UNITED STATES
INTERNATIONAL TRADE COMMISSION

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Room 101
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Washington, D.C.

Tuesday,
November 27, 2007

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

APPEARANCES:

Staff Present:

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DANA LOFGREN, INVESTIGATOR
MARY JANE ALVES, ATTORNEY/ADVISOR
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APPEARANCES (CONT'D)

In Support of the Imposition of Antidumping and Countervailing Duties:

On behalf of General Chemical, LLC:

DOUGLAS McFARLAND, Director of Business Development and Technology, GenTek, Inc. Performance Chemicals

TOM NELSON, Manager, Sales and Marketing, General Chemical, LLC

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Of Counsel:

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In Opposition to the Imposition of Antidumping and Countervailing Duties:

On behalf of BASF Corporation:

WILLIAM J. WORK, Business Manager Inorganics and Electronic Chemicals, BASF Corporation

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On behalf of BASF Corporation:

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I N D E X

P R O C E E D I N G S

(9:30 a.m.)

MR. CARPENTER: Good morning and welcome to the United States International Trade Commission's Conference in connection with the preliminary phase of Countervailing Duty and Antidumping Investigation No. 701-TA-453 and 731-TA-1136-1137 concerning Imports of Sodium Nitrite from China and Germany.

My name is Robert Carpenter. I'm the Commission's director of investigations, and I will preside at this conference. Among those present from the Commission staff are, from my far right, Douglas Corkran, the supervisory investigator; Dana Lofgren, the investigator. On my left, Mary Jane Alves, the attorney-advisor; Catherine DeFilippo, the economist. In a moment, we will be joined by Charles Yost, the auditor; and, finally, Robert Randall, the industry analyst.

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

Are there any questions?

(No response.)

MR. CARPENTER: If not, I understand, Mr. Jaffe, you're waiving your opening statement, so, Mr. McGrath, if you would come forward at this time. Welcome.

MR. McGRATH: Good morning, Mr. Carpenter and members of the staff. My name is Matt McGrath of Barnes, Richardson & Colburn, representing the only party participating in the case today, BASF Corporation of the United States and BASF A.G., the German producer.

I know everyone says this case is unique, and your job is to find the unique elements in every case, but this case actually does fall within a category or class of cases that come before the Commission from time to time in which a virtual exclusive producer or a producing monopoly comes before the government and seeks government ratification of that position through the antidumping laws.

The record that you're going to have before you and that the Commission will have to decide upon is about as complete as it's going to get and very confidential, so it's going to be difficult to talk about very much of it here at the hearing. But you do have the benefit of having as much of the data that you probably will be able to collect, even if this case were to go to a final investigation.

So I think that, under the circumstances of having

a single U.S. producer, the Commission does have an obligation to look as closely as possible to be careful before taking that leap down the road of solidifying what is currently essentially a monopoly situation.

The case has some of the characteristics that you have seen in prior investigations. One of them is recent merger activity among the only domestic producers, which has some very important ramifications for your causation analysis, and we ask that that be looked at very closely. What happened in the recent merger does have a direct bearing on whether or not there is injury and whether or not the subject imports can have anything to do with what the Petitioners are claiming to be the injury.

Another very important fact that this case has is a very clearly defined segment where there is attenuated competition that you have seen in some cases before and, in this case, a very important distinction is that there is a clear market and a clear supply line for the dry product and the solution product, or what the Petitioners have called "pure liquor."

The foreign producers of the subject imports do not compete in that market, and there are good economic reasons why that doesn't take place. So what happens in that market and how it affects your causation analysis needs to be looked at very closely.

Another thing that this case has is everybody's favorite target for dumping allegations, China, but when you look at the numbers, China really isn't that significant a player here. I think that it was added more for the impact of appearance than for any real impact that it has in the marketplace. Our clients from BASF will be happy to testify to what they have seen in the market with respect to China.

What the case does not have, and I think this is just as important, it doesn't have a large import-penetration situation. It does not have a situation where you see declining prices. What you see is all the players have been increasing prices in line with the increases in costs. So you're going to be trying to figure out what should that price increase be, and is there a distinction between the domestic and the subject imports?

This case does not have a single or a limited end use market. It's not a market that's dominated by some obsolescent, downstream use which is contracting the market. What it has is multiple end uses, some of which grow as others contract, so you have a dynamic market for end uses for the product, and that should be taken into account as well when you look at causation and the impact of imports.

What this case also does not have is any of the traditional indicators of threat. There is not a large, growing foreign inventory, there is not a declining third-country market for the product, and there is not a significant unused capacity in the foreign supplying country, none of those factors that would normally be there for threat.

So we will present evidence on each of these issues, and our witness will discuss each of them in turn, and we submit that any financial stress that can be alleged to have taken place here by the Petitioners is due entirely to developments in the market for liquid product, in which the subject imports do not compete, and that there is no material injury that can be attributed to subject imports covered by the investigation. Thank you very much.

MR. CARPENTER: Thank you, Mr. McGrath.

Mr. Jaffe, please come forward now with your panel.

(Pause.)

MR. JAFFE: Good morning. Matthew Jaffe with the law firm of Crowell & Moring. We are appearing as counsel to General Chemical, LLC. We will begin our presentation with the testimony of Douglas McFarland.

MR. McFARLAND: Good morning. My name is Douglas

McFarland. I'm the director of business development and technology for General Chemical, LLC, the Petitioner in the case. With me today is Tom Nelson. He is the sales and marketing manager for the sodium nitrite business at General Chemical. General Chemical, LLC, has headquarters in Parsippany, New Jersey, and we are a subsidiary off GenTek, which is a publicly traded company.

We produce a number of inorganic chemicals which are sold to distributors and end users primarily in the industrial market and primarily in North America. One of our divisions, which we have had for a long time, is located in Syracuse, New York, where we manufacture sodium nitrite. The facility has been making sodium nitrite since 1920.

We'll talk about it a little bit more, but the sodium nitrite process is relatively straightforward. We take ammonia, we oxidize it to nitric oxide. That nitric oxide is then reacted with soda ash to form a weak sodium nitrite solution. That weak sodium nitrite solution, we basically concentrate and purify, and then we convert it into various forms for the customer, and I'll get into that a little bit in a moment. Our process runs on a 24/7 basis, which is important, with an annual shutdown.

With that, I just want to talk a little bit about

the different products that we produce. Essentially, as I said, we make a weak sodium nitrite solution, which we then concentrate and purify to form a crystal which looks basically like this, and this is what comes off our centrifuge, and this is essentially the product, and we sell this product as is to a certain market in terms of "high-purity granular."

As you see, one of the problems with it is the hygroscopic product, and it cakes. So, from a handling perspective, the customers have had to come up with methods of dealing with that, and the primary method that we provide them with is that we take this, and we divide it up into basically three key products.

The first one is we literally take this product, add water, and make this solution. Many of the customers ultimately use it as a solution anyway, but we do that, we put it in railcars, we put in trucks, and we ship it to the customer. It really is that simple.

This plus water plus some heat agitation, and we get the liquid. Some people want it in a bag, so we add a free-flow agent. We use petro AG. Other people use a different free-flow agent, and, as you can see, it readily flows.

Not everybody wants this because not everybody wants the same level of petro AG. It's very low, but not

everybody wants that. So we also make what's called a "flake product," where we take this product and essentially compress it into a thin cake and then break it up, and, as you see, you again end up with a free-flow product.

That is essentially the products we make, and really the difference here is the handling requirements of our customers, and they have gotten to that point out of comfort and familiarity with their process. Many of them could switch, but it would probably cost some money. They could switch from, say, this product to this product, but they would have to do something in their process to do it, and the capital investment depends on whether they are prepared to do it.

The sodium nitrite is an intermediate chemical. It has a variety of chemical applications. It's used in inks and dyes in the textile and printing markets, rubber chemicals. It's used as a heat-transfer salt, corrosion inhibitor, and food preservation in hot dogs. There are some interesting pharmaceutical applications, which we'll talk about. It is used as a cyanide antidote, and there is another topic, which Tom will get into later.

Historically, the U.S. market was supplied by two domestic producers, General Chemical and Repauno, and a relatively low level of imports, around five percent.

The primary importer has historically been BASF, with imports typically of around two and a half thousand tons, and if we go into the nineties, even lower than that.

When we came to the 2004-2005 timeframe, both Repauno and General Chemical were experiencing declining financial performance. There were a number of reasons for this.

First of all, raw materials were escalating in price, which we've seen, the key raw materials being ammonia, soda ash, and, for Repauno, caustic soda. Energy was going up. There was shrinking of the domestic market, and we'll talk about that later. And we were seeing an increased penetration of imports, climbing to 4,000 tons, I believe the number was, in the 2005 timeframe.

During this period, both parties began evaluating their long-term strategies, and the outcome of that was that General Chemical agreed to buy the assets of Repauno. Our justification for that was really very simple. Our plant ran at about just above 50-percent utilization, and it was moving it to 100-percent utilization. This is a product where the fixed costs are a significant component, and running that plant at 100-percent utilization was important to us.

By the time General Chemical closed on the Repauno

purchase in the middle of 2006, there continued to be changes in the domestic marketplace and market penetration by the importers. Both Germany and China were becoming more aggressive. Repauno saw the closure of one of its top three customers, PMC Specialties, who made saccharine, and we also saw that Repauno appeared to be losing their export market into Canada, possibly to BASF.

Furthermore, the imports from Germany into the U.S. in the first six months were 3,000 tons, which was an unprecedented level, from our perspective, and China was really beginning to show up on the monthly statistics.

By the end of 2006, the U.S. market had changed so significantly that General Chemical made the hard decision to shut down Repauno. The consequent loss of jobs; the justification of this was basically to rationalize capacity and enable us to run our operations most efficiently, which is to run Syracuse at 100 percent.

The changes included Repauno did lose another customer, Chemtura, who shut down their rubber-oriented operation, but imports were now at 6,000 tons, and the Chemtura closure was of concern, but it was contained. It was a loss of five or 6,000 tons, but, on imports,

there seemed to be no limit with what they were targeting.

Our share, the domestic producers' share, of the domestic market had shrunk to 84 percent -- it had been 95 percent -- and our belief was that it would continue to shrink into 2007. In 2007, we've seen this materialize, imports heading toward seven and a half thousand tons. They will now probably have about 25 percent of the market. We don't see any restraint on this that it will continue to grow.

Furthermore, when we look at it, the only marketing weapon we see the importers using is price. This is in spite of the continued strength of the euro. Key cost drivers -- ammonia, caustic soda, energy -- were all reaching record levels, never mind the issues of transportation, revolving, again, around energy.

Our calculations suggest that German's customs value of 17 cents a pound is not that much below basically the global pricing for raw materials. Ammonia and caustic soda and soda ash are globally traded raw materials, and, surprisingly for us, and I don't know how often this is seen, that 17-cents-a-pound customs value is below the number coming out of China.

As we look into 2008, it continues to look bleak for us. We expect imports to continue to shrink our

share of the market. In a recent communication from a key distributor, we were told that BASF is keeping pricing flat through the first six months of 2008. This is in spite of an exchange rate approaching $1.50 to the euro and the continued appreciation of raw materials and energy.

One of the magazines which reports on ammonia pricing all of the time is Green Markets. They recently, which is November 23rd, reported that "natural gas prices in Europe are increasing at a rate that some producers are looking to shut down," which shows that it's not just in the U.S., it's globally, the increase in ammonia pricing.

We believe General Chemical produces sodium nitrite on a cost-efficient basis. I believe that for the foreseeable future, there is a good domestic market for General Chemical, for us to stay viable, that we can efficiently and profitably supply the market, providing there is fair competition.

However, every lost sale, every reduction in revenue due to unfairly traded imports from Germany and China is a direct hit to our bottom line. We are currently running significantly below capacity as a direct result of the unfairly priced imports from Germany and China.

If the current trend continues, I believe that General Chemical will reach a point at which its sodium nitrite sales volume is too low for our company to keep running the facility, from a financial perspective. You've seen some of that in terms of the P&Ls that we presented to you for 2004-2005.

Thanks for your time, and, with that, I'll turn it over to Matthew.

MR. JAFFE: Thank you very much, Douglas.

What I would like to do now is actually kind of go back through your testimony and kind of go into a little bit more detail. I'm going to ask some questions. We're going to start by referring to the sodium nitrite process flowchart that we've submitted to you and ask that it be included as part of the record of this particular conference.

Okay. Douglas, let's just start at the beginning of the production process. You talked about the ammonia and the air converting to form NOX, the absorption of the soda ash in the absorption tower, and then what we have what's on this particular flowchart is a "liquor tub."

At what point do we really have a sodium nitrite? Is it at this particular point?

MR. McFARLAND: When it comes out of the liquor tub, we do have a weak sodium nitrite because we react it

with soda ash that does have a level of sodium nitrite, so we do go through a purification process, which is reflected in the crystallizers and centrifuge.

MR. JAFFE: But at this particular liquor tub with soda ash, could you sell this particular weak liquor that you manufacture with soda?

MR. McFARLAND: No.

MR. JAFFE: Okay. But what if you manufactured this with caustic soda?

MR. McFARLAND: Yes, you could.

MR. JAFFE: Okay. So, at this particular point, if you use caustic soda, we believe that you could sell this as sodium nitrite liquor.

MR. McFARLAND: And, in fact, Repauno's process ran like that.

MR. JAFFE: Okay. Do you know if BASF, whether they use soda ash or caustic?

MR. McFARLAND: Our understanding is they use caustic soda, which --

MR. JAFFE: Okay. So, right now, we have basically one type of product. You now go through this evaporator-crystallizer centrifuge, and basically this is all set to create a dry form of the product. Is that correct?

MR. McFARLAND: Correct, with some purification in

the soda ash process.

MR. JAFFE: Okay. But at this particular time, if you've gone through this dry, you have sodium nitrite.

MR. McFARLAND: Yes. The product coming off the centrifuge is this product.

MR. JAFFE: So even if we look at your marketing and sales brochures, you talk about different grades. Okay? Everything, all of these grades, is really just taking sodium nitrite as it comes through and creating different forms of the product. Is that correct?

MR. McFARLAND: That's correct. It's really a marketing pitch directed at our customer base to provide them with the handling product they want.

MR. JAFFE: Okay. I think you said, in your statement, you talked about a granular, as far as dry products, a granular, a flake, and then a free flowing. Correct.

MR. McFARLAND: The free-flowing product would be this, where we, in essence, take the granular and add the anti-caking agent. This is the granular product. Caked; this is what comes off the centrifuge, and this is all flake.

MR. JAFFE: Could you pass me the granular just for a second?

MR. McFARLAND: Okay.

MR. JAFFE: Now, if I wanted to form the liquor product, I could just open this up, pour it in here, take this jug of water and pour it in here and mix it around, and I would have a liquor product.

MR. McFARLAND: That's essentially what we do.

MR. JAFFE: Okay. So you heard, in the opening statement, BASF says, We only compete in the dry; we don't compete in the liquor. Is it possible that somebody could buy a BASF dry product and easily make it into a liquor product?

MR. McFARLAND: Absolutely. Both a distributor or a consumer can buy it. He can make the strategic decision that he is going to take a dry product and basically turn it into a solution.

MR. JAFFE: In fact, Tom, I remember you were telling me a story recently of a particular distributor. Could you kind of relate how they took a dry product and made it into a liquor product?

MR. NELSON: Yes. Tom Nelson, manager of sales and marketing for the sodium nitrite product at General Chemical.

Yes. We have a technical representative who works up at the Syracuse plant, and he received a phone call from -- I believe it was a distributor who called up and said, I'm having problems taking dry material and turning

it into solution. Can you help me out?

We have some guidelines that we can provide to people for how you would turn dry product into solution, and he copied me on the e-mail and our sales rep. It's a question we get, but we, obviously, follow up on all of these kind of technical communications that come out of our technical group.

The sales rep. called up, talked to the distributor, and kind of did some digging, asked some questions, tried to figure out what was going on. It turns out he was taking dry material, actually two different manufacturers' dry material, dumping it into the back of a tank truck, basically like a gas delivery truck -- imagine that -- filled with water, mixing the two different manufacturers' dry products, basically driving it around a parking lot and sloshing it around, and he was taking out samples to do a check, and he was getting undissolved material in there.

So he called up us because we're the ones who provide a lot of the technical expertise to the customers. He asked us what was going, and what he can do to help mix this solution better, and that's when our technical rep. provided some information. But that was basically what he was doing, and what he had been doing, to create the solution for his customer.

MR. JAFFE: But, basically, if I understand it, his major mistake is that he was doing this in cold weather. Right?

MR. NELSON: Correct.

MR. JAFFE: And it doesn't mix well in cold weather, but, in warm weather, you could have easily mixed it and created liquor.

MR. NELSON: Absolutely.

MR. JAFFE: Douglas, there is one other sample before you. It's a "prilled product." Does General Chemical manufacture a prilled product in the United States?

MR. McFARLAND: We do not.

MR. JAFFE: You don't manufacture it anywhere. Right?

MR. McFARLAND: No, we do not.

MR. JAFFE: Who does manufacture a prilled product?

MR. McFARLAND: Where we've seen prilled product, it's coming out of China.

MR. JAFFE: And can you explain briefly why you believe the Chinese are manufacturing a prilled product?

MR. McFARLAND: They have opted to make a prilled product as their way of providing a material which is free flowing. As you can imagine, this product cakes

fairly quickly. It's going to spend six weeks in a container or 12 weeks in a container. It will be even worse.

So what they have done is rather than develop a method of adding an anti-caking agent or flake, they have created a prilled product. Prilling is relatively straightforward in the caustic soda business and so forth like that, and they take this product, dissolve it in water, and then put it through a prill tower.

So it is a post-handling change to the product, and it seems more than one Chinese producer has done this. You've ended up with kind of small prills, and this can then be sold to the export market. I don't believe this is targeted at the Chinese market. I believe it's targeted the export market.

MR. JAFFE: And, basically, just for my edification, a prill is like a really small bead. Is that correct?

MR. McFARLAND: Correct.

MR. JAFFE: Okay. You indicated something about a prill tower. So this actually requires additional manufacturing processes in addition to what you normally do to create a product.

MR. McFARLAND: Correct. And we wouldn't do it, in large part, because it's more energy intensive. You,

in essence, dissolve this product, and then you basically recrystallize it again through a prill tower, and we would consider that unnecessary, from an energy perspective, when you can have nonenergy-intensive ways of dealing with the same problem.

MR. JAFFE: So, actually, you would say the cost to produce a prilled product is greater than the cost to produce other products.

MR. McFARLAND: Correct.

MR. JAFFE: At this point, I would like to return again and talk little bit about the cost of your production and the cost generally to produce sodium nitrite.

You had mentioned about the increase in raw materials before and during the particular period of investigation. Could you talk about ammonia, what you're seeing as far as prices?

MR. McFARLAND: Our ammonia price is up about 50 percent since 2003 and has more than doubled since 2002. I don't think that's out of line with what has been seen in the marketplace.

MR. JAFFE: And what's driving that increase for ammonia?

MR. McFARLAND: Ammonia pricing is driven by several factors. First and foremost is natural gas. The

low-cost producing locations of ammonia are places like Ukraine, Middle East, Trinidad, where natural gas is cheap. So natural gas has gone up. That's the first item.

The second thing is the whole fertilizer market has driven up the price of ammonia.

MR. JAFFE: What about soda ash?

MR. McFARLAND: Our soda ash pricing is up about 50 percent since 2003, 2004. We do get our soda ash from Green River from Wyoming. Our source of soda ash is unique compared to the other producers of sodium nitrite.

MR. JAFFE: And unique in what way? Does it cost you more or less?

MR. McFARLAND: We have a very competitive price source of sodium because the soda ash is mined. Everybody else is getting it either from synthetic soda ash in China or, presumably, from caustic soda, which is made from a synthetic process and is very energy intensive.

Pricing of caustic soda is up much more than 50 percent over the last three years. Recently, they have announced that a $75-a-ton increase in caustic soda in the U.S., and they are talking about that sticking. I'm saying our pricing is up $75 over the last five years.

MR. JAFFE: And you switched there to caustic

soda. So just to kind of split the two, Repauno, you indicated, which was operating during the period of investigation, actually produced sodium nitrite from caustic soda. That's correct?

MR. McFARLAND: That's correct.

MR. JAFFE: Okay. And so their raw material cost for caustic soda versus soda ash, it's more expensive at that particular period, and, actually during the period of investigation, to purchase caustic soda versus soda ash, is it more expensive?

MR. McFARLAND: They had a significant escalation of caustic soda pricing through 2005. They did have a contract, which kept it flat until their closing down. More importantly, they were hurt significantly, just as importantly, by the energy cost, which impacted their variable costs.

MR. JAFFE: What about energy as a cost of production?

MR. McFARLAND: Energy is up. I think it's up for all of us. Looking at our numbers, steam is up 10 percent since 2003, electricity is up 25 percent, and natural gas is up 30 to 40 percent. However, in Syracuse, we do have a good relationship with cogen producer and the local town of Sycaway, where we're located, and we have very competitively priced

electricity and steam. So compared to global competition, our energy position would be fairly good.

MR. JAFFE: You also mentioned that you need to run the plant 24/7. Could you talk about your fixed production costs and why it's necessary to run a sodium nitrite plant 24/7?

MR. McFARLAND: The fixed costs to run the facility are significant. As you've seen, the plant is a large facility where we have, first of all, a system where we oxidize the ammonia, it goes across a catalyst bed, which is at over a thousand degrees Fahrenheit. That is not something that can be switched on and switched off. You basically start it and run it.

It then goes into a series of absorption towers, where we basically take this NOX and put it through caustic soda in a counter-current flow, and, again, this is not something which can be started at eight and shut down at four. It has to run around the clock.

With that, then you have to have manpower to run around the clock, and you have to have equipment to justify that size of operation.

The difference in cost for us to run at 15,000 tons versus 29,000 tons is not significant. So every ton that we go down basically means we're more expensive to produce.

MR. JAFFE: Okay, Tom, if I could just ask you -- we're going to switch now and really talk a little bit about the product here.

Okay. So when we're looking, we're seeing sodium nitrite, we're all basically talking to same chemical structure. Is that correct?

MR. NELSON: Correct.

MR. JAFFE: So what's different about this? Is it really just a different physical form?

MR. NELSON: Yes, a different physical form and how the customer needs it or can use it in their process.

MR. JAFFE: Okay. You sell some as technical grade, and you sell some as food grade. Could you explain the difference between those two?

MR. NELSON: Basically, it's the same product. The plant is certified to the FDA food chemical Codex standards. We have to keep in place records and follow the good manufacturing practices. The FDA does come in audit the plant to the good manufacturing practices. So we have to document our manufacturing processes.

So, really, the difference is how we segregate the product and then the certifications, if you will, that go along with the product that we sell as food grade. The technical grade doesn't get certified, if you will, that it meets the food grade standards. The food grade

product does, although the facility is kept up to the FDA standards.

MR. JAFFE: Okay. So somebody who purchased food grade and needed to buy food grade could not buy technical grade. Is that correct?

MR. NELSON: Correct.

MR. JAFFE: But what about the other way around? If I need a technical grade, could I buy food grade?

MR. NELSON: Yes.

MR. JAFFE: Okay. Also, within the technical grade, again, there is, I guess, a granular technical grade and a free-flowing. Could you, again, explain the difference between the two?

MR. NELSON: Well, the technical grade is the free-flowing product.

MR. JAFFE: Okay. Is there a granular grade that's not free flowing?

MR. NELSON: Yes.

MR. JAFFE: Okay.

MR. NELSON: And we typically talk about that as our "high-purity grade" because we haven't added the free-flowing agent, so, in effect, it's a higher purity because there isn't an added impurity.

MR. JAFFE: And why would somebody want a free-flowing technical grade as opposed to a granular?

MR. NELSON: Again, for the handling characteristics of it.

MR. JAFFE: Okay. And then, finally, just talking a little bit about price, are there differences in price among these products?

MR. NELSON: Yes, there is. The technical grade is the basic product. It's the lowest price point. The food grade is a higher price point, again, because it goes through the certification process; and then the high-purity grade, again, is a higher price point for both the flake and the granular.

MR. JAFFE: Douglas described this as an "intermediate product." Basically, what does that mean to you?

MR. NELSON: In the chemical process in which it's used, it basically is used up in the process. It either gives up the nitrogen or gives up the oxygen that's used in the chemical process.

MR. JAFFE: Okay. Using that as a seque, I want to talk little bit about the conditions of competition that you're confronting in the marketplace. I would like to start a little bit on the demand side.

Let's talk about the size of the market by how many customers. Would you say that there is, in the total market, zero to 10, 10 to 100, or maybe 100 to

1,000; which would it fall in?

MR. NELSON: Ten to 100 active customers.

MR. JAFFE: Okay. Can you give us any greater idea of exactly where?

MR. NELSON: Yes, close to 50 active customers. That includes large national distributors with multiple branches across the country; end users with multiple locations across the country, as well as distributors with individual branches or end users with individual locations.

MR. JAFFE: Okay. So you kind of indicated in your response that there's actually two channels of distribution.

MR. NELSON: Correct.

MR. JAFFE: Okay. Distributors and end users.

MR. NELSON: Uh-huh.

MR. JAFFE: Let's talk about the distributor side, if we could. Could you kind of talk about the size of the customers, you know, type of distributors? You had mentioned something about there being large distributors and small distributors. Could you give more detail?

MR. NELSON: Yes. There's primarily two large, national distributors, and they do make up the majority of the volume of the distributor business.

MR. JAFFE: And a lot of small distributors as

well?

MR. NELSON: Yes, quite a few small, mom-and-pop distributors. There has been a lot of consolidation within the distributor channel recently.

MR. JAFFE: Is there cross-competition between distributors? It's not just small versus small, large versus large. Are they all --

MR. NELSON: Right. They are all kind of competing for all of the business that's out there.

MR. JAFFE: Then you said there's end users as well, and these are companies that actually buy the product directly. Are there also large users and small users in this as well?

MR. NELSON: Yes, and we have a handful of very large direct customers and then some smaller direct customers and then a lot that are served through distribution.

So when we're looking at the market, again, just drawing back, we've talked about large-volume users and small-volume users. Would you say, of the large-volume users, there were zero to eight, eight to 16, 16 to 30? What category would it fall in?

MR. NELSON: Probably the eight to 16 that makes up 80 percent of our volume.

MR. JAFFE: Okay. So around 80 percent. And if

you were to lose one of those significant customers, would it have an impact on General Chemical at all?

MR. NELSON: Absolutely. It would have a huge impact. As Douglas mentioned, the plant likes to run 24/7, and if we lose one of those large-volume customers, then that fixed overhead gets absorbed on a smaller volume. Our costs then increase at an even faster rate, requiring even higher price increases.

MR. JAFFE: Now, Douglas talked a little bit about a shrinking demand. Is General Chemical doing anything? Are you just sitting still, or are you looking for future markets?

MR. NELSON: We're not sitting still. When I took over as managing the sodium nitrite business, I did a Web search on sodium nitrite just to familiarize myself with the market and the business and came across an article that was in USA Today in September of 2005, and actually the name of the article was "Hot Dog Preservative Could Be a Disease Cure." It kind of piqued my interest, and I actually remembered seeing that article taped to the door of one of my colleagues.

So I read the article, and it mentioned that the National Institutes of Health were doing some studies on sodium nitrite injections in human patients, people who suffered heart attacks, strokes, and actually sickle cell

disease.

So I searched on the National Institutes of Health Web site, which led me to the FDA Web site, which led me to a specific pharmaceutical company that had done some filings with the FDA.

I made a cold call to the pharmaceutical company, got in touch with the president of the pharmaceutical company, and, actually, the day after Ms. Lofgren was up at the plant, we actually met with the president of the pharmaceutical company. He brought in somebody to come in an audit our plant to the FDA standards to make sure we were meeting what we said with our G&Ps and were in discussions with them to supply sodium nitrite for their pharmaceutical applications.

MR. JAFFE: Okay. I would like to now switch a little bit to the supply side, if I could, Douglas.

You've referenced a little bit about Repauno, so I would like to actually talk a little bit about the market. If you could kind of give us a framework to start with, let's talk about before the period of investigation. We're talking the late nineties, you know, 2000 up through 2003. What's the market look like? What did you see at that particular time?

MR. McFARLAND: Through the late nineties into the 2000 timeframe, we both operated our facilities at a

reasonable capacity utilization and both had reasonable, acceptable profitability.

Starting in the 2001-2002 timeframe, we began to see some increased reduction in demand in North America largely driven by customers moving overseas, particularly, say, with the printing inks, the textile business going overseas, so basically the inks and dyes going overseas. We also began to see accelerated raw material increases in the 2002-2003 timeframe.

So the attractive or reasonable profitability that both of us had seen in the nineties basically began to decline as we came into the 2004-2005 timeframe.

MR. JAFFE: Okay. Now we're at 2004. Can you talk about what are the major factors in the marketplace that you see in 2004, leading up, basically, to General Chemical's decision to acquire Repauno?

MR. McFARLAND: First, you saw the impact of rising raw materials. There was more activity from imports. We particularly saw BASF being much more aggressive into the marketplace, I think. Repauno was particularly upset about it. That was perhaps a reflection of the activity that they also were seeing in Canada, where they were losing market share.

Repauno, furthermore, got hurt by the rise in energy costs as the result of hurricanes in the Gulf, and

2005 became a very difficult year.

It seemed that it wasn't the clear what the way out was, I think, for Repauno, and it wasn't clear that there was any release or relief from the goals and objectives of the imports coming in.

MR. JAFFE: Okay. So now you're at the acquisition table, and there is a discussion going on. General Chemical decided to acquire Repauno in 2006. Could you kind of describe exactly what's going on in 2006 that you did an acquisition in July, but then there is a closure in November? Could you kind of explain what was the acquisition, and then, really, what happened that made you decide to close it in November?

MR. McFARLAND: As I've said already, the objective of the acquisition was to, first of all, fill up the Syracuse facility, and, secondly, it was to run the Repauno facility as appropriate.

As we came into the year, as I've said, the imports began to reach record levels -- right? -- and, coupled with the loss of two of Repauno's domestic customers, suggested that keeping that operation running wasn't going to make sense. What we needed to do was rationalize our capacity and run Syracuse at capacity.

We believed there was enough business in the marketplace, although I've got to tell you, we were very

concerned as to whether this impression that we had had, that the strategy of the importers was basically to move a few thousand tons into the U.S. had changed and that they seemed to be coming, determined to take a much larger share.

First and foremost, that came, obviously, from Germany -- they had been the leading importer -- but also we saw the Chinese. They were on the import stats every month, and we have looked at the import stats on sodium nitrite for 10-plus years.

MR. JAFFE: In fact, you told me a story this morning that your counterpart at Repauno -- what did he tell you before the --

MR. McFARLAND: His parting words to me, as we were moving forward on closing on the acquisition of the assets, were, Listen, if we hadn't sold the business to you, we would have moved forward with an antidumping suit against the Germans. Frankly, it's not a process that I was completely familiar with, and that was what put the bug in my ear.

MR. JAFFE: Okay. So we see a situation in which you're closing the Repauno plant in November 2006. It's now, let's just say, January 2007. What do you see in the marketplace?

MR. McFARLAND: You know, at that point,

basically, the closure of Repauno was behind us. The market had been rationalized. I think we made the hard decision to run the domestic capacity as efficiently as possible, and we believed there was enough business out there for us to run at capacity, and we believed that we had a cost structure to do that.

However, the activity from the imports continued, and I think you see that in the statistics. Right? You see the stats, growing a thousand tons a year, but that ignores our push-back in terms of retaining share. Within that, we were pushing back and retaining share as much as we possibly could, where it was reasonable.

So if we had not attempted to do that, we felt that that market share perhaps could be down to 50 percent rather than the 75 percent we are in in 2007.

MR. JAFFE: Tom, Douglas has talked a lot about volumes. I was wondering if, during this time period -- 2004, 2005, 2006, 2007 -- you could talk what you're seeing in the sales side of the market as far as price, in particular.

MR. NELSON: Yes. We've definitely seen customers push back a lot harder on price increases and also go out to the marketplace to try and give competitive pricing. We've documented cases where we've gone to a customer, provided pricing for 2007, and they have come back and

said, Well, here is what we can get it from from your competitor. Will you match that pricing?

In cases where it's been historically our business or where it's been a pretty significant volume, we have matched that price, leading to some price suppression, and that happened through 2007.

We've also had some indications, going into 2008, as Douglas mentioned, through two different distributors, again, historic General Chemical business. We submitted pricing for 2008, and the end users that are served through distribution gave pricing for 2008, and they came back and said, We went to your competitor, and they said that they were holding pricing flat for 2008, so you'll probably want to consider your price increases for 2008.

I'm faced with my prices increasing for 2008, effective January 1st. Douglas mentioned our raw materials continue to go up. Our other costs at the plant continue to go up. Transportation costs are going up.

So, again, when we look at the market, we can't figure out how, in light of all of those facts, our competitors are able to hold pricing flat, and if I want to retain that business, my margins drop from basically close to unacceptable to very unacceptable. We were making those decisions on a case-by-case basis. It's

historic business. Do we want to maintain this volume?

It's a very difficult decision, at this point, to make on, at what point do we start walking away from business? We've made those decisions, in 2007, to walk away from business. They are strategic decisions, and if we're faced with similar choices, we're going to have to continue to walk away from business, even though it's historically been our business.

MR. JAFFE: And when you talk about your competitors, is it the same? Are you talking about German subject imports?

MR. NELSON: Specifically, it's BASF material. The distributors in question that we've talked to have access to both our material and the BASF material.

MR. JAFFE: Could you talk a little bit about what you're seeing in the Chinese side of the market?

MR. NELSON: Yes. The Chinese side of the market; again, we've gotten indications that there is now kind of a new distributor down in Texas who went out, and I don't know if they went out to try and find the material from China, but they are offering Chinese material, definitely down at Texas, again, at prices well below market prices.

MR. JAFFE: And if I recall correctly, there are actually situations in which you're seeing very favorable terms, not only as far as pricing but as far as kind of

an all-inclusive: We not only will give you this great price, but we'll give you other benefits as well. What are those other benefits?

MR. NELSON: Yes. We've had some of our large customers come to us and say, We've found Chinese suppliers who are willing to deliver material because they have large requirements, and they are concerned about delivery times from China. The Chinese supplier said, Well, we'll warehouse it locally for you. You don't have to pay for that, and we'll deliver it -- I don't know if they used just in time, but we'll deliver it from the warehouse to you so you don't have to incur any added storage fees. So we'll eliminate your fear, if you will, of running out of material and eliminate that worry about the transit time coming over from China.

MR. JAFFE: I have a few questions, Douglas, I want to clean up with you before I go back to Tom again.

Do you have an ability to reopen Repauno?

MR. McFARLAND: No, we don't. The facility has been closed down and actually has been turned back, at this point, to DuPont. The facility was actually never owned; it was under a 99-year lease from DuPont. It is an old DuPont facility.

MR. JAFFE: And with regard to your own production facility, do you have the ability to produce any other

type of product on the equipment that you have at your facility?

MR. McFARLAND: No. The facility is a dedicated sodium nitrite operation. It's been running like that for 80 years.

MR. JAFFE: So either it produces sodium nitrite, or it closes down.

MR. McFARLAND: That is correct.

MR. JAFFE: Tom, just a few more questions for you. I just want to talk a little about the competition among the various products. If we were looking at the subject imports from Germany, would you say that they are always interchangeable with your product, frequently interchangeable, sometimes interchangeable, or never interchangeable?

MR. NELSON: Always interchangeable.

MR. JAFFE: What about the same question but for the Chinese product?

MR. NELSON: Because it's worded backwards --

MR. JAFFE: Always interchangeable?

MR. NELSON: Yes, always interchangeable.

MR. JAFFE: Talking about differences between your product, differences other than price, would you say that quality, for example, between your product and the German subject imports, are there any differences in products?

Is quality a significant factor?

MR. NELSON: No.

MR. JAFFE: What about product range? Again, is that a significant factor for the German subject imports?

MR. NELSON: No.

MR. JAFFE: So, basically, they are able to offer the same exact products that you are.

MR. NELSON: Yes. The only difference may be in the flaked product.

MR. JAFFE: Okay. And you heard them state, earlier this morning, that they don't export liquor to the United States. Does that really make a difference in your mind, given what you stated earlier?

MR. NELSON: No, because it's relatively straightforward to create the liquor solution product. We actually priced the liquor product based on knowing what we know about the pricing of the dry material, what we know it takes to put it into solution, and then local transportation from where somebody would be, a distributor or a blender would be, putting it into solution to one of the large solution end users. So we take that into account when we do our pricing analysis, if you will, for an end user.

MR. JAFFE: Okay. So let's now switch to the Chinese subject imports. Again, the question about

quality. Is it really the same quality as your product, or is there a difference? You're a better quality, or you're a worse quality. Is there any difference?

MR. NELSON: We haven't heard of any quality differences. The one thing is a customer may want to qualify it in their own process before they use it, but we have not heard of anybody testing it and not qualifying it.

MR. JAFFE: And, again, the product range; the only thing that we're seeing here is prill, but can it basically be used in the entire product range that you have before you?

MR. NELSON: The only thing I would say is that we have not, to this point, seen a food grade product come in.

MR. JAFFE: But as far as technical grade, free flowing, granular, and competing with the flake, it basically competes with all of those particular products.

MR. NELSON: Yes.

MR. JAFFE: And it could be used to manufacture the liquor product as well.

MR. NELSON: Absolutely.

MR. JAFFE: So how important, then, is price? Do you think price is very important to competition, only so-so important, or unimportant?

MR. NELSON: Very important.

(Pause.)

MR. JAFFE: Thank you, Mr. Chairman. That concludes our direct presentation.

MR. CARPENTER: Thank you, gentlemen. I think that gives us a very good background from which to proceed.

First of all, let me mention that we will include your chart in the record of investigation, and we will make that an attachment to the transcript.

If I might, I would just like to start with a couple of clarification questions.

In terms of the chart, the production process, if I understood you correctly, you said, after the product leaves the liquor tub, and it's sodium nitrite solution, but I believe you said that it's not in a form that could be sold to customers at that point. Is that correct?

MR. McFARLAND: That is correct. When you make sodium nitrite with soda ash, you produce a level of sodium nitrate, $NaNO_3$ versus $NaNO_2$, that has to be separated out. We do that through the evaporation-crystallization process.

So the liquor coming out of here gets evaporated. It then gets crystallized, and basically the crystals that are formed are very pure sodium nitrite. The

remaining liquor, which is separated in the centrifuge, so you end up with these crystals coming off the centrifuge, and then there is a liquor stream, which has a level of sodium nitrate in it, and that has to be purged out of our process. That is characteristic of a soda ash process, not a caustic soda process.

MR. CARPENTER: Is there any way you know of to produce the liquor product without going through the evaporators, crystallizer, and centrifuge?

MR. McFARLAND: For us?

MR. CARPENTER: For you, yes.

MR. McFARLAND: No. You would have a product which has a level of sodium nitrate which would be too high.

MR. CARPENTER: Okay.

MR. McFARLAND: I'm sorry. With soda ash, you would have a product -- with caustic soda, you do have a liquor product, which is salable.

MR. CARPENTER: Okay. Do customers ever switch back and forth between the liquid and the dry forms, or do they always strongly prefer one or the other?

MR. McFARLAND: Tom may answer that better, but my recollection is that it absolutely is history --

MR. NELSON: Yes. We have instances where a customer will be primarily buying the dry product. They

will either run out or be short on supply, depending on their supplier, and we've supplemented with a liquor product. So, yes, depending on the process, but, yes, they can go back and forth between the dry and the liquor.

MR. McFARLAND: And, in part, that's because many of the applications are using the sodium nitrite in a solution form. So if they are buying a dry form, they are going to put it into solution because that's how it's being used. That's how they are accessing the nitrogen or the oxygen in the product.

For example, as a corrosion inhibitor -- right? -- it has to be in solution form to be effective as a corrosion inhibitor. So somebody buying it as a powder is ultimately putting it into solution at some point.

MR. CARPENTER: Now, when you sell the product in solution form, is it more expensive per weight of the sodium nitrite than the dry form would be because it undergoes an additional processing step? Is that accurate to say, or could you sell it at the same price under certain circumstances?

MR. McFARLAND: I guess my first comment is, from my perspective, it doesn't really go through an additional processing step. I mean, if we're making a free-flow product here or the liquor, we take this

product, which is what comes off our centrifuge, and we either add water and turn it into the liquor, and that's a processing step, or we take it to a blending station where we add a free-flow agent.

So both of them have an additional unit operation here. This unit operation is add water with heat. This unit operation is add petro AG and put it through a blending step.

MR. CARPENTER: I see what you're saying. You don't sell the -- I forget the term -- the caked product as is.

MR. McFARLAND: There is this product coming off. We sell some, but, even then, this is dried further before it's sold directly. But this is essentially what's coming off the centrifuge, and the problem is, frankly, what I've seen in China and India is they put this product into a bag, and it turns into a 50-pound, or 25 Kg, rock. But they are happy to deal with that, from a handling perspective. Frankly, in the U.S., we don't want to have anything to do with 25-pound rocks.

MR. CARPENTER: Okay. Finally, if I understand the Respondents' argument -- I'm sure we'll hear more about it later -- they are claiming that the imported product comes in in a dry form, and some of what you sell is in a liquid or solution form. If they were to make an

argument that there is attenuated competition in a market to the extent that they don't compete in a liquid from of the market that you do. How would you respond to the argument that there is attenuated competition and that that's a condition of competition that the Commission should be looking at?

MR. McFARLAND: My first comment would be that if you look at our process, remembering that their process, assuming they have a caustic soda process, they make the liquor, which is probably salable liquor, and then they have to go on and make the granulated product. So they would consider it a downstream step. Right? But, for us, we take that dry material, and we turn it into a solution. That's what we're doing.

I would argue, first and foremost, what are we doing for our customer? You know, another one of our business areas is aluminum sulfate. We sell aluminum sulfate as a solution. You go to places like China and India, aluminum sulfate is sold as a powder everywhere.

Why is that? Because the American municipal customer wants to take aluminum sulfate as a solution. Why do we sell this as a solution? Because a portion of our customer base wants it as a solution, and they said, "Can you put it in solution for us?" and we've said, "Okay."

Frankly, we see, back to my aluminum sulfate, we see that in -- we sell a powdered aluminum sulfate where? Into places like Kansas and Nebraska and areas like that -- right? -- where they use the powdered version, but around here, they don't. Everybody wants sodium nitrite sulfate as a solution.

MR. NELSON: I would add that there's, obviously, still significant competition on the dry side. Let's not forget about that. I would then add that it's sodium nitrite, no matter what form, and that, as we've demonstrated in our earlier testimony, it's very easy to make the liquor from the dry, so that if somebody wanted to make a liquor from the dry, they could just easily mix it with water and sell it in the marketplace as sodium liquor.

So buying the dry and selling it as liquor would compete directly against us in the liquor market, even though the dry is the BASF dry. So there is competition there as well, and there is competition all across the board between the distributors. There is competition going back and forth, where they come back and say, "We got a BASF price." So there is constant competition going back and forth.

MR. CARPENTER: Thank you for that information. That's very helpful. At this point, we'll begin the

staff questions with Ms. Lofgren.

MS. LOFGREN: Dana Lofgren, Office of Investigations. Good morning and thanks for being here. I will probably ask you some questions that we covered on our site visit, but, in an effort to get that same information in the public record, it will be a little repetitive, but, hopefully, it will serve a good purpose.

I have some questions about your acquisition of Repauno and what that meant for your customer base, whether you brought in people -- I don't know, Tom, if you came from that marketing division, whether you had an easy, seamless time picking up Repauno's customers, also not just domestically but their export customers in the Canadian market, and whether what you're seeing is that maybe there were customers that bought from both of you when you had two domestic producers that are now looking for a second source of supply.

So if you could just address some of those things in terms of who was buying from Repauno and where they are buying from now, that would be helpful.

MR. NELSON: Yes. Most of those customers, on the dry side, it was a very easy switch. There were some customers on the liquor side that had very specific -- when we make the liquor, it's almost to specific customer requirements. They had very specific requirements, and

so we had to make sure that we met those requirements so that they tested our liquor product versus the Repauno liquor product and qualified those.

In terms of requiring a second source of supply, I don't know that I can speak to that. Perhaps there was some of that, but I think the big thing that we understand from our distributors, who have access to both products, we have notes that indicate that our price is eight to ten cents high. It's driven by price.

From the acquisition, we do have the sales rep. from Repauno. He now works for us, and he does have 18 years' experience selling sodium nitrite from DuPont through Repauno and now with us, and so he did visit every customer and helped to explain what the transition would be and what was going on and the need for it. So that was part of the transition plan.

MR. McFARLAND: I think the other point is that we have been making and supplying sodium nitrite for 90 years almost into the domestic market. We have supplied every U.S. customer. We would be considered a reliable, in-place producer, and it's not as if this is a product which sells in hundreds of thousands of tons. Right? I don't think this is something which demands two suppliers. It's something where we have the reputation of being there and being there for a long, long time --

right? -- longer than everybody in this room. Right?

MS. LOFGREN: My other question is regarding other sources of supply, foreign sources of supply. As you know, we have to write about that so the Commission can evaluate that.

BASF, in their questionnaire, mentioned specifically Poland and India, I believe. I've looked. There seem to be quite a few producers in India, but we don't see a huge amount of exports into the U.S. from India.

What is your view of foreign sources of supply and whether you see that as a threat, whether there is a lot of capacity out there that is not being supplied, whether that has something to do with importer relationships, and that's why you think BASF is in the market? If you could talk about your view of other foreign sources, that would be appreciated.

MR. McFARLAND: I think you bring up the two primary players that we've seen bringing material in. The first is Poland. Historically, that has been a relatively low level, that they don't seem to have competed strongly into this market.

I guess the area I would see perhaps which would have possibilities would be material coming from India. Although, as you are aware, the Indians did file

antidumping against both the Chinese and the Germans. I believe that was successful for them.

I think they would compete in this market at a fair price, is what they would do. I think that if they could sell it and make an acceptable margin, they would absolutely do that, and I think that's fair enough. And I think what we see is that this product is driven by globally priced raw materials, a fixed cost, and transportation, and the fact is, we have 10 cents a pound, approximately, over anybody bringing the material in, from an import perspective. It's going to be hard for somebody from India or anywhere overseas to overcome that because they have got to pay the shipping,

MS. LOFGREN: Tom, you spoke about medical applications for this product. How big of a potential market is that? I heard you say earlier that you lost Chemtura and the rubber -- I forget the name. In terms of what end uses have gone overseas and what end uses you see coming online as purchasers of this product, could you talk about?

MR. NELSON: Yes. The medical market for this is not going to replace Chemtura or the rubber-processing industry. We do have some other applications that are newly developed in the past year, year and a half. However, one of the situations that we're in, because we

are kind of a component supplier to a proprietary process, it's hard for us to go from one manufacturer to a competing manufacturer and say, "Hey, use sodium nitrite."

So what we do is, when we get requests for samples, and we know of a manufacturer in a specific industry who is using it in a new application, we look at the trade associations and the industry associations that they are associated with and see if we can support them and get our name out there in sort of a background kind of way so that the other manufacturers see this kind of new player in there and try to figure out what's going on.

Then, as their competitors request samples from us, we will certainly supply samples, but we're not in a position to provide proprietary information to our customers' competitors.

So that's where we get into a delicate situation, when we're trying to expand the market at times.

MR. McFARLAND: I think my comment on that was the pharmaceutical market is never going to be large. It's never going to thousands of tons. It's unfortunate that Repauno lost two of their larger customers. However, I think that the rest of the market is fairly diverse. Yes, we have a concentrated customer base, but that's

because of the distributors, and we see the market being a good size. As I said, we see it being 30,000 tons for the foreseeable future. That's a nice market that we can continue to supply for the next 90 years, as we've done for the last 90 years.

MS. LOFGREN: I have one last question regarding the purity of these forms. You talked about, in the production, I believe, that once you had the weak solution, then it would go through purification, you had said. Is the purification the same no matter what end use you're trying to make this for or no matter what form you're trying to make it for, or does the purification process change?

MR. McFARLAND: No. The purification process doesn't substantially change. For us, the product coming off the centrifuge is our purified product. That is the product. It meets food grade specifications, and what separates the food grade from the technical grade is basically us warranteeing that it meets food grade specification, plus we have to do different testing for, say, heavy metals and so forth. But the purified product is what comes off the centrifuge, which is, again, this caked product here.

MS. LOFGREN: I have no further questions.

MR. CARPENTER: Ms. Alves?

MS. ALVES: Good morning. Mary Jane Alves from the Office of the General Counsel. Thank you for your testimony earlier this morning. It's been very helpful. I have a couple of questions that I hope you haven't answered this morning. I obviously haven't had a chance to read through everything you've said on the transcript; but, just a couple of points of clarification, in terms of product forms and product grades that I can understand where there may be distinctions at some level.

The first question I had was, and tell me if I'm mischaracterizing what you said this morning, but as I understand it, you've got sort of a pure liquor form. You have a technical grade, which is always free flowing. You have a food grade, which undergoes some additional testing. Then, you, also, have a high purity grade, which tends to be the highest price of the granular products. You distinguish among those in your brochures, in terms of high purity flake, high purity granular, and high purity special granular. Can you explain to me a little bit what the differences are, in terms of those three categories? The flake and the granular, I understand, but what is the high purity special granular?

MR. NELSON: The special granular, we have, I believe it's two or three customers for that, and we actually take, I believe it's a soda solution and spray

it on there, because they need the higher concentration of -- and I'm not a chemist, so I'm not going to put it on the record what it is.

MS. ALVES: Neither am I.

MR. NELSON: We spray a solution on there for two or three specific customers. It's a very small volume for us. It's something that was developed specially for, my guess, there are two or three customers.

MS. ALVES: Okay. And how would you distinguish between the technical and food grade products on the one hand and the high purity products? What are the differences that occur there in the process?

MR. NELSON: The primary difference is the addition of the free flow agent.

MS. ALVES: Okay.

MR. NELSON: So, the food grade and the technical grade free flow have the addition of the free flow agent. The high purity grade is without the addition of the free flow agent. So, it's a higher purity, because we don't add an impurity, if you will.

MS. ALVES: Okay. And then --

MR. JAFFE: If I could just add briefly, because I want to make sure we try to make this process simple, on one page, but of course in doing that sometimes you end up complicating things. Basically, at the end here,

where you see sodium nitrite product, that is the product that comes off the centrifuge. And then there are these additional steps. They make the liquor from that and then they make -- and they go through more of a drying process to make the granular, the high grade. And then, of course, there's the testing process for the food. And then there is the flaking, where they compact it and all. So, there is different things that make them -- allow them to do different forms. But, basically, what we try to say is that here is the product.

MS. ALVES: Okay. You mentioned this morning, in response to the opening statements, that it's, in your mind, relatively easy to transform a dry product into a product in solution should somebody want the liquor form. How difficult would it be for a distributor or for an end user to transform the product into a flaked product, where you actually have to compact it?

MR. MCFARLAND: This is not difficult to do. You just have to buy the equipment to do it. So, it's literally -- we pour this material into compression rollers, which squeeze it and it comes out as a long strip and then we break it up. So, if you want to put the money into -- the capital money -- now, the capital money is not tens of millions of dollars, right. But, if you felt that you wanted to invest $250,000 or whatever

the number was to do it, you can do it. But, it really is just compression rollers and then we break it up.

MS. ALVES: Okay. And can you characterize the size of the granular -- I'm sorry, of the flake market?

MR. MCFARLAND: It's --

MS. ALVES: And I realize -- if I'm delving into confidential information, we don't need to go there. You can respond in the post-conference brief.

MR. MCFARLAND: We can provide that.

MS. ALVES: I'm just trying to get a sense of how much interchangeability there might be or what options there are for customers, who might prefer the product in the flaked form, whether or not they could take a dry product that's not in the flaked form or take a liquid product -- it sounds like they couldn't take the liquor product and go to -- it would be going backwards. But, if they had the desire, they could compress it, perhaps, if they invested whatever the quantity was to compress it, if that was --

MR. MCFARLAND: And, again, there aren't that many customers, who are using this in a dry form. Most of the customers are taking the dry form and putting it into solution. And we can get into it in the post-conference brief and explain that, but most customers are taking it using the solution, because that's the value of sodium

nitrite. They want access to the nitrogen, they want access to the oxygen, and that's why they want it dry. And in the dry form, if they have it in the dry form and they put it with something, it just sits there. It doesn't do anything. They want it to react. And in order to get it to react, in order to get it to be useful, to be an intermediate, they have to get it into a solution form.

MS. ALVES: I understand that. That's part of what's driving my question is that you go through the additional step of compressing it and if ultimately they prefer to have it in some sort of solution and they're going to put it into a solution anyhow, could they purchase -- instead of purchasing the flaked product, could they purchase it in some other dry form or could they just go ahead and purchase the liquor form? I'm just trying to get a sense of -- and maybe you can explain this in a post-conference brief, where you're able to use that --

MR. MCFARLAND: Maybe the way to do it is just to explain a couple of customers, who are doing it and how they're doing it, and you can see that potential exists and what they would have to do to do it.

MS. ALVES: Okay. In terms of the imports that you're seeing, are the imports coming in, in the flaked

form? There was some testimony this morning that they're not coming in, in the liquor form. Are they coming in, in the flaked form, or are they mostly coming in, in the --

MR. MCFARLAND: Well, most of the imports from Germany are coming in, in the free flow form --

MS. ALVES: Okay.

MR. MCFARLAND: -- because it's the easiest one to sell.

MS. ALVES: Okay.

MR. MCFARLAND: And this is the largest dry market, right. So, this is the easiest one to sell, so most of them are coming in, in that form.

MS. ALVES: Okay. And when you say the largest dry market, do you mean that the United States market is the largest market or you mean within the U.S. market --

MR. MCFARLAND: Within the U.S.

MS. ALVES: -- the largest market is --

MR. MCFARLAND: Within the U.S. as one compares. And, again, this is perhaps details to provide you, we can show you how much of the market we think is free flow, how much is flake, and how much is just product here.

MS. ALVES: Okay. And then if you could explain, how does crystal reagent fit in? You've got, in your

product brochures, again, you mention crystal reagent. Where does that fit within --

MR. NELSON: Again, we have one specific customer for that and the volume is very small. So, it's -- you know, we can provide you the breakdown of sales, volume of each of our product types.

MS. ALVES: Okay. And can you, also, explain at the time sort of how that -- you know, if that's considered a technical food grade, a high purity product, or where it fits within that scheme?

MR. NELSON: It's a very high purity product. It goes through a bunch of additional testing and it's actually used in the -- I can tell you who the customer it is for in the post-conference brief and how -- my understanding of how they're using it. It's a processing reagent grade. You know, we can provide that in the post-conference brief.

MS. ALVES: Okay, that's great. Just for those of us not coming into the industry, it's a little bit difficult. I just want to simplify it as much as I can, so that I can understand it, both from what's going on within the domestic industry and also in terms of what's coming in, as well.

MR. MCFARLAND: My take a way is perhaps just to give you a breakdown on the tonnage volume. I mean, that

crystal grade reagent stuff is maybe in the ton range.

MS. ALVES: Okay. That's helpful.

MR. MCFARLAND: So, we're not concerned so much about --

MS. ALVES: And I want to make sure I understood. This morning, you were talking about the distinctions between the end users on the one hand and the distributors and then within each of those groups, the larger and the smaller companies. And at one point, Mr. Nelson, you had mentioned, and I believe it was in the context of end users and the large end users, there was some number that you had turned around, that they were 80 percent of what, and I'm not sure if it was caught in the transcript. I didn't hear 80 percent of what.

MR. NELSON: Okay. We had mentioned that there's a range of -- you typically in business talk about the 80-20 rule. Eighty percent of our volume is sold through, I believe we gave a range of eight to 16 customers.

MS. ALVES: Okay.

MR. NELSON: That's what we were talking about.

MS. ALVES: So, 80 percent of your end user volume or 80 percent of your overall volume?

MR. NELSON: Overall volume.

MS. ALVES: Okay, okay.

MR. MCFARLAND: And that's of some importance, as you highlight, is that of those customers, a bunch of them are distributors, who are obviously going off to and our access to them depends on the customers. Some of the larger end users through distributors, we'd be very familiar with. The smaller ones, we would be less familiar with.

MS. ALVES: Okay. You, also, mentioned this morning that you were seeing a lot of activity, particularly in Texas, from some of the Chinese product. Is most of the Chinese product then limited to Texas or limited to the South or are you seeing Chinese product elsewhere throughout the market?

MR. NELSON: All over the market. That was just one very recent example of where we had seen somebody soliciting for business, highlighting the fact that they now have a new supplier of --

MS. ALVES: Okay.

MR. NELSON: -- product from China. And I believe in the import stats, it was the primary point of entry and you can see that it's coming in various points of entry all over the country.

MS. ALVES: Okay. Also, in terms of purchasers, do purchasers care if the product was made using a caustic soda or a soda -- excuse me, caustic soda or soda

ash production process? Is there any differences in terms of the output to them?

MR. MCFARLAND: I would be surprised if they knew, in large part. I mean, the fact of there being two of us, you've got to remember Ropano is a Dupont facility. It was on a very large Dupont site. They've been making it from caustic forever and we've been making it from soda ash, basically, forever, with a little period where we actually made it from caustic soda in the 1990s. So, no, they don't care.

MS. ALVES: Okay. And you've mentioned the Ropano facility. You mentioned this morning that you had a 99 year lease from the Ropano facility. I guess I'm a little bit confused about what the distinction is between -- what exactly -- did you purchase Ropano? Did you --

MR. MCFARLAND: So, Ropano -- or U.S. Salt purchased the Ropano products from Dupont. I believe it was in 1998. And when they purchased the business -- I'm not sure if they bought -- I think they bought -- they must have bought the assets. When they purchased the business, they acquired the equipment and the land on a 99 year lease.

MS. ALVES: Okay.

MR. MCFARLAND: When we purchased the assets from them in 2006, we assumed that 99 year lease, but included

-- which had provisos to exit from the site. So, at this point, we've exited from the site and handed it back to Dupont. It's a very large Dupont facility, former facility. There isn't a lot of equipment there anymore.

MS. ALVES: And that was my next question, where is the equipment? Is the equipment still there?

MR. MCFARLAND: Some of it has been dismantled and got rid of. The rest of it has just been turned over to Dupont. Literally, the arrangement was between Ropano and Dupont. I don't know whether this is -- if you think it is --

MS. ALVES: When in doubt, put it in the post-conference brief. I'm just trying to figure out, if you can tell me, what physically is still available. The reason I have a question is in terms of capacity, whether or not -- even if that capacity is mothballed, if you were to need additional capacity or someone in the U.S. market wanted to use that capacity, is it, in fact, capacity or not capacity?

MR. MCFARLAND: We don't consider that and I can give you more --

MS. ALVES: But, I don't know if Dupont does now that it's -- given that it's still on Dupont land and there's no current lease on that, whether or not that's --

MR. MCFARLAND: It would surprise me, but I think we can give you details in the post-conference brief, which just show you --

MR. JAFFE: I think the short answer is, no.

MS. ALVES: Okay.

MR. JAFFE: And we'll give you more details in the post-conference brief.

MS. ALVES: Okay. And then I have a couple of questions that are really just post-conference brief legal questions. I'll mention them quickly here for Mr. Jaffe's sake, but you can look at the transcript and write about them. Most of them are probably going to be obvious. You assert in the petition that sodium nitrite is a commodity product. Please discuss the applicability of the Federal Circuit's Braskt decision. I'm sure you have the citation, but I'll give it to you anyhow. It's 444 F.3d 1369.

MR. JAFFE: I've heard of it.

MS. ALVES: I assume you have, more than once. Also, if you would, on page 36 of the petition, you assert that the U.S. market for sodium nitrite is price sensitive. This discussion occurs in your cumulation section. Please indicate whether or not this is a fact that you want considered in the context of cumulation or if this is a condition of competition argument, if

there's a different distinction that I should be looking at, in terms of cumulation, that would be helpful.

And, finally, in your post-conference brief, if you could discuss the applicability, if any, of imports into foreign trade zones by either subject and/or non-subject imports and how that should influence the Commission's --

MR. JAFFE: To the best of our knowledge, imports are not going into foreign trade zones, but I'll ask the client off record, if he --

MS. ALVES: Okay.

MR. JAFFE: -- has any additional information and we'll respond to your question in the post-conference brief.

MS. ALVES: Okay. That would be helpful. And that's all I have, at this point. Thank you.

MS. DEFILIPPO: Hi. Catherine DeFilippo from the Office of Economics. Thank you for your testimony today. It's been helpful. Unfortunately, chemistry was not one of my strong suits. So -- and I apologize if I hit questions others have. I tried to go through and x them out, as they've been asked. But, go back a little bit on this dry versus liquid. I'm sure you've talked about it a lot. But, I'm having a little bit of trouble understanding whether it's end use driven or customer

driven. For example, for a given end use, let's say dye or steel, whatever, are the customers producing or in that end-use market that are using the different forms or is a specific end use tend to use one form of the product?

MR. NELSON: We have a customer, who recently had a bid, and they had three different locations. I believe it was three. Two locations were dry, one was liquor. So, it depends on the manufacturing process, kind of how that process has grown up and what they're comfortable with at those different locations.

MS. DEFILIPPO: So, they would be different locations doing the same --

MR. NELSON: Doing similar --

MS. DEFILIPPO: -- manufacturing or --

MR. NELSON: Manufacturing of dyes. But, again, if it's this kind of dye versus that kind of dye or the different colors of dye. So, that's why it's again very hard to generalize. But, ultimately, if they're buying dry in one facility, they're turning it into solution to use it in their process. But either due to a very good price on the dry product, they prefer to buy it in the dry, because they got a really great price at one point and they convert it from liquor to dry in their process, because it's a great price and so they figured out -- and

it's cheaper for them internally to turn it into liquor or solution. So, they're using it that way. Or, logistically, they have a tank farm on site and so they prefer to use it in the liquid form and purchase it in the liquid form and pipe it right into their process.

MR. JAFFE: Tom, would you say that basically customers get in the habit of buying it one way versus another?

MR. NELSON: Yes, absolutely.

MR. JAFFE: And based upon price, they might break that habit?

MR. NELSON: Yes.

MS. DEFILIPPO: And you kind of touch on one of my questions I noted down here, saying that, at some point, most customers are putting it into liquid. So, for someone, who is buying it dry, is it habit or is it less expensive for them to liquify it, themselves, than to buy it as liquored or just it's -- I mean, can that vary over time depending on the prices between -- relative prices between liquid and dry?

MR. NELSON: It can vary over time. It can vary on where they are in the country, the different freight rates to get one material to them versus another. So, there's a whole bunch of factors that go into it and it's also -- again, I would say for each end user, facility

location, what their process is, and it's driven a lot by that process and how that process has developed and changed over time. And, again, if you get a new purchasing agent in, who wants to make their mark, they'll look at anyway that they can change things. But, again, I think it's very process oriented, process driven within that manufacturing facility.

MS. DEFILIPPO: Is there -- what is the relationship or the differential between the prices of liquor and the dry? Is it consistently one is higher than the other or does it depend on market dynamics? I note that our pricing data that we collected does not include any liquor pricing. So, you may want to handle this in a post-hearing brief, to show us perhaps over time what liquid prices have been and how they are relative to dry.

MR. NELSON: Yeah. I think I would prefer to handle that --

MS. DEFILIPPO: Okay.

MR. NELSON: -- separately.

MS. DEFILIPPO: Ms. Alves was, also, talking about the different channels, end users versus distributors. And I was wondering -- and, again, this may be post-conference brief -- what are the relative prices between the two channels? Do prices to end users tend to be

higher or lower and how is that -- has that been stable over time? And, again, you may want to deal with that in your post-hearing -- or post-conference, sorry, brief.

MR. NELSON: I think we would prefer to handle that --

MS. DEFILIPPO: Okay. And you may have said this, are you feeling -- having competition against both imports from Germany and China in both the channels, in the distributor channel and in the end user channel?

MR. NELSON: Yes.

MS. DEFILIPPO: Is it similar in both or are you seeing more in one channel versus another?

MR. NELSON: Seen more in both. And depending on end users, either if they're very large, they're sourcing chemicals from overseas, themselves, or distributors, again, soliciting them. We have a new source of supply for this material, how about you try it. So, I mean, it's a multi-pronged approach into this country.

MS. DEFILIPPO: Okay. During the period that we're looking at, which is 2004 to 2007, did your company have any supply disruptions that would have caused customers to not be able to get product from you at any time?

MR. NELSON: No.

MS. DEFILIPPO: Okay. You talked a little bit about demand and I think the phrase that was used was shrinking demand. And it's the case that a lot of the chemicals are used in all these different things. This one seems to be more so than others, a lot of different end uses. So, when you talk about a 'shrinking demand,' is that an overall demand? Was that in reference to U.S. demand? And are there some segments that are growing, others shrinking? And, maybe, just talk a little bit about what that means by 'shrinking.'

MR. MCFARLAND: Two of the big users of sodium nitrite in North America have been inks and dyes and rubber area. So, inks and dyes, in particular, is something particular to the textile industry, which has just gone overseas. So, you've seen that go overseas. And as well as the rubber industry, the same thing. I think there is some growth in things like corrosion inhibitors, water treatment, pharmaceutical, these areas, right. But, some of our large historic customers have moved overseas. I think some of the interesting applications, I said water treatment, corrosion, they'll continue. I mean, it is a very interesting product for corrosion inhibition and that's not really related to going overseas often and there's no reason that wouldn't continue to grow at a modest rate.

MS. DEFILIPPO: So, if I'm understanding correctly, in terms of the decline in demand in these sectors like textiles and rubber, it's not due to using something else or the end use textile or rubber declining, it's the demand in the U.S. declined because those customers weren't here buying it to use in that end use.

MR. MCFARLAND: Correct. And, you know, you've seen the producers of the dyes move overseas; but, in large part, following the textile producers, following the t-shirts.

MS. DEFILIPPO: If I understand correctly, Ropano mostly made the liquid and you make both. Did you have any change in your product mix after shutting down Ropano, in terms of increasing your production and sales of the liquid, or has your product mix been fairly stable?

MR. MCFARLAND: Our product mix has always been more heavily weighted towards dry than liquor. It has moved closer. This is post-conference brief. I can --

MS. DEFILIPPO: Any of that, you can deal with that in the post-conference, any of the questions that I get at, which I think I'm almost done. And you probably would definitely want to deal --

MR. MCFARLAND: I'm sorry. I did want to quality

that Ropano did make a dry.

MS. DEFILIPPO: Oh, okay.

MR. MCFARLAND: Don't misunderstand it. They did make a dry product and had for a long, long time.

MS. DEFILIPPO: Okay.

MR. MCFARLAND: Their mixes, I can show you, which is just a little different from ours.

MS. DEFILIPPO: Okay. Earlier, I think we were talking about the different grades, food grade and technical grade, and at the beginning, if I understand this correctly, it's all the same. It's just you take the food grade one step further and test it and qualify it for food grade use; is that correct?

MR. NELSON: It's not one step further in the processing. It's certifying that it's been manufactured in a facility that meets FDA, food grade -- or that the product meets food grade chemical codex, that it's in an FDA-inspected facility, that it meets -- it's manufactured to good manufacturing practices.

MS. DEFILIPPO: So, any of the sodium nitrite that you're making in that plant could be sold as food grade?

MR. NELSON: Correct.

MS. DEFILIPPO: But, food grade generally, does it command a higher price?

MR. NELSON: Yes.

MS. DEFILIPPO: For post-conference, just double check back in the questionnaire, if there are differences, where the technical ends up being higher, if you could explain that. I'm not sure if that's the case. I just -- I haven't looked at the data in a while.

Finally, just on the qualification, when a customer -- you say you're qualified to produce that. Is that a one-time thing? So, you're qualified to produce it or each batch or each sale that's going to be used as food grade has to get tested to some degree?

MR. NELSON: The facility is qualified --

MS. DEFILIPPO: Okay.

MR. NELSON: -- and we do annual testing and verifications on the product and annual testing.

MR. MCFARLAND: It's an ongoing process, which goes from batch-to-batch, to a compliance with food chemical codex, to FDA audits. So, it's an ongoing sort of certification, registration, and meeting a certain level. So, every batch would be tested, which goes out like that. We will have to comply with CJMP, go through audits, customer visits, the whole lot. So, it's really just an ongoing continuous part of being a food grade facility.

MS. DEFILIPPO: And you had mentioned, I think earlier, that China is not selling any of the food grade;

is that correct, to your knowledge?

MR. NELSON: That's our -- yeah.

MS. DEFILIPPO: Okay. I think that is all the questions I have. Thank you, very much. I appreciate it.

MR. CARPENTER: Mr. Yost?

MR. YOST: Good morning. Thank you, very much, for your testimony this morning. Just a couple of technical questions. My coworkers have asked you about the product coming off the end of the line. I have one question about the liquor tub. Is that what you describe as purged steam?

MR. MCFARLAND: Stream.

MR. YOST: Stream, sorry -- technical liquor and can that be sold?

MR. MCFARLAND: Part of the process with soda ash is we have to purge out the sodium nitrate. So, if you look at the process diagram, you, in essence, see this recycled stream going around from the liquor tub back up to the absorption tower.

MR. YOST: Correct.

MR. MCFARLAND: And what we do is we have to control the sodium nitrite NO3 level in there and we do that by purging out, very similar to what you do with a boiler, in terms of purging out, to make sure that you

keep your TDS levels down, similar to what you would do in a cooling tower, that sort of thing.

MR. YOST: Okay. So, in effect, that's recycled back through the process. It's not sold.

MR. MCFARLAND: No, no, no. The liquor, as you see, the stuff comes out of the absorption towers. It comes down. Soda ash is outed. Some of it goes kind of forward, right, and then some of it is recycling back.

MR. YOST: Right.

MR. MCFARLAND: From that, there's a stream taken off. So, there really should be a little arrow coming out of the side here, which says, purged stream.

MR. JAFFE: I think what you have here is you have a constant recycler, recycling, recycling. But, at some point, there is waste product that can't be recycled anymore and that becomes the purged stream.

MR. YOST: Okay. What happens to that?

MR. MCFARLAND: We dispose of it, into a market. We have identified a couple of people, who take it from us now, at a very low price, compared to everything else. In the past, we've had difficulties in disposing of it. But, now, we've identified a market for it.

MR. YOST: Okay. Are those -- is that disposal recognized anywhere in our questionnaire?

MR. MCFARLAND: It's excluded from our numbers.

MR. JAFFE: It was taken into account as byproduct revenue and adjusted, so that you're basically -- and I can have an accountant talk to you, but the cost of goods sold was adjusted for the byproduct revenue.

MR. YOST: Okay. Somewhere in raw materials or in other factory costs or wherever you classify it?

MR. JAFFE: That's correct.

MR. YOST: In the post-conference, just let us know where you classify -- where it was classified. Then my next question has to do with the Ropano purchase. I was struck by in what I was reading, the 2006 form 10K and listening to the third-quarter conference call, how Ropano was described in glowing terms. For example, Ropano's sales, when they were added to general chemicals, was described as accounting for all of the increase of the chemical groups, sales in 2006. So, I was a little bit struck by the shutdown after only five months. And I think Mr. McFarland described it as kind of the final straw, the loss of two customers by Ropano. Was that because they were lost to imports in this country or because they moved overseas?

MR. MCFARLAND: Not -- I can tell you, who -- I mean, the --

MR. JAFFE: Briefly, it's a fluid situation. You have to understand, it's a fluid situation going on, in

which they're discussing the acquisition. And you have a situation where there is a lost customer in early 2006 and then the acquisition. And I guess the best way I would phrase it is that you have a number of variables going on. It is the lost of the second customer and imports, okay. And I believe in his direct testimony, he talked about the surge in imports, historic levels that they had never seen before. So, you have, again, multiple factors that closed it. And I guess the indication is that it closed. Could it have closed at another time? Yes, it could have closed maybe in 2007. Who knows what time. But, that it did close and I think you say at an earlier time than expected.

MR. MCFARLAND: Just the other part, the two customers that closed, that capacity, we believe, has gone overseas. So, their business went overseas. How it went overseas, we're not clear. So, for example, one of them was a saccharin producer. Saccharin is not really produced in the U.S. anymore and that saccharin is now produced overseas and brought in here.

MR. YOST: Okay, thank you. That was very helpful. Just in terms of the Ropano purchase, amortization of goodwill or impairment, if those were recognized, in your post-conference, would you please detail the amounts and where those were recognized in our

questionnaire response.

MR. JAFFE: Okay. We will respond to that in the post-conference brief.

MR. YOST: Okay, thank you. I think that does it for my questions. Thank you, very much, again.

MR. CARPENTER: Mr. Randall?

MR. RANDALL: Robert Randall, Office of Industries. I don't have any questions, but I think it's clear that my non-chemist, non-engineer colleagues are mystified by what are perceived to be essentially insignificant differences in the products. And if you can -- in the terms of this product, sodium nitrite, serving the kinds of end-use applications that it serves, wouldn't necessarily always be true, that if you can provide any clarification in your post-conference brief, it would be very helpful, in our understanding it better. Thank you.

MR. JAFFE: Thank you. We'll provide further clarification in our post-hearing brief.

MR. CARPENTER: Mr. Corkran?

MR. CORKRAN: Douglas Corkran, Office of Investigations. I would like to join in thanking everybody for the very helpful testimony and thank you for traveling to be here today with us. And I would certainly second Mr. Randall's request. Chalk me up as

one of the non-chemist, non-engineering individuals, who needs as much help as he can get on this.

One of the first things I would like to do is actually follow-up on a request for additional information that came earlier. But, I would like to really try to nail things down, so that we know exactly what is being reported and what form. In Exhibit I-2 of the petition, there's a very helpful document, entitled 'A Product Profile for Sodium Nitrite,' that's issued by General Chemical. It gives all of your grades and it gives the main breakouts of product markets and uses. I was wondering if you could provide for us basically a linkage between the various grades and forms that are offered in the specifications to the type of product markets and uses that are most commonly associated with each one of those grades and forms. This would be for your post-conference brief. And I think, in particular, you were -- where it's practical, if you could get down to the level of indicating the individual customer. Now, I think that would only be -- there, I'm thinking about the product specifications, where you indicated there was only one customers, perhaps, or two to three customers, again, where it's practical, if you could identify those customers. And then that way, I think we would all be looking at the same information.

MR. JAFFE: And, Mr. Corkran, I believe in a supplement to the petition, though not to the detail that you requested, the Department of Commerce asked us to do similar, and, again, not to the detail, but you might want to look there first. But, we'll certainly do our best to get the detailed statement.

MR. CORKRAN: Thank you, very much. I appreciate that. I wanted to clarify something. Both Ropano and General Chemical sold sodium nitrite in the liquid form; is that correct?

MR. MCFARLAND: That is correct.

MR. CORKRAN: But, you used a somewhat different process or at least, I believe you said that the Ropano process involved caustic soda and you were able to use the liquor pretty much right out of the liquor tub for sale?

MR. MCFARLAND: That's correct. But, remember, the caustic soda is just using -- in both cases, you're using the sodium, right. So, in one, you've got NAOH and the other one you've got NA2CO3 and it's just a way of utilizing or getting access to a sodium molecule. It turns out that the reaction, when you are using caustic soda, results in a less production of sodium nitrite and a more concentrated product, which is more saleable at that point.

MR. JAFFE: More saleable as a liquor.

MR. MCFARLAND: Yes, I'm sorry, more saleable as a liquor.

MR. CORKRAN: Okay. And you were going down the path, I think, of my next question, which was once you get to the stage where you're in a position to sell the sodium nitrite liquor, whether it was by the Ropano process or by the General Chemical process, were there differences in the purity or other aspects of the liquor that was offered for sale, as a final product between the two companies? Because, somebody did mention that you had to go through separate -- that you had to be approved -- that both processes had to be approved by your customers.

MR. MCFARLAND: No. There's no difference. I think what happens a little bit with the liquor product is that a customer may say, I want it at 40 percent strength and another person may want it at 42 percent strength, right and so, you ended up producing it to that particular person's strength, because you're giving them a product to go in. So, that's the qualification. And it's not unusual for customers to want to qualify you anyway, right. I mean, regardless of who you are, they want to see a sample and they want to send it to their lab and they want to get it qualified, right. You're

just telling them that sodium nitrite is not enough strength.

MR. CORKRAN: Thank you. That was very helpful. Staying on the sodium nitrite product profile, there are two varieties of liquor that are shown. One is a pure liquor and one is a technical liquor. You've already discussed this morning differences in grades for the dry products. What are the differences between those two liquors?

MR. MCFARLAND: The technical liquor is essentially the discussion we had with Mr. Yost just now. It is that, that is the waste stream, which we have to dispose of. I think it's important to remember when you're looking at this, who the audience is that we're providing this to, right. I mean, our audience is somebody that we're looking to buy the material, right. But, it is the purged stream, which comes out of our process, high end sodium nitrite. And, again, I mean, we have a potassium chloride business down in Texas. We have a purged stream there, which is high in sodium chloride. We have to dispose of that down there. In fact, we have to pay to get rid of it down there. So, it's a typical means of controlling a level of an impurity that you don't want to reach too high a level. I do want to be clear that the stream is sodium nitrate

liquor. So, it has a high level of nitrate, which is unacceptable for the nitrite market.

MR. CORKRAN: Okay. I'm sorry, does that mean, then, that technical liquor is not a product that you are selling into the sodium nitrite market?

MR. MCFARLAND: Correct. I mean, it has a level of sodium nitrite in it and it has a level of sodium nitrate. But, for the sodium nitrite market, which is largely -- which is a high purity market, you know, and high purity, I mean, you know, we use the term fairly specifically here. This is a product, which is 99 percent NO2, right, all the way through. It does not serve that market.

MR. CORKRAN: Okay. Thank you, very much. In terms of -- I was struck by your example of the customer that purchased sodium nitrite in dry form and then was attempting to convert the product into a liquor form by placing it in a truck and allowing it to slush around. I guess my question is while that's technically feasible to do, what are the normal volumes that your customers are purchasing and would you, in the normal course of business, have customers, who are buying such small volumes, that they can essentially convert this one truckload at a time?

MR. NELSON: I think I would rather answer that in

a post-conference brief, in terms of what we know of customers, who are actively doing that for an end user market. It is small, yet it happens nonetheless and it is something that we take into consideration when we look at our solution volume in the solution market.

MR. MCFARLAND: We sell the solution in truckload quantities. So, to be able to make a truckload quantity, where you put, for example, super sacks into the truck, add water, and drive it around, I mean, that's in line with -- you know, this is not that unusual a thing that people try to do.

MR. CORKRAN: Thank you. I appreciate that. I guess what I was trying to -- in a more general sense, I'm getting away from the colorful example. I did -- mainly, I was trying to get a sense of whether this is something that would be essentially cost or space prohibitive for many customers, to convert dry into liquor. But, I appreciate your offer for additional information.

MR. MCFARLAND: I think for somebody to do that, they just need an agitated tank, which they could put a powder in and add water and have the appropriate handling equipment.

MR. CORKRAN: Okay. You had mentioned, actually one of the last exchanges that you had dealt with

customers that were important to the Ropano facility and which no longer require sodium nitrite in the United States. Can you discuss, either here or in your post-conference brief, what form or what grade of -- mostly what form, what form of sodium nitrite they were purchasing and whether, to your knowledge, imports from Germany or China were competing for those accounts or whether they were accounts that you largely held exclusively?

MR. MCFARLAND: It may be easier to address in the post-conference, because rather -- I can give you half an answer, but it probably just -- I can get straight to the point in the post-conference.

MR. CORKRAN: Fair enough. I very much appreciate that. Among your customers that purchase sodium nitrite liquor, do any of those customers cite German or Chinese, for that matter, prices in their price negotiations with you? And I ask that question as a follow-up to testimony that indicated that at least certain distributors on the dry side were -- you said were citing German prices. So, with respect to customers that purchase liquor, are you seeing a similar phenomenon?

MR. NELSON: They will tell us they know the competitive situation in the marketplace, which leads me to believe that, yes, they know the pricing of our

competitors dry material. So, yes, if that was the answer, as I thought through it. Yes.

MR. CORKRAN: And is that largely because there is a defined relationship between the price of the dry product and the price of the liquor?

MR. NELSON: I don't know if there's a defined relationship between the pricing of the two products versus the defined relationship between the suppliers and the customers. If they're buying other products from BASF, what's your price on this product. I think it's more of that type of supply relationship.

MR. CORKRAN: Okay. This morning, we talked a little bit about a couple of non-subject countries, specifically India and Poland. Is there any additional information that you could share with us regarding competition in the U.S. marketplace that you might see from product coming in from Norway or Canada? Or, for that matter, especially with respect to Canada, you indicated that was an export market for Ropano. What is the nature of production of sodium nitrite in Canada?

MR. MCFARLAND: We don't know of any exports or any production in Canada. My suspicion is that is material, which has come back in. And with respect to Norway, we're not familiar with it. We see it in the stats, but we're not familiar with the production there.

MR. CORKRAN: Okay.

MR. MCFARLAND: I just want to say, we export into Canada, too. So, we're familiar with that market.

MR. CORKRAN: Okay. Well, in light of all the other questions that have been asked today, I think you've given very helpful testimony. I certainly appreciate all the information and would like to thank you all for your participation in this conference.

MR. CARPENTER: Ms. Lofgren?

MS. LOFGREN: I have what will be a very quick question. Because you have to be FDA certified to sell the food grade product, can foreign producers get the same certification? You said you didn't see Chinese food grade product here. But, can a German producer, like BASF, get the same certification?

MR. MCFARLAND: My understanding is they sell a food grade product and, you know, a lot of it is following the food chemical codex. We are registered with the FDA and they have come visited our site. My understanding is they sell a food grade product.

MR. JAFFE: Yes. I'm actually looking at a document that I have from BASF's website, sodium nitrite grades. Under sodium nitrite food grades, it says, 'in the food industry, the application of sodium nitrite food grade is a preservative for the production of pickled

salt, as allowed only in accordance with the approvals of the EU directive 95/22 and the German additives approval ordinance of the Code of Federal Regulation 21 CFR of the Food and Drug Administration or other local guidelines.' And I think there are other certifications on their website that indicate that the not only have, I think, FDA, but food codex, cosher certificate. So, they have quite a lot of certifications.

MS. LOFGREN: Thank you, very much.

MR. CARPENTER: Ms. DeFilippo?

MS. DEFILIPPO: Just one follow-up request. We have information in the questionnaire and in the petition on specific customers, where you've either lost revenue or lost sales. For me, it's hard to tell from this which ones are customers that were buying liquid or buying dry. So, if you could go through those or if there are other customers that were actually buying the liquid that you either lost revenues to, had to reduce your price because of the competition from dry or who have actually switched from buying liquid and you lost the sale to a dry product, if you could identify that in your brief, that would be helpful. Thank you.

MR. CARPENTER: I think that concludes the staff questions. Again, thank you, very much, for your very responsive answers to our questions. We appreciate that.

At this point, we'll take about a 10-minute break and resume the conference with the Respondents, about 10 minutes to 12:00. Thank you.

(Whereupon, a brief recess was taken.)

MR. CARPENTER: Please proceed whenever you are ready, Mr. McGrath.

MR. McGRATH: Thank you. Good morning once again. My name is Matt McGrath from Barnes, Richardson & Colburn, representing BASF. With me today, who will be presenting the primary testimony for BASF, is Mr. William Work, and also joining us is counsel to BASF, Steven Goldberg. We are appearing on behalf of BASF Corporation, the US entity which imports and sells the subject merchandise.

We also appear on behalf of BASF Aktiengesellschaft, the German manufacturer, but the primary presentation here is concerning the US market and the US company's involvement. There is only one introductory comment that I wanted to offer at the outset, and then I will turn it over to Mr. Work, and that is, there was quite a bit of discussion this morning in the Petitioners' presentation and in your dialogue with them about the dry product versus the liquid product, and the distinction between the two is important for us, but what I wanted to do was clarify one point at

the outset because sometimes it tends to get a little garbled, I think, in the discussion, and that is we are not suggesting that solution product is a separate like product or that there is a different industry producing solution for purposes of the antidumping law, nor are we suggesting that there is any sort of a scope modification that needs to be made in this.

We are not raising the issue from the standpoint of might there be circumvention if there were an order that only covered one form and not the other. None of those issues really come into play. What we are talking about is what is -- basically is causation, not what could be done, how could somebody make liquid from crystalline in various ways, but what we are asking you to do is look at what has happened in the market, since the Commission is required to analyze whether an industry is injured and whether it is causally related to the imports.

As I said at the outset, the imports that come from Germany, and I believe as well from China but we don't have as much information on that, are sold in a crystalline form, and for very good reason. This process flow chart is a representation of the process flow for General Chemical. The solution version that was sold by Repauno was, I think as pointed out by a couple of

members here of the staff, was at the liquor tub (ph) stage where the product came out, not using the soda ash production process but the caustic production process.

That produced a product that was saleable as liquor at that point. In the production process, if Repauno then wanted to continue on to the evaporators, the crystallizers, etc., to get to the crystallized product, that would be the next step for them. General Chemical doesn't do it that way. They use soda ash, so they are going through to the end, according to their testimony, and then if they want to sell the liquor product they could convert it from the crystal back to the liquor, but they are using different production.

The production process BASF uses is like the Repauno process. Soda ash is not used, it's the caustic. So the cost structure of reaching that point to sell the liquor is different for Germany, for BASF, and therefore, that's a very good reason why the economics have not been there for BASF to participate in the liquor market. You will see from the questionnaire responses just exactly what's involved.

So, just to try to clarify at the beginning, we are not suggesting different like products, but we are, I think as Mr. Carpenter asked at the beginning, we are talking about attenuated competition and a condition of

competition here in which there really can be no doubt that, to the extent there is any injury that might have occurred in the liquor market in the US, in the solution market, it can't have been caused by imports from Germany, or, I believe, by Chinese product either.

But I'll turn this over now to Mr. Work for the primary testimony. Thank you.

MR. WORK: Good morning. As mentioned, my name is Bill Work and I am the Business Manager, Inorganics and Electronic Chemicals with BASF Corporation. I am located in Evans City, Pennsylvania. I am a long-term employee, I'll date myself, 27 years with BASF Corporation, and I've been in my current position since January 2005. In my current position, I and others in my group are responsible for the marketing in the NAFTA region of a wide variety of products, and among them is sodium nitrite.

We strongly believe that the antidumping petition filed by General Chemical, now a monopoly producer of sodium nitrite in the United States, is unjustified and unsupportable, and no injury claimed by that company can be attributed to BASF's mere presence in the US marketplace. We ask that the Commission rule in the negative and avoid the unnecessary cost and inefficiency to the industry and its customers of a full

investigation.

BASF Corporation is headquartered in Florham Park, New Jersey. We are the North American affiliate of BASF AG, or BASF Aktiengesellschaft, headquartered in Ludwigshafen, Germany. BASF Corporation employs more than 15,500 people in North America, the vast majority in the United States, and we have sales of approximately 14.3 billion US dollars in 2006. BASF is the world's leading chemical company and has a portfolio that ranges from chemicals, plastics, performance products, agricultural products and fine chemicals, and in Europe as well, petroleum and natural gas energy products.

Our chemical portfolio ranges from basic petrochemicals and inorganics primarily for captive use, to intermediates and specialties for all areas for our customers. Some of the most important customer industries for our products are pharmaceuticals, construction, textile and the automotive industries.

BASF Corporation imports and distributes sodium nitrite produced by our parent company in Germany, BASF AG. BASF AG is vertically integrated in the production of the most important raw materials of sodium nitrite, caustic soda and ammonia. For that reason, we believe that our production is more efficient than that of most global suppliers of sodium nitrite.

According to the petition, General Chemical produces seven grades of sodium nitrite: granular free-flowing food grade, granular free-flowing technical grade, high purity flake, high purity granular, crystal reagent quality, high purity special granular, and pure liquor, or in other words, standard 40 percent solution. Of these seven grades, BASF sells only two in the US market, granular food grade and granular high purity grade.

The rest comprise a large and virtually uncontested market niche for General, at least in the United States. We estimate that these two grades account for approximately only 40 percent of the market for sodium nitrite. In the other five grades, including, importantly, sodium nitrite in solution, imports from Germany cannot have had any impact on prices. The solution grade is particularly important in this investigation for various reasons.

Solution is the form in which significant volumes have traditionally been sold for dyestuffs and rubber chemical applications, and was the form produced and sold by Repauno products up to mid-2006. Due to the high cost of transporting liquid, BASF could not and cannot offer that product economically in the United States, and to the best of our knowledge, it has been supplied mainly by

Repauno.

This fact became critical when a large purchaser of solution product, Chemtura, ceased its US production of the downstream nitrite-consuming product, reducing an important market for Repauno and its new owner, General Chemical, but BASF did not play a role in that market shift because we have not been able to economically supply solution. Chemtura is not substituting BASF granular product for the solution grade sodium nitrite they stopped purchasing.

General is now depicting that shift in its solution market as a contraction in overall demand for sodium nitrite, and simply attributing greater market share to BASF. We cannot hold an increasing share of a market in which we do not participate. The petition acknowledges this by requesting the Commission not to obtain comparative price data on liquor. There is no comparative price data.

Allow me to take a moment to clarify why BASF Corporation is inactive in the solution market in the United States. Sodium nitrite is initially produced as solution. In producers' home markets, it may be economically viable to ship nitrite as solution. However, shipping solution internationally means shipping approximately 60 percent water, dramatically increasing

the unit shipping cost of the sodium nitrite.

BASF AG also produces crystal by driving off the water contained in the sodium nitrite solution. This is a process that is both capital and energy intensive. To incur the energy and capital costs of producing crystal, ship the crystal, handle the crystal packaging, redissolve the crystal, perform the necessary quality and concentration testing, all add costs and effectively prevent all but domestic producers from participating in the solution market.

With respect to the granular high purity grade product, we have charged steadily increasing prices in the United States market over the past three years. In fact, General Chemical recently took one major long-term account from BASF through significant price cutting. Since the merger of General Chemical and Repauno, US customers tell us that they are concerned about the lack of any competitive alternative source for this product.

Parenthetically, they apparently don't share the opinion of Mr. McFarland that this market deserves only one supplier. In fact, at least one customer is sourcing some of its needs from BASF at higher prices than they purchase from General. BASF has clearly not been a price leader in the market for granular product, and has not even been a participant in the market for many other

forms of the product.

The petition argues that General Chemical was injured by imports of sodium nitrite from Germany and China. In reality, any financial problems claimed by the Petitioners are clearly tied to the acquisition of Repauno Products in June 2006. Within months after announcing the acquisition, General closed the former Repauno facility in Gibbstown, New Jersey, leaving only General Chemical's Syracuse, New York, plant in production in the United States.

Sufficient due diligence before the merger would have revealed to General that Repauno's major customers were at risk of shifting their downstream sourcing and might no longer be purchasing the same volume of sodium nitrite solution which the Repauno facility manufactured, yet they had to absorb the costs of that merger, the plant closure, and the consolidation of its resources in 2006, which undoubtedly affected its financial performance and had nothing to do with import competition in the granular product.

For a full explanation of General's alleged injury, the Commission must look closely at the costs and liabilities created or absorbed in that merger. General may have been seeking to consolidate the US production of all forms of the product, or it might just have taken a

bad risk. Whatever the motivation, the results cannot be attributed to imported product that is not competing with the bulk of Repauno's output.

There is likewise no threat of injury posed by German exports to the United States. BASF AG's capacity utilization is very high and inventories are declining, so there is no excess supply seeking out American markets. BASF AG's home market sales are higher volume than its sales to the United States, and are projected to grow. BASF AG's exports to third countries are stable, and the US is an overall small percentage of the company's global sales volume.

Any suggestion by General that BASF AG is seeking to unload supplies in the US due to increased third country competition is unsupportable speculation. In conclusion, there is no injury being caused or threatened by imports from Germany. General Chemical clearly made a bad decision to acquire the major producer of the liquid form of sodium nitrite, a market it was uniquely positioned to serve.

When that company's biggest customer moved offshore, General turned its sights on BASF to shift the blame and seek government sanctions for a monopoly position. General remains the sole US supplier to the market for solution. You will find that our prices for

granular product in the United States have been steadily increasing. The few instances in which General claims price suppression from BASF do not reveal any actual financial impact on their business, but rather frustration that the Repauno purchase did not create the results it had hoped for.

It is now turning to the ITC and the Commerce Department to reach that goal. We respectfully urge the Commission to reject that request and not expend valuable resources unnecessarily. Thank you for your time, and I'll be happy to answer any questions.

MR. McGRATH: That concludes our direct testimony, but I just wanted to ask Mr. Work one question to address I think what we will probably be getting around to, and that is, to the best of your knowledge, Mr. Work, why do some purchasers buy the product in a solution form, as opposed to always just buying it in a crystal or a dry form?

MR. WORK: I think there is a range of factors that one considers when they consider what form you will buy this and any product in, in fact. One is certainly volume. Are you a large enough customer to take solution directly from the producer? Another is the capital investment that you either have or want to avoid. Do you have a tank? Do you have, say, a recirculating loop, and

do you want to make a large volume of solution, directly store it in inventory, test it for quality issues, those types of things, or do you simply want to buy solid crystal material and possibly charge it in smaller batches directly into your production process?

So there is a wide range of decisions that one might take in choosing solution versus crystal.

MR. McGRATH: So in other words, you'd say it's driven by the customer's own production requirements and process, rather than just simply by habit?

MR. WORK: Habit certainly can be a part, but I think all the other factors that I mentioned play into that decision.

MR. McGRATH: That concludes our direct testimony. We will all be happy to respond to any questions. Thank you.

MR. CARPENTER: Thank you very much for your testimony. We'll begin the questions with Ms. Lofgren.

MS. LOFGREN: I want to thank you also for being here today. You didn't give me much time to think about the questions I already had written, and some of them have been answered, but I'll do my best. One question I have is whether -- BASF is obviously a large, diversified company. Do you have any facilities in the US where you could produce sodium nitrite?

Have you ever looked at producing it domestically? Do you produce it anywhere in North America?

MR. WORK: We do not produce it anywhere in North America. Our business is completely imported. In fact, our business model is direct to customer. We bring in, I guess I can say, a full container of material, and we have very little inventory within the United States, and that results in a fairly long lead time for our customers, about 8 to 12 weeks. But no, we do not produce anywhere within North America.

To your question, have we looked at it, I can only speak since my tenure in 2005, and from an investment standpoint, we have not looked at producing nitrite within the region in that time period.

MS. LOFGREN: This morning the Petitioners talked about producers from China selling in the U. S., and offering just-in-time shipping, warehousing, and these types of marketing benefits, to make their product more competitive.

Does BASF do that, and have you seen that happening in this market with products from China?

MR. WORK: Let me answer your China question first. I, personally, have not seen a lot of Chinese activity; and let me also say that I do not run this business day-to-day. My product manager might have seen

some, but it has never hit my radar screen.

As far as other value-added features, if you will, we have pretty much, since the decision was made by my predecessor in 2004 in this business; and several other import businesses, that we will basically only do direct to customer, except in rare exceptions.

You will see in the answer to the questionnaire that there was some inventory represented, but it is very, very little as a percentage of our business.

MS. LOFGREN: I don't know how much you can describe this in today's conference, since this is public; but in terms of your export markets, other than the United States; in the questionnaire, we only collected information on exports to the U.S. and exports to others.

Would you address in there what those other markets are, and maybe how they have changed, and whether the anti-dumping duty in India had any impact on BASF's exports to other markets?

MR. McGRATH: We can address that certainly in the post-hearing brief. I think the data that's there, just as a general matter, indicates that there's not a declining market elsewhere around the world. There are plenty of other opportunities and export markets that are available to us.

But, in terms of specific markets, and where it's going, we would be happy to address that in the confidential.

MS. LOFGREN: Thank you. Also, after the closure of Repanno, Mr. Work, you testified that you heard, maybe anecdotally, about customers wanting more than one source of supply. Has there been an increase in customers certifying German product that you've seen since -- I think the closure was in November 2006?

MR. WORK: I'd rather not speak about the exact number of customers, but we have had customers come directly to us, approach us, about being a second source of supply for them in light of the monopoly situation that exists here in the United States.

MS. LOFGREN: Okay. This morning General Chemical spoke about some of their customers that used sodium nitrite shifting operations to Asia, to China specifically.

In your market, have you had the same phenomenon where your customers have also shifted operations in recent years?

MR. McGRATH: We'll have to answer that in the post-hearing as well.

But I'm glad you asked it. It just emphasizes the fact, once again, that some of those major shifts were

having to do not only with customers moving off-shore, which in your analysis can reflect the contraction of demand.

Our point is that it doesn't reflect that in this case, given that the customers that we're moving, they're down-stream production elsewhere, were purchasing solution product when they were in operation in the United States.

So, if a couple of major customers decide to move down-stream purchases elsewhere, and they were not purchasing something offered by a German product anyway, it does undermine the causation connection between the German product, and whether or not you can attribute any adverse inference for the domestic industry?

But to get back to your industry, is this happening in Germany, or in European markets, are down-stream users moving elsewhere? We'll have to get back to you on that.

MS. LOFGREN: I appreciate that. I have a product question. We've spoken so much about this. You talked about producing only two products: the granular food, and the granular high-purity grades that you export into the U. S. market.

Does BASF produce a flake product; and, if so, why is it not sold in the U. S. market?

MR. WORK: I don't know. We'll have to address that in the post-conference petition.

MS. LOFGREN: Thank you. I have one last question regarding other potential sources of sodium nitrite that at least show beneficial import statistics, and whether you have any knowledge of production in Norway, the Netherlands, Japan, Chile, and even Canada?

MR. WORK: Canada, I would agree with the folks from General. I have no knowledge of any production within in Canada.

Norway is also an outlier for me. I know of none there. The others were? I'm sorry.

MS. LOFGREN: The Netherlands?

MR. WORK: I have no knowledge of any production.

MS. LOFGREN: Japan?

MR. WORK: No, but that one I'd like to defer onto my global colleagues. There may be.

MS. LOFGREN: And, finally, Chile, which shows up in huge quantities?

MR. WORK: Chile, no. I have a hunch on what that is. This is my supposition: it's not nitrate but rather nitrite. It is mined and processed naturally, and mainly supplied by a company called SQM, a Chilean concern.

MS. LOFGREN: Okay. That concludes my questions at this time. Thank you.

MR. CARPENTER: Ms. Alves?

MS. ALVES: Thank you. Your testimony, while brief, was also quite helpful this morning. Thank you.

Let me start with I think some quick questions. The product shifting, do you use your production facilities to produce any other products?

MR. WORK: To the best of my knowledge, we do not.

MS. ALVES: Are you aware of whether or not the Chinese producers would either?

MR. WORK: I suspect they don't, but I can't say that definitively.

MS. ALVES: Okay. You indicated, in your testimony this morning, that you don't maintain large inventories here.

I don't know if you'd be more comfortable characterizing your inventories in your post-conference brief in Europe or elsewhere; and whether or not you'd be able to shift products from other markets to the U. S. market, or if you have inventories accessible elsewhere?

MR. WORK: I would prefer to address that in the post-conference.

MR. McGRATH: We'll more specific in the post-conference. But I think we are able to characterize certainly that you have the data that we've submitted of inventories as a percentage of production, are not a

factor that would suggest threat here.

If anything, they certainly go in the opposite direction.

MS. ALVES: I was also wondering if you could characterize, more generally, the significance of inventories for the Chinese market as well.

I'm not sure how much coverage we're going to get in terms of the Chinese coverage. If you're aware of what the inventories might be here, in terms of Chinese product, or whether or not inventories are generally kept by producers?

In certain industries, you would maintain large inventories that could be -- you know, the product would degrade, or because it's --

MR. WORK: We can give you an opinion on that in the post-conference brief.

MS. ALVES: Okay. Your discussion this morning -- although it might cost less to produce liquor, given that you use caustic soda in your production process, was helpful and the distinction between the cost of transporting the liquor product to the U. S. market was quite helpful.

What about the testimony this morning that, even if you don't sell the liquor product here in the United States, distributors, or end users, could very easily use

your dry product because, at the end of the day, a lot of material ends up being put into a solution of some sort.

So, really, even though you're not shipping a liquor product, you're still competing with the domestically produced liquor product in addition to the domestically produced granular products?

MR. WORK: That may be the case in certain instances.

Again, I think it's a question of scale, of how large are those customers, or is the distributor doing it because he has several very small customers who want solution, so he does it as a value add. And there's certainly enough value there, that he can do that.

But for a general chemical, or for a BASF, to do that, it might be a completely different situation. That's what distributors do.

Is that a value? I would propose that the large users that use solution look very hard at buying it, or doing it themselves?

MS. ALVES: Okay. Can you characterize what the cost might be if you were going to do it yourself?

This morning we got the impression that you could just put it on a truck and drive it out of the parking lot.

MR. WORK: You could measure it in a cup, and then

you'd have a cupful. If you want to produce something, you probably need a tankful.

I would also propose that to put it in a truck and drive around, you would be guessing whether you have 32 percent solution, or 42 percent solution.

That is not how BASF would provide product. We do quality tests at every step of our production. And there are many other phases, rather than just redissolving crystal in water to insure that you're providing a quality product.

MS. ALVES: So there is a spectrum, though, of how much effort it would take to transfer from the dry product into the liquid product. So, if you maybe had a chemist there doing some testing to make sure you reach the correct level, or if you used the correct level heat, it could be done at a relatively inexpensive?

Is there some way of characterizing how much technical expertise, or what sort of expenditures it would require for a distributor?

MR. WORK: Just a moment, please.

(Pause.)

MR. WORK: We have looked at producing solution from our crystal. We have calculations that we can provide to you.

MS. ALVES: Okay.

MR. WORK: Each look has been unsuccessful. We do not sell solution made from our crystal in the United States. But, as far as the specific costs, I'd rather provide those in the post-conference.

MS. ALVES: Okay. When you're indicating pretty soon, you mean importing the dry product into the United States, and then the U. S. arm actually producing the solution here?

MR. WORK: Yes. We have looked at that, and unsuccessfully.

MS. ALVES: Okay. But you're aware that there may be distributors, who, for them, it would be viable.

MR. WORK: Sure, on a certain scale.

MS. ALVES: Okay. In your testimony this morning, you also indicated --

MR. WORK: I'm sorry. Was the question: Am I aware specifically of distributors doing it, or that they could do it?

MS. ALVES: Both.

MR. WORK: I'm aware that they certainly could do it. I don't have knowledge of my distributions, whether they are doing it or not.

MS. ALVES: Okay. Then a similar line of inquiry regarding the high-purity flake product, which you indicated this morning you're not shipping to the United

States, you indicated that you weren't sure whether or not that was being produced in Germany; or, if it were, why it wasn't being sent to the U. S. market?

This may be a question you would need to defer to one of your colleagues about it. But I'd be interested in knowing: How difficult it would be, or what sort of costs it would take, or what sort of purchasers would prefer the flake form; and whether or not the dry granular form would be competing against the flake form. What impact that would have that way?

MR. WORK: Okay.

MR. McGRATH: We'll provide that in the post-hearing.

MS. ALVES: Thanks. Mr. McGrath, it was very helpful this morning with domestic-like products, which you know the lawyers always worry about.

Just to be completely clear: You're not going to argue that the differences between the liquid or the dry forms, or within product rates, are different domestic-like products?

MR. McGRATH: No, we don't take issue with that approach. So we won't be arguing that they're not separate-like products, or separate industries.

MS. ALVES: Okay, thanks. It seemed pretty clear. But every now and then, we get a surprise in the post-

conference brief, so I just wanted to be sure.

The petition also mentioned the existence of possible other German producers, although you appear to suggest that you're the only German producer in the U. S. market, are there others who may be producing sodium nitrite?

MR. McGRATH: To the best of my knowledge, no, but we will confirm that as well.

MS. ALVES: Okay.

MR. McGRATH: In Germany, now you're speaking?

MS. ALVES: Okay.

MR. McGRATH: As I recall, the petition was talking about whether there are other producers, or potential producers, of sodium nitrite in Germany, but I haven's seen any suggesting that any of the other producers had exported anything to the United States.

MS. ALVES: That was my understanding of the petition as well, that Commerce had pointed out the existence of these companies. I wasn't sure if maybe they weren't necessarily exporting, but if they were also producing in the German market?

MR. McGRATH: Well, that's something we have to check on a little bit further. We know that they're not exporting to the United States; and I'm not even sure that they're producing for the German market right now.

We can check on that, but BASF is basically the largest in the German industry.

MS. ALVES: There were several questions that I asked this morning pertaining to Brask, and also to foreign trade zones. And any of the other questions that I asked this morning, if I haven't asked you directly, feel free to go ahead and answer them in your post-conference brief as well.

MR. GOLDBERG: Just to clarify. I'm Steven Goldberg, Associate General Counsel, and Vice President of BASF. We do not import into foreign trade zones in the U. S. currently.

MS. ALVES: Okay.

MR. GOLDBERG: Nor have we ever, as far as I know, with sodium nitrite.

MS. ALVES: Thank you. If you could also provide whatever additional information you might have on the Indian anti-dumping order, as it applies to both German and Chinese imports?

My understanding is that has been in effect since 2002, is that correct?

MR. GOLDBERG: Yes, that's my understanding. The first time I learned about it was in the BASF response was in 2002. We can dig up the order and provide that information.

MS. ALVES: Okay. If you could tell me whether or not there's been anything other than the initial review put in place; if there's the equivalent of administrative reviews, or the sun-setting provision? If that will come into play, or if they're any changes that way, that either happened after the order was put in place in 2002, and if there have been any changes in the patterns in your exports to the Indian market since then?

MR. GOLDBERG: We'll look at that.

MS. ALVES: And then if both the domestic industry's counsel and BASF's counsel would comment in your post-conference brief on what dataset should be used to measure imports, both in terms of the negligability calculation and in terms of the overall apparent U.S. consumption. It seems to me in testimony from all of you that there may be some sources where we're showing imports based on the official Customs' numbers. But those may not be viable imports of sodium nitrate.

So if you have any thoughts in terms of, obviously, if we're taking certain countries out of the equation, that's going to affect the denominator. It doesn't sound like it's going to be a big enough denominator to affect things like negligability. But technically, it's a category there, and it's also a category in terms of market share and how things change

that way.

So if you have any thoughts on the countries that should be netted out, to the extent that the Commission uses import statistics or questionnaire responses or anything else, that would be helpful.

MR. MCGRATH: Well, we'll be happy to do that. It looks as if -- and I'm assuming you're referring to what the impact might be on the analysis if you're using official import statistics, where you've got a number of suppliers that seem to be questionable.

Except for Chili, the volumes of the questionable suppliers are pretty small and sporadic. Chili seemed to have a bit of a bulge there for a year or two, which Petitioners speculate, and we would tend to agree is probably sodium nitrate, mis-classified. So I think this is a safer approach, if you have it, if you have a full dataset is to use the questionnaire responses. But that's not going to give you third countries.

So it probably won't have too much of an effect. All you'll be doing is taking the import statistics and dropping out some of it. So the negligibility decision wouldn't change. You'd still have China being where it is.

MS. ALVES: But you appreciate that process.

MR. MCGRATH: Yes.

MS. ALVES: Which ones are you comfortable having us net out, if we're using import statistics to measure non-subject imports, and then any thoughts that you might have on whether or not to use import statistics or questionnaire responses to measure subject imports from Germany and China, as well.

MR. MCGRATH: We'll be happy to do that. I have to look at it again. I think that for the imports from Germany, you can use either the official statistics or the questionnaire answer. I don't think there's that much of a difference in how that affects it.

I don't know, from the standpoint of China, what kind of coverage you've got on the questionnaire responses. It's probably not very much. But I'll take a look at that.

MS. ALVES: Okay, thank you; at this point, those were all the questions I had.

MS. DEFILIPPO: For the record, Catherine DeFilippo, Office of Economics -- I, too, thank you for being here today and providing helpful testimony and answering our questions.

Also, at the outset, any of these questions that you feel more comfortable answering in your brief, please just indicate that. I know it's difficult when it's just talking about single companies.

To close the loop on something that Ms. Alves had kind of being going into on the distributors and adding liquid, the Petitioners this morning talked about getting calls from distributors asking them for technical advice on how to liquify.

It sounded like not, but I just wanted to ask directly, do you have any knowledge of BASF providing any technical assistance to its U.S. customers on how to convert the dry to the liquid?

MR. WORK: I don't have any knowledge of that, no.

MS. DEFILIPPO: I have asked the Petitioners this morning about end uses and the different forms, and why the different forms were particularly used by certain end uses; whether it was end use driven or customer driven. You touched on it a little, saying that the customers have their plants set up that way. They have it set up a certain way such that they use the liquid or the dry.

So just to clarify, I think the Petitioners talked about a particular customer using dry in one plant facility and using liquid in another, such that the end use did use different ones. In your opinion, is that the case that it's more customer driven for an end use, or are there specific end uses that may require or need one form or the other?

MR. WORK: This is where I'm a little out of my

league, as well. I will tell you what I think, which is that again it's, in large part, a question of scale, a question of how they would like to handle the product; a question of maybe their batch size; might they charge two 25 KG bags directly into their reactor and make solution in place? Do they want to invest in a tank, to make it on a larger scale to buy it directly?

I think it's a spectrum of things that they would consider and run an economic calculation on what is the best for them, the customer, dry or direct solution purchase, even though they, in the end, do use solution.

MS. DEFILIPPO: So there's not necessarily any specific performance characteristic of dry that makes it best, say, in dyes? I mean, it's basically based on the process of producing whatever they're producing.

MR. WORK: That would be really past my expertise.

MS. DEFILIPPO: Okay.

MR. MCGRATH: If I could just add -- and I don't profess to be an expert in chemical processes -- I think that you have some experience, and I'll try to look it up, in looking at dye intermediates and chemicals that go into dye in which, in other cases, you've looked at, where there is some preference in the fabric handlers to have a product delivered to them that's in a wet form, for whatever reason. Again, that requires somebody who's

an expert on dyes.

But I think that the experience the Commission has seen is probably that there is more likelihood of running into users who might based on scale; but also based on the process of making the colors and dying the fabrics. They might be more likely to want to purchase a wet form than a dry form.

That's not to say that they might not purchase either one, depending on how they've set up their process. But I do recall in other cases where we've worked on chemicals affecting fabric surfaces, there's much more likelihood of purchasing a solution form for further processing into that dye or that pigment that then goes into the fabric at the end of the line; unlike other kinds of production processes for other end uses, as opposed to, say, the corrosion resistance or one of the other end use productions.

MS. DEFILIPPO: Okay, thank you, that's helpful. We talked this morning with the Petitioners about competition between their liquid and your dry; and this may be something that you want to answer in a post-conference. But has BASF sold dry sodium nitrite to you as customers who typically or previously had bought the liquid material, so they did make a switch?

MR. WORK: I'd prefer to answer that in the post-

conference.

MS. DEFILIPPO: I also spoke this morning with the Petitioners about the different channels of distribution, sales to distributors and sales to end users, and whether they felt they were competing in both channels with the imported product; and they did feel that they did. So either now or in a brief, if you'd talk about, you know, do you sell into both of those, and are there differences in prices in those channels, or differences in the level of competition that you're facing with the domestics in either of those channels?

MR. WORK: I'd rather answer that in the petition.

MS. DEFILIPPO: You have discussed the difference, in your opinion, between the liquid and the dry, in terms of attenuated competition. I believe that the Chinese are selling a prilled product. Do you have any view on whether or not that's any different? I mean, are you competing with imports of the prilled product, or do you believe that that's a different product from your dry granular?

MR. WORK: As I mentioned earlier, my personal experience has not been to bump up against much Chinese competition, much Chinese product. What little I know technically about prilling is, it does change the form. It's another way to make it free flowing, if you will,

and not have this 25 KG rock that was referred to earlier. It is a way to make the product flow, just like adding, say, a chemical anti-caking agent.

MS. DEFILIPPO: Is there any information from others that are actually selling in the marketplace on that, that you could include in your brief, how much they're bumping up against Chinese? That would be helpful.

The Petitioners talked this morning, and I believe they characterized your pricing data, that they had information from customers that you were keeping your pricing flat in 2007 and 2008. They also talked a lot about, both for them and worldwide, that costs were increasing. Either here or in a post-conference brief, if you could discuss that.

You know, are you keeping your prices flat; and if so, how are you doing so, in light of increasing raw material costs? Maybe you're not experiencing them to the same extent as the domestics. Any information on that, that you could provide, would be helpful.

MR. WORK: Okay, and just one correction, you mentioned just to 2007, that we kept our prices flat in 2007. We did not keep our prices flat in 2007; and 2008, I need to investigate with the person that determines those prices.

MR. MCGRATH: If I could just add, the questionnaire response does answer some of that. I mean, we'll provide what kind of communication the company has sent out to its customers.

But if you look at the questionnaire response, you see a rise in prices. I didn't hear this morning, and I was listening to try to find whether there was any suggestion that there had been price declines. I don't think that's what we were hearing.

It's perhaps an issue that the Petitioner's have as to whether or not we've been increasing our prices as quickly as they have. Have we increased prices quickly enough? They've said, costs have gone up. We agree; some costs have gone up. We have a very efficient process for manufacturing the product. So perhaps the prices are not going up together in tandem.

As I said at the outset, we don't have a situation here where you've got price depression taking place and declining prices in some sort of shootout between these companies or among the companies. It's not the kind of situation where you see a new player in the market trying to buy a market share by cutting prices and cutting prices.

What you have is long-time participants in the market; and I think they disagree with how quickly we're

raising our prices.

MS. DEFILIPPO: I have just a couple more. As I mentioned to you, Mr. Work, when were briefly chatting, I checked out BASF's website yesterday, and found it interesting in looking at the e-commerce section, which sounds like a growing part of your business in terms of customers being able to place orders and do their business on line. I was just curious if that is growing, and is that you helping you remain cost competitive by keeping some of your SGNA down?

MR. WORK: Absolutely, and I'm glad you asked that question. One of the things that I kind of scratch my head over in responding to that question is, I wanted to make it clear, we do not auction product on the Internet. We use it as a order placement channel, if you will.

You mentioned you were going to register, and I hope you do and buy whatever product.

(Laughter.)

MR. WORK: But it is just for, at least in my business, established customers with pricing in the system and those kinds of things. It is not an auction system.

MS. DEFILIPPO: That's helpful. The last question that's really probably going to be a request to address in your post-conference brief deals with some of your

testimony this afternoon.

It's on page four, just for reference, that General Chemical recently took one major long-term account from BASF though significant price cutting. You also noted, in fact, at least one customer sourcing some of its needs from BASF at higher prices than they purchased from General.

If you could, in your post-conference brief, perhaps provide information on how those customers are, and in regards to the first one where you noted that General Chemical recently took the account from you, do you know whether that was General Chemical offering liquid or dry. Any information you have on those customers, who they are, would be helpful.

MR. MCGRATH: We'll be happy to give more detail in the post-hearing statement.

MS. DEFILIPPO: Great; thank you very much for your responses today.

MR. MCGRATH: Could I just add one other thing, I think to clarify in response to one of your questions. I think you had asked for further detail on the participation of BASF in the market for distributors and end users.

I don't think that we were suggesting -- and Mr. Works will provide the details in the post-hearing --

we're not suggesting that BASF was not selling to both those markets. They do sell to both of those markets.

The extent to which we have had competition with General in each of those markets is a legitimate area of inquiry, and that's what we want to clarify. Because in those channels of distribution, end users and distributors, we won't be competing head to head in some of those areas, because they are supplying solution and we are not supplying solution.

MS. DEFILIPPO: Thank you for the clarification. That was helpful.

Mr. CARPENTER: Mr. Yost?

MR. YOST: Charles Yost, Office of Investigations -- just to close the loop, so to speak, if we turn back to the sodium nitrate process flow, I assume your process, with the exception of adding caustic soda instead of soda ash, is the same as what's depicted on this figure?

MR. WORK: I'm not an expert on our process, sir, but I believe that's correct.

MR. YOST: Okay, and in terms of, you take the solution, pass it through evaporators and the crystalizer and the centrifuge, and you come up with a dry product.

MR. WORK: Fundamentally, yes, sir.

MR. YOST: Okay, thank you very much; I have no

further questions.

MR. CARPENTER: Mr. Randall?

MR. RANDALL: Robert Randall, Office of Industries -- going back to the solution versus the dry, you're not contending that this is a technically difficult problem, are you?

MR. WORK: No, sir, I am not.

MR. RANDALL: But in general, it might require installation of a mixing tank with a stir, and possibly some heat, and possibly a storage tank; and would involve some labor to perform this process.

I would assume that this would be quite variable, depending on what the customer had, either a distributor or an end user already in place. So it wouldn't necessarily all be new investment or it might be, and the staffing might be additional people or it might not be. So this is probably quite variable for anyone considering doing this

MR. WORK: Yes, I would agree with that.

MR. RANDALL: When you looked at the possibility of BASF doing this in the United States, was this all new equipment and new staffing, if BASF were to do it?

MR. WORK: I would prefer to respond to that, sir, in the post-conference petition.

MR. RANDALL: Okay.

MR. WORK: We will give you very detailed calculations in the description of that situation.

MR. RANDALL: Okay, but it might or might not be representative of what anyone else would incur if they were to do this?

MR. WORK: That's correct.

MR. RANDALL: Okay, I have another question going back to this. Apparently, from what we've been told, BASF's process is essentially similar to this process flow diagram, except for substituting sodium hydroxide for soda ash, or caustic soda for soda ash.

That has an implication in terms of the concentration of the sodium nitrite solution coming off, which might then be commercially salable, if you're making it from sodium hydroxide rather than soda ash. That isn't the case with General Chemical

MR. MCGRATH: It's both, with respect to the concentration and the presence of impurities at that point in the production process.

MR. RANDALL: Okay, fine, thank you; what's striking, of course, is that this is a continuous process that has some implications often that it leads to lower costs compared to batch processes.

But the other side of it is the characteristic that you have maintain continuous flow through, and

that's a point that General Chemical made in their testimony, so you have fixed costs. Do you have any information on what the turn-down characteristics on this are, if you're trying to run it at, say, half capacity?

MR. WORK: I do not, sir, but I would suspect that we are faced with the same dynamics that were stated by the folks from General; that this is a large continuous process. It's a large machine, and I don't know though whether we can turn it down to 50 percent, 80 percent, or whatever, before we hit issues.

MR. RANDALL: Wouldn't this create a great deal of pressure to move product through the system to keep the process economics up in an acceptable range, doing whatever you have to do to sell product?

MR. WORK: That could be the case, certainly, if a particular Plaintiff were close to that critical point.

MR. MCGRATH: If I understand the question correctly, is the same pressure there for BASF to keep the continuous process running, as it's described by Petitioners? I think it's important to note that there is, as you have. There's a distinction in how that process works for BASF versus Petitioners.

In the BASF process, it's just simply a fact, that BASF makes it using the caustic soda process, so that the solution that they would be extracting from the system

would have to come at an earlier point than the process that's used by General. But it's more like the process that was used by Repauno; where the solution could only be economically exacted at that earlier point.

The problem that that poses for BASF is trying to sell that solution to the United States. It's not economic to ship that much water. So they would have to sell the product in a dry form later on, and someone would have to back-process it into solution again. That would all have to be theoretically economical and make sense.

We're not saying it can't be done, and it definitely can be done. We're looking, like I said, not at like product, but at causation. Was it actually done? Was there a presence of BASF product in solution form in the market place, that would have had this impact of causation of injury on the domestic industry?

So I think I keep circling back in my answers to the whole concept of whether something is doable hypothetically versus whether it's actually done in the marketplace; whether it's being done.

We've looked at BASF, and Mr. Work is going to provide the data. BASF has looked at the economics of trying to supply the product, and concluded for BASF that it wasn't economical to do it.

I think we discussed earlier whether we have any knowledge of distributors buying BASF product and turning it into solution product and selling it elsewhere. They haven't come to BASF with questions about how to do that. So we can't really say for sure that in all instances, nobody is taking the BASF product and turning it into solution. That's a possibility. We'll check on that.

But I think that the company's knowledge is that the product is being sold to the market, to the distributors, and to the end users as a dry form.

So the production process itself, all you've observed is correct. There is a pressure there to keep the continuous process going. But the more important question is, what is the production process we use? Ours happens to be different from the one that's used by General. So their sale of product is going to be done in a different, under different economics than might be the case with respect to the BASF product. So we ask you to take a look at that.

MR. RANDALL: Okay, thank you, that's helpful.

MR. CARPENTER: Mr. Corkran?

MR. CORKRAN: Douglas Corkran, Office of Investigations -- thank you all very much. Your testimony has been very helpful, and I appreciate the time and effort that you spend in coming to provide

testimony for our staff conference.

Following up on my colleagues' questions, I have very few additional questions. But one I just wanted to get clear in my own mind, because it has been kind of the focus of some of the testimony.

At present or in the immediate past, say, 2006/2007, has BASF been adding value by converting granular sodium nitrate into the liquor form here in the United States? I mean, are you importing the granular and converting it yourself into liquor, or is that one of the aspects that was under consideration in the future?

MR. WORK: I believe we had a very small -- and it shows in the questionnaire -- less than one percent of our sales were liquor in 2006 and zero in 2007.

MR. MCGRATH: It was being looked at as a possibility, and has been looked at, I think, previously, as a possibility, as well. The company was reaching the conclusion that it wasn't economical. So that's the reason.

MR. CORKRAN: Okay, thank you, that's very helpful. One of the datasets that we collect is, in part, because it's very helpful to looking and also, in part, because it's one of the things that helps the Commission now in its cumulation in monthly import data.

I'm not characterizing the monthly trends in any

way. But I do have a question. As we look at monthly entries of imports, is there any sort of seasonality demand; or, as was testified earlier, are there just so many diverse end uses for this product that there's not really a seasonal aspect to demand?

MR. WORK: This is something I'd like to add in the petition later. But I don't believe we have any significant seasonality to our business.

MR. CORKRAN: Just as a related question, and you can likewise expand on it -- and I'm actually only pulling this from other products -- but to the extent that imports are entering through ports that can get iced up in the wintertime, if that has any effect, as well. Although you did testify that you made a conscious decision not to hold substantial inventories. So I don't know whether that would have an impact or not.

MR. WORK: Yes, weather can always play a factor. I can't recall any significant impact on our import pattern, based on weather.

MR. CORKRAN: Okay, I appreciate that. Just a general question on data sources, to the extent that you track or have knowledge of production of this product, are you aware of production of sodium nitrate elsewhere in the EU?

MR. WORK: I am not, but my German colleagues who

have the global view of the business can certainly comment on that.

MR. CORKRAN: Okay, that would be tremendously helpful, and if they could also provide us with information regarding production, just generally elsewhere in the world other than Germany.

MR. GOLDBERG: We'll provide those and confirm it in the post-hearing brief. But I do believe one source, again, not of imports, but of production potentially is Poland. That's the one other EU source, I believe, that we're aware of.

MR. MCGRATH: That was a supplier also that there is a history of supply to the United States. We can look at some of the others. The other ones that show up on import statistics, I think Mr. Work already indicated, Norway was not one you were aware of having production. The Netherlands was not one that had production.

So there is probably a bit of trans-shipment showing upon in some of that data. But that's just with respect to the import figures, and you're asking about actual production that's going on elsewhere.

MR. CORKRAN: Thank you, and then my last question is, how long has BASF been certified to product food grade sodium nitrate?

MR. WORK: I'll have to respond to that later.

I'm not sure.

MR. CORKRAN: Thank you, I very much appreciate, again, all your time and your responsiveness today. It's been very helpful, and I have no further questions.

MR. CARPENTER: Ms. Alves?

MS. ALVES: Mary Jane Alves again from the General Counsel's Office -- I have just a couple of quick follow-up questions. The first one being, we've talked a lot today in terms of competition between the imports and the domestic industry, and who's shipping what.

But if you could more explicitly confirm perhaps, Mr. McGrath, whether or not you believe the Commission should be cumulating subject imports from China and Germany, both for purposes of its present material analysis and any threat analysis, as well.

MR. MCGRATH: I will be happy to comment on that. I think, at first examination of the facts and circumstances, I don't have a reason to oppose cumulation, based on the usual circumstances that you look at in deciding whether to cumulate.

So we're not making an argument right now for not cumulating. But we note that they certainly are offering a product that is in a different form. They don't appear to be selling into the solution market, either. So they, like China and Germany, are not participants in the

solution side of the market. But we'll address that from the standpoint of the legal criteria for cumulation.

MS. ALVES: Thanks, that would be helpful. Also, if you could address, either here or in your post-conference brief, there were some arguments in the petitions that the U.S. market is attractive. Is the U.S. market attractive, as compared to other markets, in terms of its size, in terms of demand, in terms of prices? How does the U.S. market compare to other markets?

MR. WORK: I'd like to address that in the post-conference brief.

MS. ALVES: That would be helpful; and if you could also, in your discussion, tie that into the discussion that you were also going to be putting in your post-conference brief in terms of where else your shipments were going, that would be helpful, as well.

MR. MCGRATH: And once again, with respect to available markets, alternative markets, I think our questionnaire shows that the U.S. is a smaller market compared to a number of other markets, including the home market.

But it's not one of those products where the U.S. is the king player out there in the world, and that most of the product gets driven to the United States. It's a

market which has, you know, a stable demand. There are quite a few other markets, as well, that continue to have stable demands elsewhere around the world.

MS. ALVES: And that's precisely the sort of information just, you know, in terms of relative sizes or prices or what have you, forecasts for demand, in the relative markets; that would be helpful.

Then finally, Mr. McGrath, you were talking this morning in response to some of our questions about, does it really matter if hypothetically the dry product could be transformed into a liquor product?

I guess my question to you, in terms of causation is, does it matter whether or not it has, in fact, happened? From a purchaser's standpoint, could a purchaser use that as leverage in pricing -- if you have any thoughts that way.

MR. MCGRATH: I've been thinking about it since I heard Mr. Nelson's testimony this morning on that very issue. I think you asked him directly or somebody had asked him whether or not customers who were buying the solution product were coming and saying, well, you know, we can pay "x" number of pennies per pound for the dry product from BASF.

I listened to his answer to see whether he was saying, well, yes, we've been using BASF in tradeoff in

the price negotiation, and he never said that. What he said in response to that was that customers let us know that they are aware of the market situation.

It was an interesting, vague way of, I think, saying, no, we don't have customers saying, well, my response to the price you're quoting me on the solution is that BASF can give the solid at "x" number of pennies.

I think that it's certainly a fair question, and it should be looked at. Because we're not aware, from the German standpoint, that the marketplace in the U.S. is working in that fashion, where customers who are seeking to buy a solution or playing off price quotes from the Germans on dry product in order to get a better price for the solution from General Chemical.

We have considered that, and we'll try to be more specific in the post-hearing. But that's the point of what I was saying. It hasn't been happening.

If customers are not looking at them as interchangeable in the price negotiation stage, then I would certainly argue that there's a break in the causal connection there that you could argue, between the imports and the injury that's caused, especially when part of the injury that's certainly been implied, if not directly argued, is the closure of the Repauno facility, which was much better known for producing solution than

for producing the dry product.

So that's not a relationship in the price marketplace and in the price negotiation marketplace that we think exists. We'll be more specific in the confidential post-hearing submission.

MS. ALVES: That would be helpful. Those are all the questions I had at this point.

MR. CARPENTER: Thank you, again, gentlemen, for your very useful responses to our questions. We appreciate that.

At this point, we'll take a short break of about five minutes or so for each side to prepare their closing statements, and we'll begin with the Petitioners.

(Whereupon, a brief recess was taken.)

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A F T E R N O O N S E S S I O N

(12:30 p.m.)

MR. CARPENTER: Please proceed whenever you're ready.

MR. JAFFE: Thank you again. For the record, Matthew Jaffe with the law firm of Crowell & Moring on behalf of Petitioners General Chemical.

There has been a lot of discussion about India today, surprisingly, in a case that doesn't involve India. Listening to Respondent's presentation, it kind of reminded me of a parable that comes from India. Perhaps you know of it. It's a parable, "The Six Blind Men and the Elephant."

There was a town somewhere on the edge of the Indian subcontinent. They had never seen elephants before, yet one arrives at town. Everyone is very excited, but everyone in this particular town is blind. So six young, eager individuals run out because they want to be the first to be able to describe what an elephant is, but they are so eager, so eager that one runs right into the elephant. "Oh, my God. It's like a wall!" and he runs back.

The other one comes, and there is a swishing tail. "Oh, my gosh. It's a rope! An elephant is like a rope!" and he runs back.

Another one happens to grab the tusk. "Ah, an elephant is like a spear!" and then he runs back.

So forth, so on. Someone grabs the trunk. "An elephant is like a snake!"

Somebody else runs into a leg: "An elephant is like a tree trunk!"

The wall, according to Respondent, here is liquor. Okay? They want you to focus on that. That's the wall. That's what's going to stop this case, or perhaps it's that rope. One major, long-term account; we've lost it. Perhaps it's the spear. One customer buys our product at a higher price. One customer.

Now, there was an older man in town who came out. He was blind as well, and he came out, and he took a look at the elephant, but he learned from experience not just to touch one thing, not just to touch and go around. He felt the wall, he felt the tail, he felt the trunk, he felt the tusk, he felt the leg, and he was able to go back to that town and describe exactly because everybody else was very confused, but he was able to describe exactly what an elephant was.

Like product. We're not suggesting that there are separate like products here; there is one like product.

Import surge. Did anyone on the Respondent's side talk about the import surge? They talked about liquor,

but what about dry? Did they talk about that as competition?

Price underselling. They talk about one.

We, in our lost sales allegation, lost revenue allegations, talk about a lot more.

They mention demand. We talk about demand, but they talk about a stable demand.

Look at the entire record before you. What you see is an elephant, a big elephant. It's called BASF, and there is another elephant in the wings. It's called China, perhaps even a bigger elephant.

If you look at India again, and I just happen to have here the antidumping duty order that India imposed on BASF and China, the findings of that are very similar to the facts that we find here.

The Indian authority observed that the imports from the EU, and, in this particular case, it was Taiwan, a separate case involving China, have increased sharply during the period of investigation. The production capacity utilization has shown a decline during the period of investigation.

Decrease in sales. The market share of imported goods has gone up, whereas the share of Petitioner and total demand has come down.

The cost of productions have gone up during the

period of investigation, but the realization has gone down in the later part of the POI, and the Petitioners suffered loss.

Imports from the subject country, here, the EU -- BASF is specifically named in this case -- resulted in price undercutting in the Indian market.

So the parable of India of "The Blind Man and the Elephant" is directly applicable here. Here is an elephant. It is BASF and the subject imports from Germany, and it is China, and, therefore, we ask, at this particular juncture, that you find a reasonable basis to believe that there is material injury during the period of investigation and a threat of material injury in the future. Thank you.

MR. CARPENTER: Thank you very much, Mr. Jaffe. Mr. McGrath?

MS. McGRATH: Thank you once again to the staff. I have a few points, and thank you to my good friend, Matt Jaffe. I was kind of waiting for how the parable of the elephant was going to fit here, and now I know that we're an elephant and that China is an elephant, too. By the way, let's not forget China.

I was just sitting here imagining fitting the various pieces of the case into the elephant story. I apologize. I don't have a good parable, but I will

remember it for a different audience. You never want to repeat the same one to the same audience.

I have a few points. I think we mostly have covered all of the arguments that we wanted to cover, but there are some that bear some additional analysis and keeping the eye on the ball. And I'm glad that this process flowchart is before you because it does, I think, spell out pretty clearly where, in the process flow, the solution product falls out of the process, and the difference between General Chemical and Repauno. That's a very important distinction, in taking a look at this whole industry and looking at whether there is injury and what it's caused by.

I think that, if I'm getting it right, I think that the Petitioners are characterizing our argument as saying it's the trunk of the elephant that's causing the injury.

What I'm saying is that there is a large portion of this market that cannot be ignored in your analysis because I keep going back to -- I seldom argue, on behalf of a respondent, that I'm not arguing a different like product, I'm not arguing a different like product, but, here, I have to be very insistent: I don't want you thinking that there is any sort of an equation here between a like product distinction and the fact that

there's liquid and dry product. It's whether or not that liquid form was really in the marketplace that could have caused injury to this industry.

We're saying that it's not a continuum issue here. It's not that we're suggesting that one could be there and the other not. What we're saying is that our product was present but only in the dry product area. The liquid product was being sold exclusively by the Petitioners in this market. So you have to bear that in mind when you look at the data on the results for the industry.

One other point there: The argument that the solution and the dry product are totally interchangeable. We did hear earlier that the Petitioners felt that the only reason that one purchaser might buy the liquid versus the dry product is habit and that they would change their habit for the right price.

When I stop and think about that, I'm not sure I entirely disagree with that, even. The right price isn't there. You heard from our witnesses that they can't sell it at the right price. They can't make that happen.

So the real question -- again, I go back to this -- is causation. It's not theoretically can something be done; it's whether it really was done during the time period that the Petitioners say they were injured. We're saying that, economically, we've looked at the market.

BASF has considered selling solution in the market and decided the economics weren't there, and so they just chose not to participate.

In terms of whether or not there is an import surge, the data show that there is an increase in imports, but I have to remind everybody, we're talking about small numbers, in light of Petitioners themselves. I think they said -- I'm not giving anything away -- they said they see a foreseeable market in the U.S. of about 30,000 tons a year, and they were greatly concerned that imports had driven all the way up to 7,000 tons, and that this is causing them to decline to -- they dropped down to 85 percent of the market.

So we're not talking about a dominant position for imports in this market, and of that portion, we're talking about, comparatively, minuscule market share for China. They are not an elephant. Nobody is seeing any great presence rushing in from China to be able to supply this market.

Once again, I reiterate, we think that they were added primarily for emotional value. Everybody's favorite whipping boy for a dumping case is China. So if you add them in, then there is the possible that they might be looked at as a large producer that could come onto the market in the future.

We will provide additional information about individual instances of lost sales, lost revenue. Our position is, once again, prices have increased on both sides, and there is no denying that, and what we see in the marketplace is that, with only one domestic producer left, there are some purchasers out there who are looking -- they disagree with Mr. McFarland in terms of one guy can supply the market. We've been doing it for 90 years. We can do it forever. I think they reasonably sometimes look around for somebody else.

So that is a reality of the market. You will find that when you look at this, and the final point that nobody has talked about because it's all confidential, is the actual evidence of alleged injury. When you take a look at that, and you look at the financial performance, I think you're going to find a disconnect between some of the processes or some of the events that are alleged to be the cause of that injury and whether or not the results that show up are really indicative of injury that is caused by imports. The causation factor is not there.

So, with that, I will close and thank you very much for your attention, and we will provide as much as we can in post-conference confidential detail. Thank you.

MR. CARPENTER: Thank you, Mr. McGrath, and on

behalf of the Commission and the staff, I want to thank the witnesses who came here today, as well as counsel, for sharing your insights with us and helping us develop the record in this investigation.

Before concluding, let me mention a few dates to keep in mind. The deadline for the submission of corrections to the transcript and for briefs in this investigation is Friday, November 30th. If briefs contain business-proprietary information, a public version is due on December 3rd. The Commission has tentatively scheduled its vote on the investigations for December 19th at 11 a.m. It will report its determinations to the Secretary of Commerce on December 24th, and Commissioners' opinions will be transmitted to Commerce on January 2nd.

Thank you for coming. This conference is adjourned.

(Whereupon, at 1:15 p.m., the preliminary conference in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Sodium Nitrite from China & Germany

INVESTIGATION NOs: 701-TA-453, 731-TA-1136-1137

HEARING DATE: November 27, 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 27, 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: Bernadette Herboso
Signature of Court Reporter