capacity did not change, is
14 it fair to say that the number of down cells on line
15 didn't change, all things being equal?

16 MR. HILK: Based on where you're running
17 production and sales, you either run the down cells or
18 you don't. So you might have a number of available
19 cells that not being run. They're just not on line.

20 MR. BOYLAND: Right, okay. In terms of the
21 production itself, you talked about 24/7, and that's
22 throughout the entire year, so there's no seasonality
23 to the production?

24 MR. HILK: No, that's all.

25 Just to be completely accurate, we have

1 labor changes that we deal with from season to season,
2 so that could impact capacity in some ways. If that's
3 something you want more information on, we can put
4 that in the post-brief.

5 MR. BOYLAND: Actually, that kind of led
6 into the next question which was: You discussed direct
7 labor as being relatively high, as a part of the total
8 costs of sodium metal.

9 Why is that? Is there something about
10 sodium metal that just makes it more labor intensive?

11 MR. HILK: I had the fortune of operating
12 many chemical businesses and processes in my DuPont
13 career. Most of our processes are very large,
14 continuous stream, if you will. Stuff comes in, goes
15 into a huge reactor, and then goes out the other end.

16 In this case, you have many chemical
17 processes running in the facility. And you mentioned
18 modular, that's a good way to think about it. Each of
19 these modules, throughout the facility, has to be run
20 with a modular-staffed-operator level. So the
21 operators are running very manual types of things to
22 produce the product.

23 MR. BOYLAND: Is sodium metal a stand-alone
24 product, in terms of DuPont's operations in the
25 reactive metals business?

1 Do you mean: Could it go away and not really
2 affect any other part of the reactive metals division.

3 MR. HILK: No, it's a critical part of the
4 reactive metals business.

5 MR. BOYLAND: Why is that?

6 MR. HILK: I think we should answer that in
7 a post-brief.

8 MR. BOYLAND: Okay. I had a whole list of
9 questions in an e-mail that I believe I cc'd you on.
10 It gets into a lot more detailed information which I'm
11 not even going to try to ask here. But I appreciate
12 your time in answering these questions as well as
13 those. Thank you.

14 MR. CARPENTER: Thank you. Mr. Greenblatt?

15 MR. GREENBLATT: Okay, it works this time.
16 Okay. There's quite a bit happening in nuclear in the
17 United States and throughout the world at one time,
18 both in terms of nuclear power plants and in terms of
19 reprocessing. Could that have any impact, would you
20 be taking, possibly, a fresh look at making sodium in
21 the nuclear area, and I guess as a corollary to that,
22 I'd also like to know, can sodium metal be used in any
23 part of the nuclear processing, reprocessing, selling,
24 or is it strictly limited to the breeder reactor area?

25 Is there any other possibility? We're going

1 into MOX and other things as well, for example.

2 MR. HILK: What do you mean by MOX?

3 MR. GREENBLATT: Mixed oxide. That's where
4 you're having, you know, for plutonium.

5 MR. HILK: Okay.

6 MR. GREENBLATT: I'm just giving an example
7 that a lot is happening now, both in the US and in the
8 world, in the nuclear area, and I'm wondering, could
9 that cause any new interest by you in that area?

10 MR. HILK: At DuPont, we normally hear about
11 that type of application and development. We get
12 asked, because we are such a strong R&D company, to
13 help develop the solutions, and we get involved in the
14 technology around that. I'm not aware we've had
15 increase or that we are aware of new developments that
16 would consume sodium in that field. So that's how I'd
17 answer that question.

18 MR. GREENBLATT: Right, but the other half
19 of the question is, you are not aware of any use of
20 sodium in the nuclear area other than for breeder
21 reactors, is that correct?

22 MR. HILK: I think that the use of sodium in
23 breeder reactors, it's been a long time, but it was
24 used as a heat transfer medium, because it carries
25 heat well and it's a good heat sink. So that's the

1 only predominant use we're really aware of, is either
2 as a heat transfer medium in some application
3 connected with nuclear, or in the --

4 MR. GREENBLATT: Right, but you're not aware
5 of anything outside the breeder reactors?

6 MR. HILK: No.

7 MR. GREENBLATT: Okay, fine. As you know
8 from chemistry, there is a family, sodium is part of
9 the alkali family and then of course you have the
10 alkaline family. Has there been any relationship to
11 that in terms of your production facilities where you
12 may have considered converting from one to the other,
13 in terms of sodium to, I don't know, calcium or
14 potassium, or vice versa?

15 MR. HILK: We looked at a number of those
16 technologies in the past, but nothing was compelling
17 in terms of being attractive enough for us to convert
18 our facilities.

19 MR. GREENBLATT: Finally, my last question
20 would be, in one of your submissions, you had a report
21 on developments, a review of the sodium metal
22 industry. Do you know what I'm referring to?

23 MR. HILK: I'm actually thinking about the
24 last question. There's another point that I'd like to
25 make.

1 MR. GREENBLATT: Oh, okay.

2 MR. HILK: You got me thinking about
3 converting sodium to calcium, you know, other alkali
4 metals. DuPont, it's well known in the industry,
5 DuPont's a leader in manufacturing lithium. So we do
6 make lithium in our Niagara facilities, but that's
7 been a long-term thing. It hasn't been something
8 where we have thought about converting to that. It's
9 something we've been in for a long time.

10 MR. GREENBLATT: Well, let's say the Down's
11 cell that you are talking about, it could be converted
12 to the production of lithium?

13 MR. HILK: Yes.

14 MR. GREENBLATT: It can?

15 MR. HILK: There is a technology that DuPont
16 has that's similar to the Down's cell.

17 MR. GREENBLATT: Right. Okay. In one of
18 your submissions, you had a review of the basic
19 economics of sodium metal from 1999?

20 MR. JAFFE: Yes, we have it before us.

21 MR. GREENBLATT: Yes, and it's very
22 interesting, and you indicated there were certain --
23 can you indicate, in terms of things that may have
24 changed that we didn't discuss at the hearing or in a
25 submission that you think might be worth pointing out

1 since that review?

2 MR. JAFFE: This is Matthew Jaffe. Yes, we
3 will go ahead and look at the review and report and
4 perhaps update it, I guess, from May 1999.

5 MR. GREENBLATT: Fine. Okay, thank you very
6 much.

7 MR. CARPENTER: Mr. Corkran?

8 MR. CORKRAN: Douglas Corkran, Office of
9 Investigations. Thank you all very much for coming in
10 and for presenting the very useful testimony here. I
11 only have a few additional questions. One I'd like to
12 go back to stems from a question Mr. Fishberg asked,
13 asked me to detail the percentage of specialty versus
14 technical sales that you had and which you committed
15 to respond in a post-conference brief.

16 I wanted to get a little bit more basic than
17 that. What is the definition of technical grade? As
18 I was looking back over my notes, there seemed to be
19 two points of emphasis. One seemed to be in terms of
20 purity. The other seemed to be an emphasis on whether
21 it went through primary filtration only or whether
22 there was secondary filtration, and I know those are
23 related in a sense, but can you give me how you view
24 technical grade product versus specialty grade
25 product?

1 MR. HILK: I think that there's maybe a
2 couple of answers to that. In our manufacturing
3 process, it clearly involves the primary filtration
4 processes and then the related processing that we go
5 through to put the sodium in the final form for the
6 customer, which does result in more purification, if
7 you will, and so that's what we classify generically
8 as technical grade, and I guess we would define
9 technical grade sodium as high enough quality -- I
10 mean, it's kind of like Ivory soap, 99.44 percent
11 pure. It's pretty much good enough to do just about
12 anything.

13 Is there some advantages for some customers?
14 Potentially, and we try to, as I mentioned earlier, we
15 try to extract some value for that and spend a little
16 bit more money getting it to a specialty grade form.
17 So we'd say there is technical grade, which is pretty
18 much functionally the same for any application, and
19 then there is specialty grade that could be used,
20 could produce some higher value, could be a value to
21 the customer, might be worth paying for, might not,
22 and so in some ways, there is very little difference,
23 and in other ways there is clearly something you can
24 do with a, you know, GC analyzer and you can analyze
25 the purity and see some difference in it.

1 MR. CORKRAN: Okay, thank you. Now, I
2 appreciate that response. What I am trying to get at,
3 though, is if we are asking a question that requires
4 quantification, you had mentioned that sodium metal
5 tends to be 98 to 99 percent pure or greater. Is it
6 fair to say that 99 percent and above is considered
7 specialty as opposed to technical? Likewise, is it
8 fair to say that a product that only undergoes primary
9 filtration and does not undergo secondary filtration
10 is technical, and that a specialty grade has to
11 undergo secondary filtration?

12 I'm just trying to get a very -- I am trying
13 to see if there is an agreed-upon, or at least in your
14 view, an agreed-upon distinction between technical
15 grade and non-technical grades.

16 MR. HILK: I think it's not fair to say that
17 stuff below 99 percent is not technical grade because
18 most of our technical grade is higher than 99 percent
19 purity, so that's, again, it denotes how our process
20 works. It denotes what we commit to. Absolutely,
21 with all certainty, and -- but typically we are higher
22 than 99 percent pure, and significantly higher than
23 that, and that, again, coming off our technical grade
24 process.

25 This is true for a lot of our products in

1 DuPont. You kind of have crude and other forms of
2 product, which maybe the customer respects, may not,
3 and then you have technical grade. Once you get to
4 technical grade, you are kind of at the Ivory soap
5 standard. You are going to pretty much be able to
6 sell to everybody, except for those real specialized
7 applications.

8 MR. CORKRAN: Did I hear you say, though,
9 that secondary filtration is reserved only for
10 specialty products, specialty grades?

11 MR. HILK: I think we can actually make
12 specialty grades by doing some things with our primary
13 filtration in the rest of our plant, but normally, to
14 make a specialty grade, we would go through a
15 secondary filtration step or steps, and we do that at
16 the plant.

17 MR. CORKRAN: Okay, and in terms of
18 technical grade, is it fair to say that that is a
19 product that does not go through secondary filtration?

20 MR. HILK: Probably in most cases.

21 MR. CORKRAN: Okay, so, since we are asking
22 you to quantify a product, is it -- in terms of being
23 absolutely clear definitionally, if we are asking you
24 to distinguish between your technical and your
25 specialty grade product, we can fairly safely define

1 it as being, technical grade is product that has
2 undergone primary filtration but has not undergone
3 secondary filtration, and specialty product is a
4 product that has undergone secondary filtration?

5 MR. HILK: We might have, because of the
6 configuration of the plant, it might go through
7 secondary filtration. It might get segregated or
8 aggregated over as tech grade and sold as tech grade
9 in the market. I mean, that just might happen and it
10 probably does happen. So that's why I've said
11 probably or I've -- again, the fact is, all the sodium
12 that is made through our primary normal processes is
13 used at all the customers. It just is.

14 It has been many, many years, so it's
15 functionally acceptable, and when you get into fine
16 details around purity, that's what they tend to be, is
17 fine details around purity, and whether the customer
18 can use it or pay for it or those things.

19 MR. CORKRAN: Okay. Moving on to a related
20 question still dealing with purity, we heard this
21 morning that one issue of concern expressed by at
22 least some customers has been the level of calcium in
23 the product. When you are talking in terms of primary
24 versus secondary filtration, or technical versus
25 specialty grade, are the differences that you are

1 identifying difference that allow you to reduce the
2 amount of calcium in the end product that you are
3 selling?

4 MR. HILK: Let me make sure I understand the
5 question. Are the differences -- ask the question --

6 MR. CORKRAN: I'm sorry. Let me rephrase
7 that. When you sell product that has undergone
8 secondary filtration, is the reason for that secondary
9 filtration to reduce the amount of calcium in the
10 product?

11 MR. HILK: It may reduce calcium. It may
12 reduce other impurity levels, but yes, that's probably
13 fair to say.

14 MR. CORKRAN: And if you are asked to
15 provide a product that has a reduced level of calcium
16 in it, would that typically be considered a specialty
17 grade, as far as you are concerned?

18 MR. HILK: Sometimes. Sometimes it's a tech
19 grade with a special customer spec.

20 MR. CORKRAN: Have you gotten customer
21 feedback regarding the calcium levels in the product
22 that you've sold over the past three years?

23 (Pause.)

24 MR. HILK: I'd answer the question this way.
25 If competition is offering a product they say has

1 lower calcium and the customer thinks, gee, I'm going
2 to get something better, and oh, by the way, your
3 price is going to be lower, the customer is going to
4 come and has come to us at DuPont and said, hey, we'd
5 like to get the same stuff with less calcium, and we'd
6 like to get it at a lower price too.

7 So they have asked us about calcium levels,
8 and we've actually responded, I think I've mentioned,
9 we've had one particular customer where we changed the
10 calcium grade and had to reduce the price quite a bit.
11 That's kind of how I would characterize that is, yes,
12 there are customers that have come and asked about
13 calcium.

14 MR. CORKRAN: Okay. At this point, I think
15 the question pretty much veers into confidential
16 information, but any additional information you could
17 provide in your post-conference brief, particularly,
18 this was characterized in the opening statements as
19 being a substantial quality difference, and I hope I'm
20 not mischaracterizing the statement, but -- so I'd be
21 very interested in anything additional that you can
22 say in terms of customer feedback you've gotten, both
23 as it related to quality and price together or any
24 concerns expressed simply on the amount of calcium
25 that was present in the material that was being sold.

1 I've got one more question that deals with
2 purity and then I'll be off that subject altogether,
3 to everybody's great relief, I'm sure. Looking at
4 secondary filtration, can you describe, at least in
5 very general terms, what the additional cost is of
6 engaging in secondary filtration? Just very
7 generally, is it an additional 10 percent, 20 percent,
8 or does it differ in terms of the application that it
9 goes into?

10 MR. HILK: I mean, I think we have to go and
11 analyze that and provide that to you, but you kind of
12 made a statement and you weren't asking a question,
13 but I wasn't sure -- the last statement you made
14 before you said, well, I'm going to get off purity,
15 you said there is a quality difference, and I thought
16 there was a question in there?

17 MR. CORKRAN: The question was, for purposes
18 of your post-conference brief, if there was any
19 additional information that you could provide
20 regarding quality differences, or concerns raised by
21 customers about quality issues. Okay. I want to
22 follow up. When you were speaking with Mr. Benedick
23 on the issue of pipelines, you indicated that you do
24 utilize some pipelines but it was for internal usage.
25 Could you be a little more specific about

1 the applications that you use this product for
2 internally at DuPont? I mean, what are the end
3 products that you end up producing at DuPont from this
4 product?

5 MR. HILK: Some of the applications are
6 proprietary and we can give those to you in the post-
7 conference brief, but we've supplied customers who
8 have used pipelines. We have a pipeline running right
9 now at one of our plants and our current plant has a
10 pipeline running between operations, probably half a
11 mile or more in length. So we know how to run these
12 pipelines. We know how to deliver sodium through
13 them, and can do so if it's needed, if we don't have
14 an alternative that is less expensive.

15 So we have that capability if we need it.

16 MR. CORKRAN: Okay. I appreciate that, and
17 in your post-conference brief, when you discuss the
18 proprietary applications of the product that you
19 consume internally, I wonder if you could do so in
20 terms that relate to your commercial sales of the
21 product largely. Are you using it for the same sorts
22 of applications internally that you also sell the
23 product for in the open market, in your post-
24 conference brief?

25 I wanted to follow up as well on an issue,

1 another issue that Mr. Benedick raised having to do
2 with exports. You were leery about discussing in a
3 public forum the impact of changes in relative
4 currency values, but I wonder if you could talk more
5 in general about the export markets for this product.
6 Where are they located? What are the general forms in
7 which the product is exported from the United States?

8 What are the general applications that it's
9 used for outside the United States?

10 MR. HILK: Well, many of the applications in
11 the US also exist globally, in other countries, so we
12 have the capability to ship in ISO containers sodium
13 product to these similar applications. I guess that's
14 the best way to answer that question.

15 MR. CORKRAN: And just very generally, what
16 are the regions outside the United States that this
17 would be shipped to?

18 MR. HILK: Well, there are markets in
19 Europe, much smaller, but South America and Asia,
20 particularly the Pacific Rim and China. So those
21 would be the primary markets and you are going to find
22 most of the large applications in those regions, with
23 the exception of South America. They have a fairly
24 small segment of end uses.

25 MR. CORKRAN: And I believe you indicated

1 that there were not other -- there were very few other
2 large producers outside of the United States and
3 France, so basically in the export markets, any export
4 markets, your primary competitor, I assume, would be
5 French?

6 MR. HILK: I would say so, yes.

7 MR. CORKRAN: Okay, and how would you
8 characterize your ability to compete in these export
9 markets? Have you been able to compete successfully
10 in these export markets against French product?

11 MR. HILK: Certainly in the past.

12 MR. CORKRAN: Okay. Well, once again, I
13 very much appreciate all your responses. It's been
14 very, very helpful, and thank you again for coming.

15 MR. CARPENTER: Yes, thank you again for
16 your testimony. I have a few follow-up questions I'd
17 like to ask. I believe most of these relate to
18 comments that Mr. Silverman made in his opening
19 statement, and I'd like to see how much common ground
20 there is and where there are differences. First of
21 all, he had indicted, I believe, that demand for this
22 product had grown during the period of investigation.

23 I wanted to see if that was your sense, that
24 demand for this product is growing?

25 MR. HILK: We would say that with the

1 reduction in some demand, it's been offset by the
2 growth in other demand, so we haven't seen the growth
3 in demand at all in the United States.

4 MR. CARPENTER: Okay. To follow up on that,
5 Mr. Merrill, I believe, indicated that this was a
6 mature market, and Mr. Hilk, I believe you were
7 talking about how you had developed a number of
8 emerging markets or were working on that, in terms of
9 putting additional R&D expenditures and capital
10 expenditures into developing new markets. Could you
11 comment on, is this a situation where there are
12 certain applications for this product that are
13 relatively mature, but at the same time, there are
14 other applications that you are developing, and maybe
15 others still that are declining?

16 MR. HILK: The R&D that I spoke about and
17 the technology applications developments occurred in
18 the 80s and 90s. We had an entire group dedicated to
19 the effort. A lot of work and expenditure was done.
20 This followed the phase-out of tetraethyl lead in 1979
21 and then our subsequent withdrawal from the tetraethyl
22 lead. We were a tetraethyl lead producer. So a
23 tremendous effort, and so when Brian referred to this
24 as a mature market, we saw a maturation occur through
25 the 80s and 90s.

1 In this decade we've seen a few growth areas
2 that I talked about, but we are not able to put in the
3 development because we don't have the resources and
4 the money, based on where the business is.

5 MR. CARPENTER: I see. Would you agree with
6 the Respondent's statement that for the different
7 applications for sodium metal that there are different
8 derived demands and different purchasing patterns?

9 MR. HILK: I'm not sure I completely follow
10 the question.

11 MR. CARPENTER: Essentially, that demand in
12 certain applications is increasing, demand in other
13 applications may be decreasing, and purchasing
14 patterns, of course, would follow that.

15 MR. HILK: Okay. I'm getting advice that
16 certainly one part of that answer is it's a very small
17 market. Substantive customers are kind of numbering
18 in the ones up to 10, you know, type of thing, and
19 there is demand decrease and demand increase, and with
20 a small select group of customers, 10-ish, in the
21 market, they are balancing right now so that there's
22 not a tremendous decline, though certainly, we are not
23 seeing a growth in the market.

24 MR. CARPENTER: Thank you. In terms of
25 emerging markets and developing markets, who is

1 driving that change or the development of new markets?
2 Is that primarily DuPont? Is Mato also involved in
3 that, or is it more customer-driven where customers
4 approach you and say, we think your product might work
5 in our application?

6 MR. HILK: It's much more customer and
7 market-driven at this point. As I said, the DuPont
8 efforts were highly focused in the '80s and '90s on
9 these types of efforts. We were very involved in R&D.
10 We were very flanged with the customers and
11 developments. We haven't seen the growth except for
12 some isolated areas, and those were offset by the
13 decline, so at this point, any demand, any significant
14 demand growth is being driven by the customers in the
15 market, where DuPont is not involved intimately in
16 that.

17 MR. CARPENTER: Thank you. I'd like to turn
18 now to some questions on the cost side. Mr. Boyland
19 raised some of these issues, but in response to his
20 questions, you had indicated that your costs over the
21 last few years for salt, as well as transportation
22 costs, have increased. I'm not sure I heard it, but
23 could you comment on energy costs, whether those have
24 increased during the period of investigation?

25 MR. HILK: Yes, I think I would want to --

1 that's a very significant part of the cost, and I
2 would want to do that in the post-conference brief.

3 MR. CARPENTER: Okay. Perhaps, if you could
4 in your brief, to the extent it's not already
5 requested in the questionnaires, perhaps comment on a
6 breakdown of your cost per pound for some of the main
7 inputs like the salt and the energy costs in
8 particular, and you indicated in your testimony that
9 Mato has the same production process that you do, and
10 I believe you also, I think it was Mr. Gagne,
11 indicated in his opening statement that you've been
12 involved with a cost-price squeeze.

13 To the extent that your costs are increasing
14 and Mato has the same production process, is it your
15 understanding that they are faced with increasing cost
16 of production during the same period, or perhaps maybe
17 you don't have access to that information and can't
18 respond to it?

19 MR. HILK: We don't really have access, but
20 clearly, since they are located in France, their cost
21 basis is in Euros, so in dollars, their costs have
22 gone up very dramatically in the period, at least as
23 much as ours, probably much, much more, in dollars.

24 MR. CARPENTER: What I am getting at with
25 this is, according to your testimony, I believe it was

1 Mr. Merrill, actually, who indicated that the average
2 unit value of imports had dropped from about a dollar
3 per pound at the beginning of the period of
4 investigation to about \$0.83 per pound in September
5 2007, and I'm wondering if you have any thoughts as to
6 how they could be lowering their selling price in view
7 of possibly increasing costs and then also the
8 significant cost of transporting the product?

9 MR. HILK: I have no idea how they could be
10 doing that and playing within the rules. The one
11 thing I do know about is DuPont does a tremendous
12 amount of ocean shipping. In my other businesses, I
13 ship a tremendous amount of ocean freight, and we have
14 seen freight, as I am sure you are well aware, the
15 freight rates have risen in this period of time, '04
16 to '07, 40 to 50 percent, so some commodities that
17 were shipping for \$60 per ton, like acrylonitrile from
18 the Gulf Coast to Korea, we were shipping at \$60 a
19 ton, it's now \$110 a ton, and we're seeing that for
20 the same type of freight.

21 We make similar shipments to Europe, so
22 their shipments from France, ocean freight portion is
23 a very important component of their cost, and that's
24 one of the things Brian directly spoke to, was their
25 manufacturing and transportation cost, and it's gone

1 up at least 40 to 50 percent.

2 MR. CARPENTER: And just to clarify, the
3 transportation overseas, is that also in solid form as
4 opposed to liquid?

5 MR. HILK: Yes.

6 MR. CARPENTER: And I believe in your
7 testimony you had talked about the special handling
8 procedures that required a significant capital
9 investment on Mato's part to be able to transport its
10 product. Is it correct to say that it cannot be
11 exposed to water or air?

12 MR. HILK: Correct.

13 MR. CARPENTER: Okay. Next I'd like to
14 touch again on this quality issue that Mr. Corkran
15 brought up, and I don't want to cover the same
16 territory, but just to go back to Mr. Silverman's
17 comment that he alleged that DuPont has experienced
18 quality defects and quality problems with its
19 customers during the period which Mato has not, I
20 think he mentioned about clogged pipes and that sort
21 of thing, and this may be something that you'd
22 probably rather respond to in a brief, but again, to
23 follow on Mr. Corkran's comment, if you could provide
24 us some information in your brief that would give us a
25 sense as to the extent of any quality issues that you

1 have experienced with your customers.

2 For example, if you could provide the
3 customer name, the quantity involved, and the dates of
4 any material that was rejected or had to be
5 reprocessed, that sort of thing. Would that be
6 possible to provide in a brief?

7 MR. HILK: We can respond in the post-
8 conference brief.

9 MR. CARPENTER: Okay, we'd just like to get
10 a sense of, if there are any quality issues at all,
11 the possible significance of that issue. And finally,
12 I believe I heard Mr. Silverman say that your second
13 largest customer switched to a substitute product,
14 away from sodium metal. If I heard that correctly,
15 and I wouldn't expect you -- feel free to respond at
16 this point if you like, but if you'd like to respond
17 to that in your brief, if you'd prefer that, that
18 would be okay.

19 MR. HILK: The customer he referred to is
20 Syngenta. They make Paraquat. They've made Paraquat
21 for a long time in the United States. Paraquat is now
22 manufactured in China, actually using a sodium cyanide
23 technology. I supply the sodium cyanide to Syngenta
24 in China, among some other suppliers. So they use a
25 not in-kind technology to produce, so in fact, that

1 was a customer that had a significant demand which, if
2 I'm allowed to go back before 2004, they were very
3 successful in also reducing that price at that
4 account, so I mean, I'm not sure exactly what the
5 point was.

6 There was a demand in the US market. It's
7 all being impacted, all of it, every pound. The ones
8 that were lost, the ones that shut down, the ones that
9 are hoping to consume more sodium.

10 MR. CARPENTER: Was this a situation where
11 the customer changed their production process or
12 technology that allowed them to use a substitute
13 product, or how were they able to switch? My
14 understanding is that there aren't any ready
15 substitutes for this product.

16 MR. HILK: That's true. In the case of
17 Paraquat, it's an organic synthesis. It's a pretty
18 complicated reaction. Sodium was a smaller and minor
19 part of the actual synthesis. They would use a
20 considerable amount, and for that synthesis, there had
21 been routes developed very early on, alternative
22 technologies using other chemicals. So for that
23 particular compound, there were some other alternate
24 technology routes. I'm not aware of it. I mean,
25 that's a very isolated case. I'm not aware of other

1 situations like that.

2 (Pause.)

3 MR. HILK: Okay. Just for clarification,
4 the paraquat production is no longer occurring in the
5 United States. So they shut down that facility and
6 they no longer need sodium at that plant. There
7 wasn't a substitute at that plant in the United
8 States.

9 MR. CARPENTER: All right, thank you, Mr.
10 Hilk. There may be one or two additional staff
11 questions; Mr. Boyland?

12 MR. BOYLAND: David Boyland, Office of
13 Investigations -- with respect to the actual
14 distribution of the sodium metal, does the sodium
15 metal go directly to the customer, or does Dupont have
16 to have distribution centers throughout the country?

17 MR. HILK: We almost always go direct to the
18 customers. That's what we prefer to do.

19 MR. BOYLAND: Okay, but in some instances,
20 are you holding inventory in a distribution center?

21 MR. HILK: We're not holding any inventory
22 through any distributors; nor at this time --

23 MR. BOYLAND: For your own internal
24 distributor -- okay, in terms of just the service and
25 support for the customer, is sodium metal kind of

1 analogous to the direct labor you discussed earlier;
2 about it being more intense for sodium metal? Is
3 sodium metal more intensive in terms of the support
4 for the customer?

5 MR. HILK: Yes, I would say it is, and we
6 continue to employ full-time resources in the U.S.
7 that visit our customers and work directly on the
8 technical service and applications of how they safely
9 use it, to make sure we maintain product stewardship
10 all the way through to the end; after the sodium is
11 used, how is it disposed, and that whole thing. So,
12 yes, it is intensive.

13 MR. BOYLAND: Would you say it's relatively
14 more than some of the other products at that the
15 reactive metals division handles?

16 MR. HILK: It is, but it's on a par with
17 other hazardous chemicals we sell, like HF, like
18 sulfuric acid.

19 MR. BOYLAND: Thank you, I have no further
20 questions.

21 MR. CARPENTER: Thank you again very much,
22 panel, for your responses to our questions. We really
23 appreciate it and thank you for coming here today.
24 We'll give you a chance to relax now. Actually, we'll
25 take about a 10 minute break and then resume the

1 conference with the Respondent's presentation.

2 (Whereupon, a short recess was taken.)

3 MR. CARPENTER: We'll resume the conference
4 at this time. Welcome back, Mr. Silverman; please
5 proceed whenever you're ready.

6 MR. SILVERMAN: This is William Silverman
7 with the law firm of Hunton & Williams. Our leadoff
8 batter is Jean-Luc Bourrier.

9 MR. BOURRIER: Good morning, I am Jean
10 Bourrier. I am product manager for MSSA. I am in
11 charge of sodium metal in the USA.

12 My presentation today will have three main
13 parts. In the first step, I will focus on the reason
14 why MSSA has been successful in the market. Then I
15 will tell you a few words about MSSA's business plan.
16 Then last, I will give you an understanding of the
17 U.S. sodium metal market.

18 MSSA has been successful in the U.S. market
19 for several reasons. The first and main one lies in
20 the big quality difference of our products that
21 contain a low amount of calcium impurities.

22 The products delivered by Dupont cause major
23 problems to customers because of the setting of
24 calcium mud. This mud is composed of calcium, calcium
25 oxides, sodium oxides that comes with the sodium

1 delivered. This mud is very viscous or even solid.
2 It will settle in pipes, valves, flow meters, et
3 cetera, and will plug any process equipment.

4 When customers start having too much
5 plugging or clogging in the sodium part of that
6 process, they have to stop production for cleaning and
7 maintenance. This is a very costly item in the direct
8 cost of maintenance, or an indirect cost because of
9 production interruption and safety issues linked to
10 the process of cleaning.

11 Even worse, some customers heat the sodium
12 at much higher temperature to avoid such trouble of
13 pluggings. This is another major issue because the
14 higher the temperature is, the more risk you take in
15 case of sodium leakage. On top of that, sooner or
16 later, all of these customers will have to stop
17 production for the cleaning of their own sodium
18 storage tanks where the biggest amount of calcium mud
19 will settle.

20 Here I can give you two main examples very
21 recently where we have found various injury in the
22 market of customers having such troubles of sodium in
23 their storage tanks. A U.S. customer of Dupont is
24 used to cut the deep pipe into its storage tank year
25 after year. The deep pipe is used for unloading the

1 liquid sodium out of the tank.

2 By cutting the deep pipe year after year,
3 the customer could succeed at keeping the bottom end
4 of the pipe always above the calcium level in the
5 tank. If you can understand what I mean, the mud
6 level was going up, and the deep pipe was cut year
7 after year, just to keep above. It's a good idea.
8 The trouble is that today, this tank is half full of
9 mud; 20 tons of calcium mud.

10 A second example is another U.S. customer
11 that had the tank stopped for cleaning operations in
12 2007 for about nine months. Even worse, this cleaning
13 was decided after a big incident in that customer's
14 premises at the end of last year.

15 They thought that they had, let's say, five
16 percent of that tank plugged with mud -- five percent
17 of the total capacity. They decided to put 90 percent
18 of sodium on top of it, leaving a five percent margin
19 for safety reasons. They made the wrong assumption.
20 There was not five percent, but fifteen percent of
21 mud. Fifteen plus nineteen makes 105. The tank was
22 overloaded.

23 Then we had sodium going out of the vent
24 line. As told earlier this morning, sodium will
25 expire and then there are other situations. We had

1 some weather from rains, and sodium with water
2 explodes. There was a plant devastation, stop of
3 production, maintenance, and so, of course, it was a
4 big issue with the local authorities. These things do
5 not happen to MSSA customers anywhere in the world.

6 The biggest reasons for rough in the U.S. is
7 due to the introduction of raw special sodium product.
8 A superior grade of sodium is produced by a
9 proprietary chemical process, which significantly
10 reduces calcium in the product. This grade has a
11 calcium content below 200 parts per million, which is
12 under the solubility limit of calcium in sodium.

13 This means that with this level of calcium
14 in the sodium, calcium will always flow with the
15 sodium. It would never set up.

16 In this way, we avoid any calcium mud in the
17 customer's storage tanks or pipes or process, and
18 avoid regular cleaning of the storage tanks by
19 specialized cleaning.

20 The superior market, the superior product,
21 has accounted for nearly 90 percent of MSSA's growth
22 in the U.S. market, even with regard to standard grade
23 product, which is less than 400 part per million.

24 As I say, we believe we have a more
25 efficient filtration system than Dupont. So even

1 though MSSA's specifications for the standard grade
2 are the same on paper as Dupont's standard grade, it
3 is in fact a cleaner product, which we can explain in
4 detail if you have any additional questions on this
5 issue.

6 Second, MSSA has storage tanks where part of
7 the calcium will settle. Third, MSSA regularly cleans
8 the storage tanks, removing several tons of mud every
9 year. Last, we also regularly clean all
10 transportation tanks. So this means that less calcium
11 is reaching all customers. We don't have plugging.
12 We don't have to clean the tanks.

13 Apart from this big quality issue, I would
14 like to discuss four other elements that explain our
15 success in the U.S. market. First, MSSA offers a
16 distribution or transporting facility in Pasadena,
17 Texas, which serves purchasers in the Gulf area.
18 Various purchasers supported MSSA when we were
19 considering listing in Texas because of the logistical
20 advantages this facility provides.

21 Our customers supported MSSA by making long-
22 term contracts, based in large part on this
23 transporting facility. In fact, for our largest
24 customer in the USA, MEMC, we actually have a pipe
25 that goes from our transporting facility directly to

1 Vertance (ph), avoiding any need for unloading of rate
2 cars or other things.

3 Second, some of our purchasers compete with
4 Dupont in the downstream market. Naturally, they do
5 not want to be dependent on Dupont as their critical
6 raw material supplier at the same time they are
7 committing with Dupont downstream.

8 Third, some of our purchasers have wanted to
9 split their procurement between Dupont and MSSA, so
10 that they are not 100 percent dependent on Dupont.
11 For example, we have a contract with a purchaser who
12 is buying 80 percent from Dupont and 20 percent from
13 MSSA.

14 Fourth, we ship sodium metal in ingots and
15 drums, but Dupont produces only in ingots. For
16 certain customers, bulk purchases do not work for
17 them. They have to deal with sodium from sodium-like
18 -- problems with sodium, sorry, like ingot sticks or
19 doses.

20 For example, Carpenter Technologies
21 purchases a particular form of ingots from MSSA,
22 because its production process requires a specific
23 shape of sodium metal. Actually, as far as we know,
24 Dupont may sell ingots of sodium metals, but all of
25 its sales of non-bud material are of Chinese origin.

1 In the year 2000, Dupont sold its sodium
2 production technology to a Chinese company, and
3 stopped producing ingots in Niagara Falls by 2001.

4 Now I would like to go to the single point
5 of my presentation, and I would like to discuss MSSA's
6 capacity plans. Capacity in France is operating at a
7 very high capacity utilization level. Anyway, there
8 is a freight on some applications downstream in
9 Europe. On the other end, demand for sodium metal is
10 growing in Asia, and we are increasingly shipping
11 there.

12 In fact, we plan to open a plant to produce
13 sodium metal in China, where demand is forecast to
14 grow by 10 percent per year. In the end, MSSA plans
15 to reduce capacity in France when the Chinese plant
16 becomes operational. This is our business plan.

17 The last part of my presentation is about
18 the U.S. sodium market. I have read the petition and
19 heard the testimony this morning. But Dupont did not
20 tell you three key facts that explain Dupont's
21 operating situation.

22 The first one lies with the quality for them
23 that I've already presented. But equally important is
24 the fact that one of Dupont's major customers is no
25 longer buying sodium metal. At the end of 2006,

1 Synjenta shut down its paraquat facility in Bayport,
2 Texas, which was consuming 4,000 to 5,000 tons per
3 year, which we estimate was 20 percent of Dupont's
4 sodium production. Synjenta's act in buying sodium
5 metal ultimately was not caused by import from France.

6 A third important point about the situation
7 in the U.S. market is regarding pricing to Dupont's
8 largest purchaser, Romenhaus, which makes sodium
9 bromide in Washington State.

10 In 2003, Dupont offered very low prices to
11 Romenhaus for a long-term global supply agreement.
12 The basis of this agreement was to deliver first from
13 Niagara Falls, the plant that accounts for about 50
14 percent of the U.S. market today; and from China,
15 second, the desert (ph) plant in the Netherlands, that
16 accounts for about 25 percent of the open market
17 today.

18 The deliveries started 2005. Our
19 understanding is that Romenhaus bargained to reduce
20 Dupont's overall price. MSSA did not call the price
21 depression of Dupont's price in the U.S. Rather, it's
22 largest purchaser worldwide, Romenhaus, caused the
23 price depression. By the way, we do not sell one
24 pound of sodium metal to Romenhaus in the USA or in
25 Europe.

1 I think that Romenhaus' long-time contract
2 should be important to you, because it refutes what
3 you heard today that MSSA pushes prices down.
4 Therefore, if Dupont is offering, because of the
5 aggressive deal it made with Romenhaus, then that harm
6 is not caused by MSSA.

7 In fact, according to what various purchases
8 have told us, it's Dupont and their prices -- MSSA,
9 not vice versa. Please contact purchaser for the
10 specifics.

11 This is for the past and present of sodium
12 U.S. market. But for the future of this market, we
13 also have some information for you. We clearly see
14 demand growing in the U.S. market. We have, of
15 course, all of us, heard about the energy crisis for
16 this year and for the decades to come, I'm afraid.

17 To fight against this energy crisis,
18 everybody is looking for renewable sources of energy;
19 and others are looking for saving energy. One of
20 these new sources of energy is coming from the
21 biodiesel. The biodiesel is produced using the
22 catalyst which is sodium methylate. Sodium methylate
23 is produced with sodium.

24 We understand, and we have here two
25 customers, that the U.S. sodium market will grow by

1 five to ten percent, depending only on that growing
2 market from 88. One plant was started in 2007.
3 Another one will start in early 2008. These are
4 facts.

5 Second, as another source of energy, solar
6 energy is also increasing. The demand for poly-
7 silicon wafers is booming in the world, and one
8 process producing solar cells is using sodium. We
9 have already discussed about the customer MEMC.

10 They are on the way to doubling capacity in
11 two steps. The first step is November 2007, so these
12 days, the second step in March 2008. They made the
13 investment. We can show you the pictures. It's a
14 fact. This increase will add 10 percent more of
15 volume in the U.S. sodium market.

16 Third, there is another way to deal with
17 energy crisis, as to saving energy. The aircraft
18 industry is looking for titanium to build the planes.
19 Today titanium is too expensive. There is a big
20 project here in the U.S. to produce titanium full of
21 sodium route for a specific process that will bring
22 titanium to the U.S. aircraft industry at a very low
23 price.

24 This process is scheduled to be working,
25 producing and using sodium by the end of 2008. This

1 will add 20 percent globally to the U.S. sodium
2 market.

3 Dupont is well positioned to grow with this
4 market because it produces some of the downstream
5 products that use sodium metal. For example, Dupont
6 uses some production of sodium metal to product sodium
7 methylate. In addition, Dupont has a joint venture
8 with the Honeywell Company, which will use a sodium
9 metal from Dupont to produce titanium powder. Thus,
10 Dupont's future looks bright; thank you.

11 MR. MATUSEWITCH: Good afternoon, my name is
12 Mark Matusewitch, and I am the President of Columbia
13 Sales International, located in Columbia, Maryland.

14 Columbia Sales has been a North American
15 agent for MSSA's bulk product from France since 1990.
16 We also act as importer, distributor, selling drums of
17 sodium ingots and sodium-infused drums to the smaller
18 customers.

19 MSSA's U.S. customers purchased sodium
20 imported from for many important reasons unrelated to
21 price. Number one, a large majority of the bulk
22 sodium sold by MSSA in the United States in recent
23 years had been a new grade called So Pure. This grade
24 has a calcium content of less than 200 PPM, which
25 offers many important advantages over Dupont's

1 product, because calcium levels above 200 PPM can
2 cause severe problems for purchases of sodium.
3 Calcium levels above 200 PPM settle out of the sodium
4 as calcium oxides, which can plug pipelines and force
5 shutdowns in production.

6 Calcium sludge also builds up in the
7 customer storage tanks and needs to be removed
8 periodically, which is an expensive and dangerous
9 operation. Let me repeat that point. Dupont's sludge
10 problem imposes costs and dangers onto purchaser.

11 Given the lower calcium content in MSSA's So
12 Pure grade, calcium oxides do not form and, therefore,
13 the consumers do not experience any plugging of their
14 pipes or build-up of calcium sludge in their storage
15 tanks. Several So Pure customers have commented that
16 they buy So Pure specifically because of the
17 elimination of calcium-related problems when using So
18 Pure. Dupont does not offer a product comparable to
19 So Pure.

20 Seventy percent of MSSA's bulk sales in the
21 last three years have consisted of So Pure, and So
22 Pure sales account for over 90 percent of our increase
23 in U.S. sales in recent years.

24 Even MSSA's standard grade, called S-Plus,
25 has lower calcium and causes less sludge build-up than

1 Dupont's own standard grade. Jean-Loup Bourrier can
2 provide additional details, explaining why MSSA's S-
3 Plus product is better than Dupont's standard grade,
4 even though the specifications appear to be the same
5 on paper.

6 Number two, one of our U.S. customers
7 purchases MSSA's highest grade of sodium metal, which
8 is called R-Grade. This produce has less than 10
9 parts per million of calcium. This customer tells us
10 that they prefer MSSA's R-Grade to Dupont's special
11 Niapure Grade, which is supposed to be similar in
12 quality.

13 It is our understanding that Dupont's
14 Niapure clogged up their filtration system, when this
15 customer took a trial ISO tank container last year.
16 That was the last time this customer purchased from
17 Dupont. This company has had no such problems with
18 MSSA's R-Grade.

19 Number three, Columbia Sales also sells
20 sodium in ingot form produced by MSSA France. Ingot
21 or brick form of sodium is not interchangeable with
22 bulk sodium. As a result, ingot or brick form does
23 not compete with bulk sodium.

24 Some small and medium size customers require
25 sodium in ingot form primarily because they are not

1 equipped to handle large quantities of sodium in bulk
2 form, or for some other reason, need sodium in ingot
3 form because of the manner in which sodium is
4 introduced into their production process.

5 However, sodium in ingot or brick form is
6 not produced in the United States. While Dupont sells
7 sodium bricks, the product is produced in China, not
8 in the U.S.

9 Number four, some customers also prefer MSSA
10 sodium because of logistical advantages related to
11 MSSA's trans-loading facility in Pasadena, Texas, from
12 which it is able to supply customers who take sodium
13 by rail tank car or direct pipeline.

14 When ISO tank containers arrive, they are
15 either unloaded into rail tank cars directly, or into
16 one of two storage tanks. In fact, MSSA's largest
17 customer in the United States, MEMC, is located near
18 the same facility, and purchases almost exclusively
19 from MSSA, because of the logistical advantages, in
20 addition to the excellent quality of MSSA's So Pure
21 grade of sodium.

22 MEMC regularly experienced calcium plugging
23 in its lines using Dupont standard grade. MEMC is a
24 producer of poly-silicon wafers, and takes MSSA's So
25 Pure grade of sodium through a direct physical

1 pipeline between our storage tanks in Pasadena, Texas,
2 and the customer's production facility.

3 Number five, some of our purchasers buy from
4 MSSA, because they manufacture products that compete
5 with Dupont downstream; and naturally, they do not
6 want to be dependent on Dupont for a major input.

7 One example is sodium methylate, an
8 ingredient used in biodiesel, which is a rapidly
9 growing market. You'll hear more about this from Mr.
10 Merz and Mr. Harris.

11 Another example is titanium. We have
12 customers who produce titanium using processes that
13 use sodium metal. However, Dupont has a joint venture
14 to make titanium powder, and one of our titanium
15 customers has told us, for obvious reasons, that they
16 do not want to depend on Dupont for 100 percent of its
17 sodium metal for that reason.

18 Number six, some purchasers that do not
19 compete with Dupont downstream, nevertheless do not
20 want to purchase exclusively from Dupont, because they
21 do not want to be dependent on a single source of
22 sodium. If there were a strike or some production
23 outage at Dupont's plant, these companies would be
24 unable to continue operations unless they had an
25 alternate source.

1 So these companies use MSSA as a secondary
2 or back-up source. For example, we have a contract
3 with one purchaser for MSSA to supply 20 percent of
4 its needs, while Dupont supplies the other 80 percent.

5 In any event, Dupont's testimony this
6 morning is wrong. Customers do not buy MSSA sodium
7 because of lower prices. In fact, we believe that the
8 price of the MSSA sodium is, in fact, higher than the
9 price offered by Dupont in many cases, and this
10 statement is supported by documentation placed on the
11 record.

12 Let me give you one example. MSSA recently
13 regained the business of a customer who was our first
14 customer in 1992. By 1993, the customer threw us out,
15 and gave 100 percent of its business to Dupont. We
16 were never told why.

17 In the first quarter of 2007, this customer
18 begged us for sodium, because we were told Dupont
19 could not meet its delivery commitments. We agreed to
20 fulfill this customer's needs at a significant price
21 premium to Dupont. Dupont then resumed shipments and
22 will supply this customer for the rest of 2007.

23 During all this turmoil, we learned two
24 things from the customer. First, the customer threw
25 us out in favor of Dupont in 1993, because this

1 customer made an intermediary product for Dupont,
2 and Dupont threatened to take away the intermediate
3 business, unless assigned an exclusive supply
4 agreement with Dupont. Dupont's leverage decreased
5 after Dupont sold that intermediate business.

6 The second thing we found out was that by
7 2007, in addition to the supply disruption, this
8 customer and Dupont had a controversy over who should
9 pay for cleaning out the sludge in your storage tank
10 caused by Dupont's calcium contaminated product. This
11 customer had enough, and assigned a new long-term
12 contract with MSSA for shipments beginning in 2008.

13 But the point is that this company's
14 troubles with Dupont gave us the opportunity, not
15 price. If Dupont has any financial problems, they
16 were caused by other factors. For example, Sinjenta,
17 which we understand was Dupont's second largest
18 customer and consumed up to 20 percent of Dupont's
19 sodium metal sold to the United States, sold its power
20 plant in late 2006 and no longer produces sodium
21 metal, because paraquat producers are now almost
22 always making paraquat, using a different process,
23 which uses sodium cyanide instead of sodium metal.

24 Sinjenta's closure is unrelated to any
25 imports from MSSA. In addition, MSSA also has made no

1 serious effort to sell sodium to Ramenhaus, which we
2 understand to be the single largest consumer of sodium
3 in the world and Dupont's largest customer.

4 Ramenhaus purchases 100 percent of its
5 sodium from Dupont, based on a worldwide contract,
6 including all of its needs, for a large Ramenhaus
7 facility in the Netherlands. Since Ramenhaus
8 negotiates its prices globally, not in the United
9 States, and since MSSA does not sell to Ramenhaus,
10 MSSA cannot be responsible for any low prices that
11 Ramenhaus receives from Dupont.

12 Outside of the closure of Sinjenta's
13 paraquat plant, the sodium market is growing and will
14 continue to grow dramatically over the next several
15 years. This growth will more compensate for the loss
16 of Sinjenta.

17 As we all know, there is a major push for
18 biodiesel production in the U.S. This requires sodium
19 methylates as one of the key raw materials. Sodium
20 methylate, at least what is currently being produced
21 in the U.S., is produced exclusively using sodium
22 metal.

23 Dupont itself has a major sodium methylate
24 facility in Lapore, Texas. Not only do we understand
25 that Dupont is running its sodium methylate plant at

1 full capacity, but Dupont also has several companies
2 they are working with to produce sodium methylate for
3 them.

4 This growing market for sodium methylate
5 means the market for sodium metal will grow, and
6 Dupont will benefit from this also.

7 Another area of steady growth is the use of
8 poly-silicon wafers for solar energy. There's one
9 major producer in the United States, MEMC, whose
10 consumption of sodium is growing due to this
11 application. There are other companies now looking to
12 get into this business in the U.S., using sodium
13 technology.

14 Now we come to the real long-term growth in
15 sodium. Several companies, including Dupont,
16 developed new technologies to produce titanium powder,
17 which would dramatically reduce the cost of titanium
18 by at least 60 percent. In one specific process, it
19 takes two pounds of sodium to make one pound of
20 titanium.

21 Some estimates suggest that this could lead
22 to sodium consumption in excess of 100 million pounds
23 a year. Let me repeat that number -- 100 million
24 pounds a year. That's absolutely mind boggling.

25 A great deal of this titanium will go to

1 military and aircraft applications. Titanium is
2 stronger and lighter than other metals currently being
3 used. It is not presently being used enough because
4 titanium produced by current technology is just too
5 expensive.

6 Getting back to the hear and now, there will
7 be several of our customers either testifying before
8 this hearing or submitting statements as to why they
9 buy sodium from us; either as a second source of
10 supply or as a 100 percent supplier. They will expand
11 upon what I discussed above regarding the huge
12 advantages they experience using sodium produced by
13 MSSA France; advantages not afforded by sodium
14 produced by Dupont.

15 Thank you for the opportunity to testify
16 before the staff this afternoon.

17 MR. SILVERMAN: This is Bill Silverman
18 again. Just before we get to the customers, I want to
19 make one or two comments.

20 I was really puzzled by the testimony from
21 Dupont earlier today. How could they not know about
22 the growth in all of these areas? Maybe they didn't
23 have the right witness. Because Dupont is in these
24 businesses. It's in the biodiesel. It's in the
25 titanium. How could they not know about all these

1 growth areas, and yet tell you it's a mature market;
2 it's not going anywhere.

3 On one hand, they're out in the field doing
4 it, investing, attracting capital, apparently. Then
5 they testified, there's nothing going on out there.

6 They complain about imports, and yet they
7 sell their technology to the Chinese; and now they're
8 importing the bricks from China. I'm puzzled about
9 that, if they're really worried about the workers that
10 they say they are, in their plant.

11 But most important, I was puzzled when you
12 asked several questions about -- don't you hear
13 anything from your customers about these quality
14 problems? I'm paraphrasing the questions from the
15 staff. There was a long silence. They had to consult
16 with the lawyers and go back and forth. The question
17 was asked again: but don't you have any feedback from
18 your customers?

19 I don't know how you run a business that
20 way. But okay, yes, well, we'll have to read the
21 transcript on that one.

22 We've done some research, and it is a
23 resounding boo. They had so much problem with these
24 calcium deposits, and we've given you examples here
25 and we've brought witnesses. Compare the testimony of

1 our customers with their witness, or their customers.
2 Compare the testimony from our suppliers, with their
3 engineering background, and their follow-up with
4 customers. So what they said about customers; did
5 they have any complaints from customers? Anyway, it's
6 a puzzle.

7 We're going to turn to customers now, who
8 will give you their first-hand experience, and we'll
9 certainly be glad to supplement what our witnesses so
10 far have said about various problems and various
11 places with these calcium mud problems.

12 We understand that the record, as well, has
13 other information to support this very important
14 element in understanding causation and understanding
15 why the So Pure grade, which is 90 percent of the
16 company's growth in the import market here, is
17 explained by substantial quality problems that Dupont,
18 after pausing 20 seconds to talk to the lawyer, said
19 well, you know, maybe. It's puzzling. Let's begin
20 with Beth Sloane.

21 MS. SLOANE: My name is Beth Sloane. I'm a
22 Purchasing Manager for Afton Chemical Corporation, an
23 affiliate of New Market Corporation. Thank you for
24 this opportunity for me to tell you about my
25 experience.

1 Afton Chemical purchases bulk sodium metal
2 to produce MMT, a gasoline additive, and we purchase
3 exclusively from Mato. We use this product at our
4 plant in South Carolina.

5 We purchase from Mato instead of Dupont
6 because of product quality and customer service. The
7 product we purchase from Mato is a grade called So
8 Pure, which is certified to contain less than 200
9 parts per million of calcium. That's .02 percent. It
10 leaves no significant calcium residue in rail cars and
11 in storage tanks.

12 In contrast, the Dupont product contains
13 approximately double the level of calcium as the Mato
14 So Pure product.

15 When we used this Dupont material, the
16 Dupont product left so much residue in the storage
17 tank that we had to shut down the plant in order to
18 have the calcium sludge removed.

19 Sludge removal from tanks is time consuming
20 and dangerous. It requires workers to enter an
21 enclosed space, wearing self-contained breathing
22 apparatus, and they had to use a jack hammer to remove
23 the solid material from the tank.

24 Additionally, as a result of sludge build-up
25 in rail cars, the tank cars carrying the sodium could

1 not be completely unloaded. As a result, we insisted
2 that Dupont weigh the cars upon return, and issue heel
3 credits for the return weights.

4 This process was time consuming and did not
5 result in timely accounting, as it could be several
6 months until we got the heel credits.

7 We also experienced customer service issues.
8 Rates on bills of lading and on invoices were
9 frequently incorrect. Dupont did not have their own
10 rail car scales, and had to depend upon the railroad
11 to report the rail car weights.

12 So estimated weights were frequently used on
13 invoices and bills of lading, which caused innumerable
14 paperwork discrepancies and issues. Our receiving
15 plant and our accounts payable personnel spent
16 significant time trying to reconcile this incorrect
17 paperwork.

18 As a result of our problems with Dupont's
19 product and service, we now rely entirely on Mato's
20 sodium metal to meet our needs. We have done this
21 despite Mato's insistence on price increases this
22 summer, to take into account unfavorable exchange rate
23 trends.

24 In summary, from our perspective, we do not
25 agree with Dupont's allegations that Mato has gained

1 business based on price. Instead, we are paying an
2 increasing price for Mato's product, because of
3 superior product quality and customer service that
4 Mato delivers.

5 I've heard in the testimony this morning
6 about the issues of price, and I'd like to add that
7 Dupont had made me an offer with that they called non-
8 Niagara material, which was to be a Chinese-produced
9 product.

10 This product was offered at a lower price
11 than the U.S.-produced product. But still, this was
12 not an acceptable offer to me, because of the issues
13 that we've had with Dupont.

14 MR. HARRIS: Hello, my name is Rolland
15 Harris, and I am the Director of Purchasing for Texas
16 Molecular, LP, out of Deer Park, Texas; and I'm also
17 the National Treasurer for the Institute for Supply
18 Management's Chemical Group.

19 Texas Molecular does not currently purchase
20 sodium metal. However, Texas Molecular is in the
21 process of entering the sodium methylate market, and
22 is currently negotiating with MSSA for contracts for
23 the purchase of sodium metal to make sodium methylate.
24 We expect to begin sourcing the sodium metal from MSSA
25 in February or March of 2008.

1 Now earlier this year, I contacted Dupont
2 for a price quote for approximately three million
3 pounds per year of sodium metal. Up to this date,
4 Dupont was the only supplier -- well, actually, Dupont
5 was the only supplier that I knew of at the time, when
6 I started looking for sodium metal. I just went on
7 there, and I wanted to find a domestic manufacturer,
8 and give them a call.

9 As of this date, I have received zero
10 response. One of the reasons why I believe that is,
11 is because we're using it to make sodium methylate,
12 which I believe, to me, that they're trying to keep
13 people out of that business, because we would be
14 direct competitors with Dupont.

15 The more I thought about it, when I found
16 out that they were the only domestic manufacturer, you
17 know, I had to look at it and say, well, you know,
18 really, I couldn't do that anyway, because they would
19 be feeding me one of the main materials in sodium
20 methylate that I would have to rely on, and that's
21 probably not the best thing for me to do.

22 So anyway, after Dupont refused to respond
23 to our request for price quotes, I started researching
24 on Google and everything else, and found the MSSA and
25 a few Chinese producers produced sodium metal in

1 addition to Dupont. To the best of my knowledge,
2 there were no other producers of sodium metal that we
3 would be able to use in the world, other than those
4 sources.

5 But Texas Molecular is not interested in
6 purchasing Chinese product because of serious quality
7 concerns we have with the Chinese product,
8 particularly with respect to calcium content. That
9 left us with MSSA as our only alternative.

10 Also, with the Chinese material, probably
11 for the last month, Chinese companies, through
12 distributors in the U.S., have come to me, giving me
13 pricing for Chinese material that's actually less
14 expensive than the French material. But we didn't
15 want to go there with the Chinese material.

16 So in contrast to Dupont's attitude, MSSA
17 has been willing to negotiate with us seriously, and
18 we also understand that MSSA's product is a better
19 quality than Dupont, with less calcium. As Beth has
20 told you, and the other witnesses have told you,
21 calcium builds up, clogs storage tanks, which are
22 costly and dangerous to clean out.

23 Also, our potential customers have told us
24 that they've had concerns with sodium methylate
25 produced using sodium metal from Dupont.

1 We plan to advertise the superiority of our
2 sodium methylate, based in part on lower residuals due
3 to cleaner sodium metal from MSSA. This is going to
4 be a sales tool. We plan to use this on our company
5 as a sales tool for sodium methylate.

6 We anticipate a strong and growing demand
7 for sodium metal, as we meet the strong and growing
8 demand for sodium methylate in the biodiesel market.
9 As we see it, the growth of the sodium methylate
10 market will boost overall demand for Dupont's own
11 sodium metal production; either through their own
12 internal consumption, or through sales of sodium metal
13 to other sodium methylate producers.

14 But for Texas Molecular, however, we turn to
15 MSSA as our only alternative, because Dupont has
16 demonstrated it has no real interest in helping us
17 grow our business, since we would be a competitor.
18 Frankly, we would be uncomfortable relying on Dupont
19 as supplier, since they are our competitor.

20 In addition, we plan to buy from MSSA,
21 because we prefer the cleaner MSSA sodium metal, which
22 we will use to promote the quality of our sodium
23 methylate. Thank you; I appreciate it.

24 MR. MERZ: Good morning, my name is Bill
25 Merz, and I'm Vice President of Sales, Marketing and

1 Sourcing for a company called Interstate Chemical
2 Company.

3 Interstate currently purchases elemental
4 sodium, sodium metal, to manufacture sodium methylate,
5 a product that is used for numerous applications,
6 including the catalyst system for biodiesel
7 production.

8 Biodiesel is a product that you may have
9 heard about recently in the news as a renewable fuel,
10 and alternative to ethanol and gasoline, to help
11 lesson America's dependence on foreign oil, and at the
12 same time, cut carbon dioxide emissions.

13 Interstate's involvement in sodium methylate
14 production is recent. We learned that in early
15 February 2007, the 100-plus largest U.S.-based
16 biodiesel manufacturers -- 100-plus -- met at a
17 conference in San Antonio, Texas with three
18 manufacturers of sodium methylate; one of which was
19 Dupont, the only U.S. producer of the three at the
20 time.

21 We understand from our customers that one or
22 two of these sodium methylate producers tried to make
23 the biodiesel producers sign a seven year take-or-pay
24 contract for sodium methylate; and told the U.S. bio-
25 diesel producers that if they did not agree to the

1 terms, the sodium methylate producers may sell their
2 sodium methylate in Europe instead of the U.S. and
3 short the market.

4 We saw an opportunity. This gave Interstate
5 an idea to be an option as a U.S. producer for the
6 biodiesel industry, as a marketer or possibly even a
7 manufacturer of sodium methylate. We weren't sure.

8 We approached a known Dupont contract
9 customer, making sodium methylate for Dupont. We met
10 with this company on February 28th, 2007 to make a
11 proposal.

12 We proposed joining forces with this company
13 to market their sodium methylate to biodiesel
14 customers and others; providing sales personnel,
15 because we have 50-plus across the United States;
16 customer lists, because we know all these people and
17 we sell them every other product that they need to
18 make biodiesel; trucks, because we have over 250 tank
19 wagons and about 150 tractors; and we offered to
20 purchase sodium methylate from them, mark up the
21 price, and re-sell it.

22 The company listened to our proposal, but
23 rejected it. They informed us at the time that they
24 already had a better deal with Dupont. They told us
25 that Dupont had agreed to supply elemental sodium,

1 sodium metal, and methanol. Methanol is another major
2 ingredient in making sodium methylate -- sodium and
3 methanol.

4 They had an agreement to supply both to this
5 company at below market prices; not my terms, this
6 company's terms -- below market prices for their
7 sodium methylate production.

8 In return, Dupont would get the right of
9 first refusal to purchase all the sodium methylate
10 from this plant and from this customer, as a contract
11 producer, and sell it into the North American market.
12 So Dupont would be the seller, this company would be
13 the manufacturer with a first right of refusal to
14 Dupont to take 100 percent of the output, if they
15 wanted it.

16 We did our best to try to talk them out of
17 this agreement. We suggested that they should control
18 their own destiny by marketing their product, and not
19 allow someone else -- in this case, Dupont -- to
20 control the margin that they might make and the volume
21 of the product that they may sell and produce. The
22 company turned us down on our marketing proposal.

23 We later found out that Dupont's agreement
24 provided this company sodium metal at a price that
25 would yield approximately a 15 percent discount below

1 market; and methanol, at the time, as much as 50
2 percent below market pricing, with quarterly price
3 protection on the methanol, which is unheard of. Our
4 methanol comes to us and the price could go up
5 tomorrow. We have no control over methanol and it's
6 extremely tight; and yearly, we know, possibly
7 multiple years on price protection on the sodium
8 metal.

9 So they didn't want to deal with us. They
10 felt that they had a better deal with Dupont, with
11 outstanding low pricing, and we couldn't convince them
12 to partner with us. They signed the agreement with
13 Dupont.

14 It was then that we began to consider
15 producing sodium methylate ourselves. The idea would
16 be to serve U.S. customers, primarily biodiesel
17 customers, but also some of our existing
18 pharmaceutical silicon and surfactant customers, which
19 Dupont did not mention, that also used sodium
20 methylate.

21 We called Dupont seeking a price quote.
22 Dupont would not quote us a price over the phone. We
23 did not press Dupont further for a quote, because we
24 decided to keep our intention to make sodium methylate
25 a secret for the time being, because we realized that

1 we would be dealing with a competitor. So we didn't
2 call them back. We decided to forge ahead on our own.

3 In any event, we figured that, at best,
4 Dupont would offer us the same agreement as the other
5 company, if we approached them. But we were not
6 interested in having Dupont control the sale of our
7 sodium methylate production.

8 We contacted MSSA. We found them through
9 Google, the same way. We could only find one other
10 producer of sodium metal in China, and we honestly
11 felt that that was not the best way to go, based on
12 everything you see in the news lately about product
13 coming out of China, and the negative opinion that we
14 were already noticing that our customers had about
15 bringing in Chinese product and rateability.

16 So MSSA explained their technical advantages
17 of its elemental sodium product, including the lower
18 calcium content. We didn't know anything about it.
19 We learned about it then.

20 We decided to go forward with sourcing
21 elemental sodium from MSSA, because they weren't a
22 competitor and because they had a better product, and
23 put together several multi-year customers. We went
24 out into the market, went to our customer base, and we
25 got them and convinced them to sign multi-year

1 contracts with us for sodium methylate supply.

2 Our promotional material, which I believe
3 you have a copy of, actually advertises the superior
4 quality of our sodium methylate that we make, because
5 of the pure supply of elemental sodium from MSSA.

6 It's bullet point 1, 2, 3, 4, 5 -- high quality
7 sodium, best in the industry.

8 MR. SILVERMAN: Could we have that entered
9 into the record, that sales brochure which mentions
10 the sodium quality?

11 MR. CARPENTER: Yes, certainly, we'll have
12 it attached to the transcript.

13 MR. SILVERMAN: Thank you.

14 MR. MERZ: While we were gearing up
15 production -- we hadn't even made a pound of product
16 yet; we hadn't even given a customer a sample yet of
17 our product -- we told them we could do it. Trust us;
18 we're entrepreneurs. We're domestic. We know how to
19 make this product. The owner of our company sold this
20 product back in the 1960s. He was with Diamond
21 Shamrock, which later became Occidental Chemical, who
22 sold their business to Dupont. You know, that's the
23 legacy.

24 While we were gearing up production, Dupont
25 began to make negative comments about our product to

1 some of our target and contract customers. You know,
2 I couldn't believe it. They were telling our
3 potential customers that our product was inferior to
4 theirs. They said that it was poor quality overall,
5 and it had a high moisture content.

6 I mean, we were befuddled, because we told
7 our customers, have we given you a sample, yet? Have
8 we made a pound or gallon yet for you? We hadn't done
9 a thing, and they were going around to our customers,
10 trying to keep us out of the business.

11 All of this, of course, is not true. Our
12 product is good. But Dupont tried to get our
13 customers to exclude Interstate Chemical in the bid
14 process for contracts for sodium methylate production.

15 Just three weeks ago, we received a call
16 from the General Manager of the Dupont sodium
17 methylate contractor that I talked about here
18 previously. He explained that Dupont was not
19 currently buying his total output of sodium methylate,
20 and asked if we would be interested in purchasing
21 some.

22 He said that they were building inventory,
23 and because of their investment in their assets, they
24 needed to sell the product. I felt like saying, I
25 told you so; but I didn't. I said, why don't we meet?

1 They were disappointed that Dupont had cut
2 them off on approximately one-half of their production
3 capacity. Dupont said they did so because one of
4 their customers slowed, and was no longer buying at
5 the current rate.

6 But that's the deal -- right of first
7 refusal, don't have to take the product if we don't
8 want to. But if we want it, it's ours. That's the
9 deal, and that's when they signed. But they
10 acknowledged that Dupont had the legal right to do so.
11 You know, that's what they signed.

12 We decided to purchase 10 tank wagons of
13 sodium methylate from this producer, because the price
14 was way below market and below our cost. Then he
15 called back just about a week ago, and he told us that
16 Dupont is buying again, and all of its sodium
17 methylate output will have to go to Dupont. He might
18 be able to supply us at some time in the future; but
19 for now, he had to honor the agreement. So we got cut
20 off.

21 We expect to expand our sodium methylate
22 business rapidly in the coming months and years, but
23 we must be able to depend on a reliable supply of
24 sodium metal. We are afraid that if anti-dumping
25 duties drive MSSA out of the U.S. market, we'll be in

1 serious trouble, because you've already heard what our
2 option is -- Dupont.

3 We believe that Dupont may simply run us out
4 of the sodium methylate business, because we chose to
5 compete with them, and not make product for them.

6 We believe that it is not an option to buy
7 from Dupont. They are our competitor. They would
8 demand that we sell them our sodium methylate in order
9 to secure a supply of sodium from them, and would
10 retaliate -- and this is our fear -- for testifying
11 today on behalf of MSSA. It's a huge concern for us,
12 but we felt we had to take the risk.

13 Finally, several customers have told us that
14 they buy sodium methylate from us, in part, because
15 Interstate does not use Dupont elemental sodium as a
16 raw material feedstock for our sodium methylate.

17 For example, a few of our customers who use
18 sodium methylate to make surfactants -- products used
19 to make soaps, cosmetic facial creams, et cetera --
20 have told us that they cannot use sodium methylate
21 made from Dupont. It did not pass through their
22 chemistry lab, because of the calcium impurities in
23 Dupont's elemental sodium.

24 The Dupont sodium causes problems with the
25 sodium methylate itself. In fact, when we purchased

1 the 10 loads that I just talked about recently of
2 sodium methylate from the subcontractor, the sodium
3 methylate, every truck was out of specification.

4 It was out of specification on color. It
5 was hazy, and it had suspended solids. Now maybe this
6 is the technical grade product they're talking about.
7 But it was out of spec, and spec is very important,
8 even in the bio-industry. Because when you think
9 about it -- and you can go to the Biodiesel
10 Association on the website -- you'll see all the
11 hundreds of plants that are being built, and I'll get
12 to that here in a minute, and you'll see that their
13 biggest issue is having high quality.

14 For example Caterpillar -- we run a lot of
15 trucks. We burn a lot of diesel fuel in our trucks.
16 We can't put more than five percent biodiesel into
17 that Caterpillar engine right now, or it voids the
18 warranty. For the Cummings Engine, I believe it's 15
19 percent.

20 The reason that they're putting that level
21 on there is because the industry has to standardize to
22 be successful. There are too many mavericks out there
23 in the biodiesel industry, that are using product that
24 is unacceptable; and we're not going to get the sale
25 to Caterpillar, or be able to put it in our product,

1 until Caterpillar says, go ahead and put in as much as
2 you want because it meets the spec. The spec is very
3 important.

4 MR. SILVERMAN: Excuse me, Mr. Chairman,
5 could you get a time check for me, please?

6 MR. CARPENTER: You have four minutes
7 remaining.

8 MR. MERZ: Okay, I'll go on. The
9 subcontractor producer explained that Dupont's sodium
10 has calcium impurities that vary from tank wagon to
11 tank wagon and needs to be filtered, occasionally
12 multiple times, so the downstream sodium methylate
13 will meet color, haziness specifications, and be free
14 of suspended solids; so pushing the work onto the
15 customer.

16 In conclusion, our decision to buy sodium
17 from MSSA is not based on price but based on a
18 competitive position vis-à-vis DuPont in the
19 downstream market and because of the higher quality
20 product from MSSA. As a result, we do not believe
21 that DuPont's elemental sodium business is being
22 injured by MSSA in ports at all. We buy the product
23 for a practical option, not on price. In fact,
24 elemental sodium is priced above what DuPont has
25 offered that contract competitor.

1 We chose to manufacture our product and sell
2 it to whomever we desire. We want the freedom to sell
3 to those that we wish to do business with. We want to
4 control our own destiny and we want to be, at this
5 point in time, and we are, at this point in time, the
6 only other North American competitor to DuPont on
7 sodium methylene that they do not control.

8 Simply put, it just doesn't make sense, good
9 business sense, for us to purchase elemental sodium
10 from a competitor and especially a competitor that is
11 selling an inferior product to MSSA's offering. The
12 continuity of supply of elemental sodium from MSSA to
13 Interstate Chemical is of paramount importance to our
14 economic future and our contract customers rely on us
15 to be that option for them.

16 Now, just a quick couple industry states. I
17 mentioned the 100 plus. We called about a month ago
18 to get a booth at the 2008 biodiesel conference.
19 There were four left on the whole floor. We grabbed
20 one in a hurry. There are about 100 plus plants
21 currently operating. There are others coming on
22 stream, big, big, companies. We're talking about
23 Cargill. We're talking about ADM. We're talking
24 about Louis Dreyfus, a billion dollar company. We're
25 talking about REG, Renoble Fuels. These are big

1 companies. We have contracts with them. And these
2 companies are building plants that will product around
3 700 million gallons of incrementally new biodiesel.
4 And getting to the bottom line, that pencils out to be
5 somewhere around 24 million pounds of elemental sodium
6 new into the U.S. market. Thank you.

7 MR. SILVERMAN: That completes our direct
8 presentation.

9 MR. CARPENTER: Thank you, very much, panel,
10 for coming here for your testimony. We appreciate it.
11 Again, we will begin the questions with Mr. Ruggles.

12 MR. RUGGLES: Good afternoon. Fred Ruggles,
13 Office of Investigations. Just a couple of quick
14 ones. When you product it in France, the testimony
15 that I've heard so far is that your production is
16 similar to what DuPont does. The difference is you
17 only go through one screening? You go through
18 multiple screenings?

19 MR. BOURRIER: We have several grades of
20 sodium, standard, So Pure, our grade, and we have
21 several different ways not on the filtration to
22 produce them. These are difference.

23 MR. RUGGLES: So, when you put out a
24 prospective to somebody, you'll give it anywhere from
25 400 parts per million, down to five parts per million.

1 So, you have, at that point, what, maybe 20 different
2 products?

3 MR. BOURRIER: No. We have 400, 200, 10
4 ppm, less than 400, less than 200, and less than 10
5 ppm.

6 MR. RUGGLES: And is the only place you
7 market this is in the United States and Europe?

8 MR. BOURRIER: Worldwide.

9 MR. RUGGLES: Worldwide?

10 MR. BOURRIER: Worldwide.

11 MR. RUGGLES: And you have no other
12 competitors, other than DuPont?

13 MR. BOURRIER: Worldwide, we have
14 competition in China, of course. But, as here in the
15 USA, Chinese companies are selling only standard
16 grade, less than 400 ppm.

17 MR. RUGGLES: So, there's no worldwide
18 competitor that is as -- has as lower parts per
19 million of calcium as you?

20 MR. BOURRIER: No.

21 MR. RUGGLES: That's it for right now.

22 Thanks.

23 MR. CARPENTER: Mr. Fishberg?

24 MR. FISHBERG: David Fishberg, Office of
25 General Counsel. I would also like to thank everyone

1 for coming today and offering the information that you
2 did. Mr. Silverman, just a quick question about like
3 product. Would you agree with Petitioner's statement
4 that the like product should be defined coextensive
5 with the scope for purposes of the preliminary
6 determination?

7 MR. SILVERMAN: For purposes of preliminary
8 determination, we don't dispute it.

9 MR. FISCHBERG: I know a bunch of you spoke
10 about forecast for increases in demand not only in the
11 U.S. market, but worldwide. Any projections or
12 internal studies that you can provide in your post-
13 conference brief would be helpful.

14 MR. SILVERMAN: We'll check our files.

15 MR. FISCHBERG: Now, one thing I guess, the
16 Petitioners defined what they produce as technical
17 grade and specialty grade. And I heard from Sir
18 Bourrier, that you basically, I think, have three
19 grades, sort of a standard a grade, an S plus grade
20 and then a really special, an R grade. Is it your
21 belief that DuPont, at every level, your grade is
22 better than DuPont's grade? I mean, do you compete --
23 I mean, when you compete with DuPont, you're competing
24 against standard versus standard and then your two
25 specialty grades against whatever they're classifying

1 a specialty grade; is that correct?

2 MR. MATUSEWITCH: Mark Matusewitch. DuPont
3 does not have a So Pure grade, so that's an
4 intermediate -- a grade that we have that they don't
5 offer. We compete against their standard grade. We
6 have a 400 ppm. We have a grade that we offer that
7 they don't have. And then, we have a specialty grade,
8 an R grade, which is quite a bit superior to their
9 special grade.

10 MR. FISHBERG: So, an intermediate grade
11 would be 200 -- what is it -- they do not -- your
12 contention is that they do not --

13 MR. MATUSEWITCH: They do not --

14 MR. FISHBERG: -- produce a grade like that?

15 MR. MATUSEWITCH: They do not offer it, no.

16 MR. FISHBERG: And if you could provide any
17 evidence. I know you've discussed that, I guess, 90
18 percent of the recent growth is due to this plus
19 grade.

20 MR. MATUSEWITCH: So Pure.

21 MR. FISHBERG: So Pure grade, sorry. If you
22 could provide whatever evidence you can provide of
23 that being the grade that's accounted for, for the
24 growth recently, that would be helpful, however you
25 can quantify that.

1 Another thing, I understand one of the
2 comments, Mr. Matusewitch, you made is that some of
3 the recent growth is due to customers wanting to
4 diversify supply. One question I had, the So Pure
5 grade, is that a recent product that's being produced
6 or has that been around since the beginning of MSSA?
7 How long has that product been available?

8 MR. BOURRIER: In fact, we have started
9 developing this process somewhere in 2002 or 2001.

10 MR. FISHBERG: And when was the first --

11 MR. BOURRIER: We'd have to check my --

12 MR. FISHBERG: The first time you started to
13 -- if you could just sort of come up with the first
14 dates that you started to market that product in the
15 United States, specifically, would be helpful to know.

16 MR. BOURRIER: We'll check that. We'll give
17 you that.

18 MR. FISHBERG: The other thing is if you
19 could provide the differences and, again, I know it's
20 different per contract, but the general differences in
21 price between the three grades of product that you
22 offer, that would also be helpful if you could
23 quantify those, the differences in the price.

24 Have you ever just offered someone, a
25 customer a So Pure grade or the R grade when they've

1 only, I guess, contracted for the standard grade? Do
2 you ever do that or it's specific to the contract and
3 you would only supply the So Pure grade or the R grade
4 when it's specific to the contract?

5 MR. BOURRIER: Yes, it's specific to the
6 contract, depending on the demand of the customer.

7 MR. FISHBERG: Another thing, I guess, how
8 would you respond -- I think Petitioners raised the
9 point -- and, again, Mr. Matusewitch, I know you've
10 raised an issue about a customer in Texas, the
11 logistical reasons why they would go with MSSA, and I
12 understand that once it's in the United States, there
13 might be logistical reasons for doing that. But, how
14 do you respond to the fact that the product is still
15 being shipped from France, so, logically, how is it
16 profitable or better for the company to get supplied
17 by MSSA, as opposed to DuPont?

18 MR. SILVERMAN: It was a clever point this
19 morning, we never suggested there was a pipeline from
20 France under the ocean to Texas.

21 MR. FISHBERG: That would be something.

22 MR. SILVERMAN: We never suggested that.
23 However, can you just talk about what the customer
24 thinks as an advantage to having a pipeline right next
25 door?

1 MR. MATUSEWITCH: Well, of course, they can
2 just call us up and ask us to turn the spigot on.
3 They don't have to worry about waiting for delivery on
4 railcars. They don't have to worry about heating a
5 railcar and loading it. They can get it really when
6 they need it. As far as for inventory, they don't
7 have to carry a railcar sitting on their facility for
8 20, 30 days or whatever it is until they can unload.
9 They're invoiced when we turn the spigot. It's a
10 great advantage for them. It saves a lot of manpower,
11 a lot of labor, a lot of heating costs. So, it's a
12 great advantage for them.

13 MR. BOURRIER: Excuse me, I would add that
14 in many times, we have experienced the case when
15 somebody from the customer's impressions -- came to an
16 impression in setting up. It's just beside it, so
17 it's 200 yards, something like that, and just asking
18 for a transfer, immediate transfer. That's a plus.

19 MR. FISHBERG: So, the shipment costs up
20 front from France might be more expensive, but the
21 flexibility it allows its company is well worth up
22 front costs or whatever transportation costs they
23 might incur?

24 MR. SILVERMAN: Well, I think they testified
25 -- this is Bill Silverman, again. I think they

1 testified that in order to get approval to build that
2 facility, they consulted with all their major
3 customers -- or many of their major customers, who
4 said it was a great idea for the convenience that you
5 mentioned. It was part of the business plan, knowing
6 that they would find it a convenience.

7 MR. FISHBERG: And, Mr. Silverman, when you
8 -- again, same question I asked Petitioners. The
9 Federal Circuit, as you well know, handed down the
10 Bratsk opinion and if you could just, in your post-
11 conference brief, address the applicability of it.
12 But, assume, based on what I've heard, might say the
13 first triggering factor is probably not met for
14 Bratsk. It's a commodity product. Is that correct?

15 MR. SILVERMAN: That's right. We'll be glad
16 to look at it and we'll highlight the fact that the
17 importer from China is DuPont. I don't know how that
18 fits into the Bratsk analysis, but it's a nice twist
19 that they finally admitted.

20 MR. FISHBERG: Okay, thank you. You agree
21 with Petitioners, I guess, and I think you did, I
22 think I heard it in the testimony today, that I guess
23 the goal of a sodium metal plant is to run it full 100
24 percent capacity utilization. Again, this might be
25 proprietary, but if you could just provide your own

1 experience at MSSA's plant, what your capacity
2 utilization rates are currently, that would be
3 helpful. It's already in the questionnaires.

4 MR. BOURRIER: Yes. Currently, our capacity
5 utilization rate is very high. We will give you the
6 figures in writing, but it's --

7 MR. SILVERMAN: It is in the questionnaire
8 response with some explanation and if there's
9 something additional, we'll be glad to supply it.

10 MR. FISHBERG: Would you, also, agree, I
11 guess Petitioners also stated that there really isn't
12 any seasonality to this product. Would you agree with
13 that statement?

14 MR. MATUSEWITCH: No, I agree. There is no
15 seasonality.

16 MR. FISHBERG: A couple more. What are the
17 major export markets for sodium metal produced in
18 price? I know U.S. for one, I think China was
19 mentioned as another one. Are there any other export
20 markets for sodium metal from France?

21 MR. BOURRIER: We ship, of course, a lot in
22 Europe. We, also, export in Japan, India, for
23 example.

24 MR. FISHBERG: And how would you
25 characterize whole market demand in France? Has it

1 been -- I guess your point has been demand has been
2 increasing everywhere, is that correct?

3 MR. BOURRIER: Not in France, no. The
4 market in France is very small.

5 MR. FISHBERG: Small?

6 MR. BOURRIER: Yes.

7 MR. FISHBERG: Okay. And, again, probably
8 best in your post-conference brief, but if you could
9 provide what percentage of your production goes to the
10 home market, that would be helpful.

11 MR. BOURRIER: Of course, no problem.

12 MR. FISHBERG: Now, I think the Petitioners
13 in the petition and I think they mentioned it this
14 morning, Exhibit 4, there was -- I guess there was
15 something that was found on MSSA's website, which
16 stated that 90 percent of the company's turnover is
17 from exports. I think it was like that statement was
18 probably from 2005 or something. Is that still
19 accurate, that around 90 percent --

20 MR. SILVERMAN: All those numbers are in the
21 foreign producer questionnaire. They're already in.

22 MR. FISHBERG: Okay. All right. And,
23 finally, Mr. Silverman, in your post-conference brief,
24 could you just address the factors the Commission
25 traditionally considers in conducting its threat of

1 material injury analysis?

2 MR. SILVERMAN: We shall.

3 MR. FISHBERG: Great. Thank you, very much.

4 I have no further questions.

5 MR. CARPENTER: Mr. Benedick?

6 MR. BENEDICK: For the record, Gerry
7 Benedick, Office of Economics. I have just a few
8 questions. But before I start, I would like to have a
9 couple of the witnesses to follow-up in the post-
10 conference brief, if you would, and Ms. Sloane, if you
11 could tell me what the price increase was, percentage
12 price increase due to the exchange rate fluctuation
13 and what period that price increase took place would
14 be helpful.

15 MS. SLOANE: Yes, sir, I'll submit that in
16 the confidential.

17 MR. BENEDICK: Thank you. And Mr. Merz,
18 could you give us the name of the firm that there was
19 a lot of discussion about in your testimony? I know
20 you don't want to name them in public, but if you
21 could do that in confidential, that would be helpful.
22 Thank you.

23 And Mr. Matusewitch, you had mentioned the R
24 grade being sold here in the United States from France
25 and that there was a comparable DuPont grade, but that

1 did not perform as well as MSSA's R grade.

2 MR. MATUSEWITCH: I think DuPont claimed it
3 was comparable; but, in fact, it wasn't. It had a
4 much higher level of calcium. The R grade has 10 ppm
5 of calcium and DuPont's grade was higher.

6 MR. BENEDICK: How much higher? Well, how
7 much was it, do you know?

8 MR. SILVERMAN: We'll give you the name of
9 the purchaser and the purchaser will explain all the
10 problems that they had with the --

11 MR. BENEDICK: Well, if you give me the
12 name, also give me a phone number.

13 MR. SILVERMAN: We will do that.

14 MR. BENEDICK: And the name of the company.
15 That would be helpful, too.

16 MR. SILVERMAN: We'll do that.

17 MR. BENEDICK: Thank you. Okay. I'd like
18 to know the share of MSSA's and Columbia's reported
19 inventories in the U.S. of the imported French product
20 for 2006 that would be available to supply additional
21 U.S. demand or, alternatively, what share was
22 committed to its current customers in the United
23 States?

24 MR. SILVERMAN: So, that's a breakout of
25 already sold inventory versus not already sold

1 inventory?

2 MR. BENEDICK: Correct, in the United
3 States.

4 MR. SILVERMAN: We'll do that.

5 MR. BENEDICK: And I'd like the same
6 information for the producer in France, what percent
7 of the inventory that they reported in the
8 questionnaire response would be available for
9 additional demand and what percent. And this would be
10 just for 2006.

11 MR. SILVERMAN: We'll get that for you.

12 MR. BENEDICK: Thank you. Next question
13 probably for Mr. Matusewitch and you may want to,
14 again, respond in a post-conference brief. It may be
15 confidential. Please discuss how your firm negotiates
16 prices with its customers for which it supplies sodium
17 metal for one or more years under a single contract or
18 agreement. Also, indicate to what extent a bid
19 process is used. And do larger sales typically
20 receive lower prices than smaller sales, such that
21 volume is important to achieve a lower price? And if
22 you would prefer to do that post-conference, certainly
23 feel free.

24 MR. MATUSEWITCH: Lots of aspects. It's
25 best to do it in a comprehensive way, because there

1 are several questions inside that one.

2 MR. BENEDICK: Yes, thank you. Okay. And
3 this might be for Mr. Matusewitch, as well. I'll let
4 Mr. Silverman decide, who he would like to give this
5 one to. What role has the strength in Euro had on any
6 exports of sodium metal by MSSA to the United States
7 and for what time period would this have occurred?
8 And if you want to consult -- it might not necessarily
9 be confidential, but if you want to consult and do it
10 in a post-conference.

11 MR. SILVERMAN: It's an answer, which
12 requires going into individual contracts. As the
13 industry knows, many sales are connected to long-term
14 contracts.

15 MR. BENEDICK: Right.

16 MR. SILVERMAN: They're not tied to daily
17 fluctuations in the exchange rate. We'll explain that
18 in more detail.

19 MR. BENEDICK: Okay. That would be helpful.
20 Also, please explain any increase in U.S. shipping
21 cost since January 2004; for instance, increasing fuel
22 cost, shift in composition of customers that are
23 located further away, changes in shipping regulations,
24 or changes in the composition of the quality or the
25 amount of calcium in the product. I don't know

1 whether a lower calcium product requires different
2 shipping logistics than a higher calcium product.

3 Okay. We, also, received imports of ingots
4 from France of the sodium metal, and this again would
5 probably better in a post-conference brief. If you
6 could list the different grades of the calcium in the
7 sodium metal in ingot form or if there's only one --

8 MR. MATUSEWITCH: There's only one grade and
9 that would be the standard, less than 400 ppm.

10 MR. BENEDICK: Less than 400. So, it
11 wouldn't be the So Pure grade. Okay. And could you,
12 also, indicate the number of size and configurations
13 of the ingots that are sold here in the United States?

14 MR. SILVERMAN: I'm sorry?

15 MR. BENEDICK: Indicate the number of
16 different sizes and configurations of ingots that
17 would be sold in the United States.

18 MR. SILVERMAN: We'll provide you in the
19 post-conference.

20 MR. BENEDICK: And I know you make
21 comparisons with other ingots, primarily the Chinese
22 coming in. If you could also compare the sizes and
23 configurations of those ingots and how you compete
24 with that?

25 MR. SILVERMAN: We shall.

1 MR. BENEDICK: Okay. Thank you. I have no
2 further questions at this time and thank you for your
3 responses.

4 MR. CARPENTER: Mr. Boyland?

5 MR. BOYLAND: Good afternoon. One quick
6 question regarding what I think was referred to as the
7 transloading facility. This is the pipeline that
8 we've been discussing, 'pipeline?' Well, first, I
9 want to make sure I'm referring to the same thing that
10 you're referring to.

11 MR. MATUSEWITCH: The pipeline is part of
12 the transloading facility.

13 MR. BOYLAND: Okay. And that's in Pasadena,
14 Texas?

15 MR. MATUSEWITCH: Yes.

16 MR. BOYLAND: The first question was who
17 owns the infrastructure? Is it MSSA?

18 MR. MATUSEWITCH: Yes; MSSA, yes.

19 MR. BOYLAND: So, the customers don't pay
20 anything indirectly, in terms of infrastructure
21 surcharges? Basically, everything that they pay is up
22 front in the price?

23 MR. BOURRIER: The price is delivered duty
24 paid.

25 MR. BOYLAND: And MSSA handles everything in

1 terms of cost related to the infrastructure, itself?

2 MR. BOURRIER: Exactly, yes.

3 MR. BOYLAND: Okay, thank you. I have no
4 further questions.

5 MR. CARPENTER: Mr. Greenblatt?

6 MR. GREENBLATT: It's turning red, by the
7 way. Yes, I'm just trying to understand something,
8 very, very basic, is the significant problem that you
9 allege about DuPont's process. And if you have a
10 significant problem and it's not that costly, you
11 would expect that they would overcome that problem.
12 How do you explain that they haven't?

13 MR. MATUSEWITCH: I think you'll have to ask
14 them.

15 MR. GREENBLATT: Okay. But, do you see
16 basically your process as basically as being more or
17 less the same?

18 MR. BOURRIER: Yes. Our process, the main
19 part of our process is basically the same, yes.

20 MR. GREENBLATT: Okay. Since I raised the
21 question, that question can be for -- I would also ask
22 if you have any market studies or something in the
23 literature that relates to any of the issues in the
24 case, that you provide that to us, if you haven't
25 already. And I would also ask DuPont to do the same.

1 Any article in Chemical and Engineering News, Chem
2 Week, or some of the more specific journals that might
3 cover your industry. I have no further questions.

4 MR. CARPENTER: Mr. Corkran?

5 MR. CORKRAN: Douglas Corkran, Office of
6 Investigations. Thank you, very much, for coming to
7 testify today. It's been tremendously helpful. I
8 have a few questions. One, when I was following the
9 initial testimony, there was discussion that the
10 growth in exports to the United States largely
11 accounted for by the ability to reduce the amount of
12 mud that customers were -- or sludge that customers
13 were experiencing. And I believe the method was given
14 for that reduction, but I missed it in my notes. How
15 is it that you're able to offer a product with less
16 calcium in it?

17 MR. BOURRIER: It's a special process we
18 have developed and that's all I can say.

19 MR. CORKRAN: Okay. I appreciate that. I
20 couldn't tell from my notes whether you had been more
21 specific or not.

22 MR. BOURRIER: There's nothing more specific
23 that I can say.

24 MR. CORKRAN: Okay. I can appreciate that.
25 One of the questions that -- or one of the points of

1 discussion has been the different grades that are
2 produced in France. I'd like to be more specific, in
3 terms of our request for information on that. If I
4 understood correctly, there are three grades that are
5 offered: S plus, So Pure, and R; is that correct?

6 MR. BOURRIER: Exactly, yes.

7 MR. CORKRAN: That is correct, okay. What I
8 would like, if you could provide this in your post-
9 conference brief, is based on the exports from the
10 French producer, the volume of exports to the United
11 States, specifically, the quantity of exports to the
12 United States of each of those three grades during the
13 time period for which we are collecting data, 2004,
14 2005, 2006, and then January through September 2006
15 and January through September 2007. This, in a way,
16 is a follow-up to the issue raised by Mr. Fishberg, to
17 ask -- to reel it tight, try to quantify the growth in
18 each of those grades.

19 MR. BOURRIER: Of course, we'll do it.

20 MR. CORKRAN: Separately, I wondered if you
21 could provide data for the same five periods, based on
22 exports to the United States, in ingot form and in
23 other forms. Again, I'd just kind of like to see what
24 the trend is and the relative volumes are for those
25 products.

1 MR. BOURRIER: Okay, no problem. We'll do
2 it.

3 MR. CORKRAN: Okay, thank you, very much. I
4 appreciate that. When you began offering the So Pure
5 grade, was that in response to new products that were
6 being offered downstream that required the lower
7 calcium content or were these for existing products
8 that were in the marketplace?

9 MR. BOURRIER: In fact, we provided this new
10 grade in front of the numerous items, histories we
11 learned from the customers about bringing tanks full
12 of mud. So we provided this grade to improve the
13 performance for deliveries or service to the
14 customers.

15 MR. CORKRAN: Okay. I'm just going to
16 paraphrase that and please tell me if I'm paraphrasing
17 wrong. But, the So Pure grade was not in response to
18 a new product demand, but it was in response to
19 customer feedback regarding the product.

20 MR. BOURRIER: Exactly, yes.

21 MR. CORKRAN: Okay.

22 MR. SILVERMAN: In a sense, DuPont is our
23 best salesman.

24 MR. CORKRAN: I'd like to get into an issue
25 that was touched upon in this morning's discussions.

1 Among other markets that DuPont mentioned, they
2 mentioned several markets outside the United States.
3 One of those markets was Europe. You've identified
4 Europe as one of your own export markets, as well. Do
5 you find yourself competing head-to-head with DuPont
6 in markets outside the United States?

7 MR. BOURRIER: Yes, sometimes, of course.

8 MR. CORKRAN: And I believe DuPont's
9 testimony this morning was that they viewed their
10 competition outside the United States, as they had
11 been fairly successful in competing outside the United
12 States. Is that your view, as well, or do you have a
13 contrary view?

14 MR. BOURRIER: I do not agree; I do not
15 agree.

16 MR. CORKRAN: Okay. Do you find for your
17 non-U.S. customers that you are seeing some of the
18 same issues involving calcium content or is that
19 something that is specific to the United States
20 market?

21 MR. BOURRIER: No, no, we've seen this also
22 in Japan, for example.

23 MR. CORKRAN: Is there anything distinctive
24 about the sodium metal that you sell in your home
25 market of France? Are there particular applications

1 that are unique to the French market that you don't
2 see in markets outside of France or particularly in
3 the United States?

4 MR. BOURRIER: Once again, the French market
5 is very, very small and it has nothing to do -- to be
6 compared. In terms of applications, even talking with
7 big areas, like Europe, Japan, USA, India, China,
8 whatever, you cannot always find the same applications
9 in the same area. Most of them, you will find
10 specific applications, depending on processes that are
11 specific. They are owned by a company, for example,
12 in Japan, not in the USA, and vice versa.

13 MR. CORKRAN: The reason I was asking and
14 maybe you can elaborate in your post-conference brief,
15 I was interested in the realm of nuclear applications
16 and whether that was still being offered in the United
17 States and whether that was offered as from France.
18 But, if you could elaborate on that a little bit in
19 your post-conference brief, I really would appreciate
20 that.

21 MR. BOURRIER: Yes.

22 MR. CORKRAN: And with that, I have no
23 further questions.

24 MR. CARPENTER: Just a few additional
25 questions. Mr. Bourrier, if I could begin with you.

1 Once again, looking at the quality issue, with respect
2 to the sodium metal that you sell into the U.S.
3 market, have your customers raised any quality issues
4 regarding your product during the last three or four
5 years?

6 MR. BOURRIER: I think no.

7 MR. MATUSEWITCH: Never.

8 MR. CARPENTER: And Mr. Bourrier, with
9 respect to your sales in the U.S. market, I take it
10 you have not heard any complaints from customers; is
11 that correct?

12 MR. BOURRIER: No, no complaints.

13 MR. CARPENTER: Thank you. One of the
14 reasons that was given in your testimony for increased
15 sales of the French product was that some customers
16 allegedly shifted some of their purchases away from
17 DuPont during the period of investigation, because
18 they wanted a second source supply. My question is,
19 since MSSA is allegedly the largest producer in the
20 world and has been in this market for quite some time,
21 why have these customers not approached you earlier
22 for a secondary source of supply, if that was a
23 concern to them?

24 MR. MATUSEWITCH: I can answer that
25 question. That's because until before 2004, we never

1 had the ability to deliver sodium by railcar, which is
2 by far the largest consumption of sodium in the U.S.
3 It wasn't until we built a transloading facility and
4 purchased railcars that we had the ability to supply
5 this market, where we can sit down and talk to
6 customers, let them know there is available another
7 source, and that's how we started.

8 MR. CARPENTER: I see. Thank you. The next
9 question for Ms. Sloane. You had indicated that you
10 had to shut down your plant to remove sludge caused by
11 the DuPont product. I was wondering how long you had
12 purchased that product from DuPont before it began to
13 be a problem? In other words, how long does it take
14 for this sludge to build up to the point that you have
15 to do something about it?

16 MS. SLOANE: I don't have that answer right
17 now. We had the tank cleaned in 2001. I don't know
18 when it was previously cleaned, but I can get that
19 information.

20 MR. CARPENTER: Okay. I appreciate that.
21 If you could provide that in your brief. I'm just
22 interested whether this is over a period of months or
23 years, or approximately how long it might take.

24 Finally, the testimony that we heard from
25 the Petitioners this morning was that MSSA had

1 allegedly embarked on an aggressive pricing strategy
2 beginning around 2003 or 2004 to gain market share in
3 the U.S. market. And listening to your testimony, it
4 sounds like essentially what you're saying is that you
5 were able to increase your market share in the United
6 States because of a number of non-price factors, such
7 as quality problems with the DuPont product and desire
8 to obtain a secondary source of supply and so on. I'm
9 looking at the import data and I see that imports for
10 France have approximately tripled from 2004 to 2006
11 and the average unit value declined from about \$1.06
12 per pound in 2004, to about 92 cents per pound in
13 2006. And just on the face of it, that would seem to
14 somewhat support the Petitioner's argument. And I
15 just wondered if you have any commentary you'd like to
16 make regarding that?

17 MR. SILVERMAN: Is that the average unit
18 value from the Custom Service?

19 MR. CARPENTER: Yes. That's from the
20 official Commerce statistics, the average unit value.

21 MR. SILVERMAN: I think that the data series
22 that you have in response to the questionnaires is
23 more accurate.

24 MR. CARPENTER: Okay. Would you like to --
25 MR. SILVERMAN: We'll comment on it anyway.

1 But, I think the --

2 MR. CARPENTER: Okay.

3 MR. SILVERMAN: -- the data series is more
4 accurate. I'm not in a position to discuss what that
5 data series says.

6 MR. CARPENTER: Okay. I'd also appreciate,
7 then, if you're saying that the imports -- or that the
8 import questionnaire data are more accurate, if you
9 could explain in your brief why you believe that they
10 are more accurate and what problems may be involved in
11 using official import statistics.

12 MR. SILVERMAN: Okay.

13 MR. CARPENTER: Thank you. Are there any
14 other questions from staff?

15 (No response.)

16 MR. CARPENTER: Not seeing any, again, thank
17 you, very much, panel for coming here for your
18 presentation and your responses to our questions. I
19 appreciate it. I will take just a short break of five
20 to 10 minutes and finish with the closing statements,
21 beginning with the Petitioners.

22 (Whereupon, a short recess was taken.)

23 MR. CARPENTER: Could we resume the
24 conference now, please? Mr. Jaffe, whenever you're
25 ready, please begin.

1 MR. JAFFE: Good afternoon. Matthew Jaffe
2 with the law firm of Crowell & Moring on behalf of
3 Petitioner DuPont. Before I begin my concluding
4 statement, I would just like to clarify for the
5 record, this is a case against sodium metal, not
6 sodium methylene, from France.

7 With that said, I think Mr. Gagne actually
8 said in his opening statement that this was a classic
9 case. When I heard that word, I was thinking about
10 classic mysteries, perhaps. I think Mr. Silverman
11 said, a puzzle. I was thinking a little bit about
12 Dragnet, just kind of jumped into my mind. A famous
13 saying from that particular show, from my era, just
14 the facts; just the facts, ma'am, just the facts.

15 We've walked into a room, a room, in which
16 there are two companies. One company is standing.
17 That's Mato. The other is on the ground. It's
18 DuPont. And Mato turns to you and let me summarize in
19 one word what their argument is, oh, my God, DuPont
20 has committed suicide.

21 Just the facts. You look at the room, the
22 conditions that are in the room, two companies: Mato
23 and DuPont. There are no other French imports. No
24 other domestic producer. Really, no non-subject
25 imports. Really focused on just two.

1 Substitutes, well, there's no real
2 substitutes here. We've heard testimony to that fact.
3 It's just sodium metal and it's mature, a relatively
4 mature industry, technology that's well known for
5 years; demand, well known for years. I believe in a
6 response to a question that was put by the Commission
7 staff, Mato said that, well, the customers, they
8 weren't responding to new demand, but really for
9 existing products. So all this discussion about the
10 possibility of demand in the future, now, if you look
11 at the 2004-2007 period, existing products.

12 I'm going to offer an exhibit here, Exhibit
13 No. 1. We'll attach it to our post-conference brief.
14 It comes from Mato's website, 1999-2000. The capacity
15 for the electrolysis of sodium is doubled. MSSA, the
16 only producer of sodium in Europe, becomes the world's
17 number one producer of sodium metal, et cetera.
18 Mature market.

19 Do I see motive here? Do I see motive, a
20 doubling of capacity in a mature area where there is
21 no demand? None of this biodiesel in 2000, certainly
22 not to this extent.

23 What about intent? I think we had Exhibit
24 2, was actually read into the record. It appears as
25 Exhibit III-4 to our petition. Mato's success in the

1 U.S. sodium metal market, again saying that it is our
2 intent -- now, we don't have to prove intent -- but
3 it's our intent to come into this market and go from
4 10 percent to 30 percent and the facts, just the
5 facts, indicate a surge from five million to 15
6 million, a surge of 200 percent, tripling over the
7 period of investigation.

8 So, what's the MO? What's the modus
9 operandi. There's a lot of discussion about demand.
10 But, we're really talking -- we're not talking 1,000
11 customers here. We're not talking 50. I think when
12 we had earlier here, people around the table were
13 talking less than 20. And I think someone testified
14 that when it comes to meaningful demand, maybe 10
15 customers.

16 Now, what needs to be understood is that
17 DuPont and, again, testimony on the record indicates,
18 sold to each one of the customers that Mato now sells
19 to. They would like to tell you that it's a quality
20 issue, but didn't they say, oh, some of these people,
21 it's second supply, they're looking for a second
22 supply source. So, wait a minute, 80 percent from
23 DuPont and 20 percent from Mato and yet there's a
24 quality issue.

25 Also, that pipeline company, do you remember

1 that? They buy currently from DuPont and have for a
2 number of years.

3 And then there's Exhibit 4, which, of
4 course, we'll enter into the record again, again from
5 Mato's website under the chemical specification.
6 Technical quality, their tech grade, their standard
7 grade, it's listed above So Pure, 'regular cleaning of
8 containers guarantees, guarantees that the product
9 complies with technical specification. The technical
10 quality can meet the needs of most users.' Again, we
11 have a situation here, in which we have a discrepancy.
12 The facts show one thing, notwithstanding the
13 testimony.

14 Now, this isn't a suicide. There's no
15 mystery here. Who done it? Mato. How did they do
16 it? A poisonous price.

17 There is another investigator in the room.
18 It's called the Department of Commerce. They will
19 determine whether or not this price, whether it's
20 undersold, the same, oversold, or whatnot, is a less
21 than fair value price. That's their job. But, it's a
22 poisonous price none the same. And if you go to what
23 we call Exhibit 5 to the factual record here, the lost
24 sales, the lost revenues, the affidavit of Mr. Brian
25 Merrill already entered on the record, you will see

1 how over the period of investigation Mato came in with
2 a poisonous price and we lost sales and we lost
3 revenue.

4 DuPont has not been complacent over this
5 period. They have tried to come in and compete and
6 they have done well. But when you're computing
7 against an unfair price, there comes a point, in which
8 you have to look for an anecdote to the poison.

9 This isn't suicide. It's an attempt to
10 murder. DuPont sodium metal business is not dead yet.
11 On behalf of DuPont, I request that during the
12 preliminary phase of this investigation, that you
13 grant us our request for the anecdote that we seek, in
14 the form an antidumping relief. Thank you.

15 MR. CARPENTER: Thank you, Mr. Jaffe. Mr.
16 Silverman, your turn?

17 MR. SILVERMAN: Okay. I'm shocked, I'm
18 shocked that we've got attempted murder in this room.
19 It's the newest technique I've ever heard for oration,
20 but let's try to get back to the statute and the
21 standards and the facts. I mean, the idea that
22 DuPont, one of the biggest companies in the world, is
23 going to be murdered by imports of sodium metal from
24 this French company, give me a break. Let's get back
25 to the facts.

1 They start out by saying this was a classic
2 and simple case. Well, it's a classic and simple case
3 if you look at the facts, if you just read the
4 petition. If you don't talk to the customers, if you
5 don't look at the data in the response to the
6 questionnaires, if you don't listen to the testimony,
7 and if you don't listen to -- you don't read the other
8 materials, they're in the file, classic and simple it
9 is not.

10 One of the key issues here is -- we've given
11 you a number of reasons why imports have increased
12 during the period of investigation. And it's true,
13 that one reason doesn't explain all of them. There's
14 one reason for this customer, another reason for that
15 customer, another reason for that customer. One
16 reason doesn't apply to all. Some, it's second source
17 and maybe they want a different ratio, but long-term
18 contracts don't allow more. Some, it's second source.
19 You heard witnesses here today talked about they don't
20 want to buy their raw material from DuPont, that
21 little company that might get murdered, they don't
22 want to buy from DuPont, when they're competing with
23 DuPont in the downstream market. That applies to some
24 customers, but not others. We had a customer talked
25 about the terrible problems with the residue and the

1 blocking of pipes. That's not every customer.

2 But my point is, there's a list of non-price
3 factors that explain the pattern of sales here. The
4 introduction of this So Pure grade was a factor. We
5 estimate that 90 percent of the growth was related to
6 quality associated with that. Talk to the customers,
7 talk to the customers and let them tell you what it's
8 like to have sludge and mud in their system.

9 You know, in response to that, here's what
10 they said. To the best of my handwriting here, 'fine
11 details about purity,' fine details, that was one of
12 the statements that they made. Is this case about
13 fine details about purity? Or is it, as Ms. Sloane
14 said, we had to have special equipment with not sledge
15 hammers, but hours taking the stuff out of the tubes -
16 - out of the storage containers. And other people
17 complained, the same thing. If they think that's fine
18 details about purity, they don't know what the
19 customers are going through. And clearly they don't,
20 because when you asked the question, they didn't have
21 an answer. How can they say they're serving the
22 customers when they don't know customers are
23 suffering? Their answers were so vague on, well, we
24 filter it, we don't filter it. That's why customers
25 find non-price reasons.

1 But, I thought the best point they made, the
2 one I remember was, it's like Ivory Soap, 99 percent
3 pure. Now, I'm not a chemist and I was pre-med once,
4 but I'll tell you, if you're telling sophisticated
5 chemical purchasers, don't worry about the impurities,
6 fine details about impurities, because it's just like
7 Ivory Soap. That's one hell of a sale's pitch when
8 you're dealing with sophisticated purchasers. And,
9 again, check with the purchasers and let them tell you
10 about using jack hammers to get the crap out of their
11 storage tanks and they'll tell you, use Ivory Soap, it
12 comes out easily.

13 There was a statement just made about
14 increasing capacity seven years ago in France, 2007.
15 Check a little more detail and you'll find out that
16 another European producer stopped producing at that
17 time and the French enterprise decided that with a
18 decline in capacity in France, it was an opportunity
19 in France, and that's why they increased their
20 capacity.

21 The quality differences stand in the record
22 as a non-price reason. And as far as a growing market
23 goes, I don't care how many times they protest, we've
24 given you testimony and projections and you'll find
25 it. This is definitely germane to present tense

1 injury, because people are making contracts now for
2 next year, and it's germane to a determination you
3 have to make regarding threat. But equally important,
4 it tells you that this is not something they
5 understand or they're not telling you the whole story.
6 They don't understand that titanium is going to be a
7 big use, that biodiesel is a big growth area. They
8 keep saying the word, mature, mature, mature. It
9 doesn't matter how many times you say it, listen to
10 the witnesses. And we'll give you more projections on
11 that, too.

12 On bricks, it's a real puzzle to me. We
13 don't see that bricks are substitutable for bulk.
14 It's a separate sub-market covered by the case.
15 DuPont must recognize that they can't sell their bulk
16 material to a brick user and that's why they went to
17 China to import. And as I said before, it's
18 interesting they're doing that, since apparently, they
19 sold the technology to the Chinese and maybe they're
20 reaping some benefits from selling the Chinese that
21 technology.

22 Anyway, understanding the U.S. market for
23 sodium metal is like studying a kaleidoscope. There's
24 a diverse range of products that are made with sodium
25 metal as a catalyst or an ingredient, ranging from

1 pull and paper bleaching, polysilicone wafers,
2 additives for biodiesel, titanium production, pigments
3 for specialized paints. Think about that breadth.
4 Each market has its own dynamic, different set of
5 supply and demand conditions. But whichever lens is
6 turned at this industry adds up to no reasonable
7 indication of injury by reason of sodium metal imports
8 from France.

9 DuPont has no volume effects case, because
10 any adverse volume effects are due entirely to its
11 shutdown of -- the shutdown of DuPont's second biggest
12 customer and that shutdown had nothing to do with
13 imports from France. Their alleged sales due to
14 imports are just factually wrong. And you'll find out
15 when you contact them, for non-price reasons, people
16 have switched or because of the fact they don't want
17 to be dependent on their raw material supplier, when
18 they're competing with DuPont in the aftermarket, the
19 downstream market.

20 Now, the case on price is -- prices is even
21 weaker. I can't go into the details, because it's
22 covered by the administrative protective order, but
23 the data in the record show that the price trends or
24 price comparisons contradict DuPont's anecdotal kind
25 of allegations here in the testimony. And regarding

1 impact, they can't show anything even resembling a
2 casual link between the volume and prices, on the one
3 hand, and profits and other indices on the other. No
4 correlation means no causation. For most of the
5 period, the data simply don't show the kind of trend
6 the Commission normally sees in a case that did have
7 some merit. Moreover, changes in capacity
8 utilization, production, shipments, and employment in
9 the interim 2007 period due to the closure of DuPont's
10 second biggest customer is not due to subject imports.

11 I started off by saying that this is not a
12 classic case, because a classic case is one where the
13 domestic industry expects the Commission to do what it
14 wants it to do. With little data, no knowledge of the
15 customers, as they evidence here today, they expect
16 you to just approve it. This is a case, it stinks.
17 This is a case that is empty. This is a case where
18 the data conflict with what they say. And what they
19 have evidenced here today, better than we ever could,
20 that they're non-price reasons for people buying from
21 France and they're total insensitivity to what
22 customers are going through was evidenced when they
23 couldn't even answer the question. When you think
24 about this case, as we go through it, I think that's
25 what I'm going to remember most about this hearing,

1 they don't understand the difficulties customers are
2 going through, so they can't understand this idea of
3 quality makes a difference. Thank you.

4 MR. CARPENTER: Thank you, Mr. Silverman.
5 On behalf of the Commission and the staff, I want to
6 thank the witnesses, who came here today, as well as
7 counsel for sharing your insights with us and helping
8 us to develop the record in this investigation.

9 Before concluding, let me mention a few dates to keep
10 in mine. The deadline for the submission of
11 corrections to the transcript and for briefs in the
12 investigation is Friday, November 16th. If briefs
13 contain business proprietary information, a public
14 version is due on November 19th. The Commission has
15 tentatively scheduled its vote on the investigation
16 for December 6th at 11:00 a.m. It will report its
17 determination to the Secretary of Commerce on December
18 7th. And Commissioners' opinions will be transmitted
19 to Commerce on December 14th.

20 Thank you for coming. This conference is
21 adjourned.

22 (Whereupon, at 1:51 p.m., the preliminary
23 conference in the above-entitled matter was
24 concluded.)

25 //

CERTIFICATION OF TRANSCRIPTION**TITLE:** Sodium Metal from France**INVESTIGATION NOS:** 731-TA-1135 (Preliminary)**HEARING DATE:** November 13, 2007**LOCATION:** Washington, D.C.**NATURE OF HEARING:** Preliminary conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: November 13, 2007**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