UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
CERTAIN SODIUM AND	)	701-TA-473 and
POTASSIUM PHOSPHATE	)	731-TA-1173
SALTS FROM CHINA	)	(Preliminary)

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Thursday,
October 15, 2009

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

The preliminary conference commenced, pursuant to Notice, at 9:31 a.m., at the United States International Trade Commission, CATHERINE DeFILIPPO, Director of Investigations, presiding.

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On behalf of the International Trade Commission:

Staff:

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APPEARANCES: (cont'd.)

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In Opposition to the Imposition of Countervailing/ Antidumping Duties:

On behalf of Hubei Xingfa Chemicals Group Co., Ltd.; Sichuan Mianzhu Norwest Phosphate Chemical Company, Ltd.; Wuhan Waking Lion Chemicals Co., Ltd.; Thermphos (China) Food Additive Co., Ltd.; and Lianyungang Natripol (INT'L) Co., Ltd.:

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Washington, D.C.

I N D E X

I N D E X

P R O C E E D I N G S

(9:31 a.m.)

MS. DeFILIPPO: Good morning and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of antidumping investigation No. 701-TA-473 and 731-TA-1173 concerning imports of Certain Sodium and Potassium Phosphate Salts From China.

My name is Catherine DeFilippo. I am 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; Jennifer Merrill, the investigator; Craig Thomsen, the economist; John Ascienzo, the auditor, and Ray Cantrell, the industry analyst.

I understand that parties are aware of the time allocations. I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphone. We also ask that you state your name and affiliation for the record before beginning your presentation. Also, I'd like to remind you to please put your cell phone off or on silent. Are there any questions?

(No response.)

MS. DeFILIPPO: If not, Mr. Cannon, welcome. Please come up and proceed with your opening statement when you're ready. Thank you.

MR. CANNON: I don't have one today.

MS. DeFILIPPO: Then we will proceed with an opening statement from Ms. Mendoza. Please proceed when you're ready. Thank you.

MS. MENDOZA: Thank you. Good morning. My name is Julie Mendoza. I'm with the law firm Troutman Sanders, and I'm appearing on behalf of the Chinese industry in this investigation. Although we understand that this investigation covers four distinct phosphate salts and many of the conditions of competition we will be discussing apply equally to all four products, our presentation today will focus only on STPP.

Let me start by saying that once you push aside the rhetoric and the boilerplate and look at the record, it's abundantly clear that Chinese imports of STPP have not had adverse effects on the U.S. domestic STPP industry. We believe that there are four key factors that explain what happened in the U.S. STPP market over the period of investigation. Try not to trip over that too much.

First, there are two grades of STPP, food

grade and technical grade. The two grades are not interchangeable, and the market dynamics are very different. It's not possible for producers to shift production between them. Cross-contamination is a very big problem for food grade customers. Once our witnesses explain the difference I think it will be pretty clear that none of us want any cross-contamination in our food supply.

Based on official Chinese export statistics which break out food grade STPP, more than 90 percent of Chinese imports are of technical STPP. By far, the largest use of technical STPP is in manufacturing automatic dishwashing detergent.

However, that application is now being phased out due to legislation prohibiting phosphates for these uses, so by the end of this year imports of that product, uses for that product in the dishwashing detergent segment, will end. I believe the regulation goes fully into effect in July, so given production schedules you're basically talking about stopping by the end of the year.

Food grade STPP is produced to different and much more demanding specifications. As you're going to hear from our witnesses this afternoon, Chinese producers face substantial barriers to competing in

the food segment of the market of STPP. The U.S. industry, in contrast, is increasingly focused on the food grade market, including proprietary specialty blends that are composed of STPP and ingredients that command a substantial price premium over commodity grade STPP.

It's very important to know whether the domestic producers have classified these specialty blends together with commodity STPP in their reported prices and data. We hope that they will clarify that today.

The second important factor about this market is the Chinese imports of STPP were not a significant factor in the U.S. market for a large portion of the POI. In fact, up until the last half of 2008 nonsubject imports led by Mexico, Canada and Israel held the largest share of the U.S. market, followed by the U.S. producers. Chinese imports had a small share in 2006 and actually declined in 2007.

The third factor is that in 2008 energy costs and other economic conditions led to dramatic price and supply swings for raw materials used to produce STPP, and much has happened in other commodities, as the Commission has seen. The primary raw material used to produce STPP fell into short

supply as demand for those commodities skyrocketed. These are the same materials that are used for fertilizers, and we all know what happened to fertilizer consumption and corn production and ethanol production in 2008.

The result was rapidly rising prices, tight supplies for raw materials needed to produce STPP, particularly in the second half of 2008. U.S. suppliers quickly responded by raising prices to cover those rising costs. Due to the supply constraints, however, on the raw materials shortages developed in the market, and U.S. producers were not able to meet demand. These shortages were not limited to potassium salts. They also extended to the raw materials for STPP.

Producers in Mexico and Canada -- remember the other two major exporters to the U.S., the two largest suppliers, in fact, of third country imports -- experienced the same supply problems on the raw materials. As a result, users of technical grade STPP turned to imports from China.

As is evident from the import data, however, the increases in Chinese imports in the second half of 2008 and in 2009 primarily replaced imports from Mexico and Canada, not U.S. producers. U.S. producers

did lose some market share because they couldn't supply -- it's that simple -- due to raw material shortages.

As the economic downturn hit in late 2008 and early 2009 and commodity markets turned around and returned to more normal levels and normal supply, as a result in 2009 U.S. producers who now were able to supply the market were able to quickly regain market share they had lost during the second half of 2008, and what's really impressive is they gained market share, they increased prices and they were able to show their strongest profits.

As I said, Chinese STPP imports in 2009 replaced nonsubject imports. In fact, the declines in Mexico were far greater than the increases from China. China has supplied this market when other exporters could not.

Fourth and finally, imports from China of STPP will soon begin declining. As noted, the majority of Chinese products are of technical grade. This demand is disappearing. We ask you to consider as you listen to the testimony whether or not there is any evidence in this record that any declines in this industry are due to imports. I went over? Sorry.

MS. DeFILIPPO: That's okay. Thank you, Ms.

Mendoza.

We will now have a presentation by those in support of the imposition of countervailing and antidumping duties. Mr. Cannon, when your group is ready to proceed please feel free to do so. Thank you.

MR. CANNON: Thank you. We are ready to proceed, and we'll start our presentation with the testimony of Nancy Stachiw.

MS. DeFILIPPO: Press the button in. It should light up.

MS. STACHIW: Thanks. Good morning. My name is Nancy Stachiw. I'm the Director of Technical Service and Applications Research for ICL Performance Products LP. I've spent more than 20 years in the phosphate industry since I started with Monsanto in 1987.

Currently I manage 15 food scientists, industrial engineers and chemists who staff our Technical Service Department. We look for new uses for phosphates and assist our customers to use phosphates in their products. We also obtain and analyze our competitors' phosphates.

I'm here today to explain phosphate applications and end users. First I will identify the

functions that end users generally buy phosphates to perform. Second, I will go through the phosphates one by one and say what function each phosphate performs particularly well. Third, I will highlight major differences between the phosphates.

To begin, what functions do phosphates generally perform? Recognizing that different functions matter to different end users, I will mention six: Chelation, buffering, emulsification, dispersing, nutrient in fermentation, and solubility properties.

First, chelation, a term often used interchangeably with sequestration and activates unwanted minerals or metals. Iron, magnesium, copper or calcium can interfere with food processes or cleaning processes. Minerals can build up and cause scale in water or boiler systems. In meat they can cause unwanted reactions and bad flavors. A chelating agent or sequestrant will bind these or tie them up so they are not available for unwanted reactions. TKPP and STPP are chelating agents, where MKP and DKP are not.

Second, buffering stabilizes pH, which measures the acidity or alkalinity of a solution, equal to seven for neutral solutions, increasing with

alkalinity up to 14 and decreasing with acidity down to zero. A buffer minimizes the change to the pH when various other alkaline or acidic ingredients are added to a formula.

Suppose not everything you're adding has the same pH. A strong buffer will help hold the pH where you want it, preventing the pH from shifting much. This really matters in formulating pharmaceuticals, beverages or food products. MKP and DKP are excellent buffers, where TKPP and STPP are not.

Third, emulsification mixes two or more otherwise incompatible substances, typically liquids like oil and water. An emulsifying agent helps keep these two substances together. Take, for example, natural cheese. If you heat cheddar cheese, the oil will separate out. If you add an emulsifier the oil doesn't separate out. Processed cheese slices or cheese sauces are made by forming an emulsion.

DKP is an emulsifying agent and is therefore used in many dairy applications. MKP has the ability, but its pH prevents it from being used much as an emulsifying agent. STPP and TKPP also have that function, but not to the same extent as DKP.

Fourth, dispersing keeps particles in a liquid from forming aggregates or coming together.

Let's say you're treating water or cleaning food particles off of clothing in an institutional laundry. You don't want the dirt to come back together in a clump. You want to keep the food or stain deposits dispersed. TKPP and STPP are very good at dispersion, where MKP and DKP are not.

Fifth, fermentation in food processing typically converts sugar and other carbohydrates to alcohol and carbon dioxide or organic acids using yeast or bacteria. Fermentation can convert juice into wine, grains into beer, carbohydrates into carbon dioxide to leaven bread and sugars from vegetables into preservative organic acids, lactic acid in yogurt or vinegar, acidic acid in pickled cucumbers. More than the other phosphates, MKP is used in fermentation and yeast applications for its nutrient content as a source of both potassium and phosphorous.

Six, solubility is simply the amount of a compound that can be dissolved. The higher the solubility, the more that can go into a liquid and form a homogeneous solution. Generally the potassium phosphates, the one with the K in them, are more soluble than the one with sodium, STPP. Specifically, STPP is only 13 percent soluble, MKP 21 percent, DKP 63 percent and TKPP 65 percent.

So now that you understand chelation, buffering, emulsification, dispersing, fermentation and solubility, I will go through the phosphates one by one and say the top two or three functions that each phosphate performs particularly well.

MKP's most important functions are to buffer and in fermentation. DKP's most important functions would be as a buffer and in emulsification. Also its solubility is good. TKPP's most important functions are solubility, dispersion and sequestration. STPP's are dispersion and sequestration.

Now, this summary, like checkmarks on the first page of End Use Table submitted with our petition, GEN-4, might make you think that STPP and TKPP form one end use group and MKP and DKP another. This is only partly accurate. In a chemical sense, we do group the phosphates that way.

MKP and DKP are both orthophosphates, which means they have one building block of phosphate, while STPP and TKPP are polyphosphates. As a result, STPP and TKPP are sequestrants and dispersing agents with applications in cleaning, water treatment and metal finishing. DKP and MKP are much stronger buffers and are primarily used for food and MKP as a fertilizer.

On the other hand, the end users within each

group differ significantly for each individual phosphate; for example, one of the most significant differences between the end uses of the orthophosphates, MKP and DKP. Importantly, MKP is acidic with a pH from 4.2 to 4.8 and DKP is alkaline, around nine, maybe a little higher. Also, MKP and DKP have different solubilities. DKP is about 63 percent soluble versus 21 percent for MKP.

Because of their opposite properties, they are used in different applications. DKP is used where you need an alkaline orthophosphate and is particularly well suited for dairy applications. As an emulsifying agent, it helps stabilize proteins in nondairy creamers where MKP, due to its acidity, is not used at all for those applications. In fact, we use DKP to help counteract acidity as in coffee. That's what it contributes in coffee creamer. Finally, because DKP is so soluble it is used in solutions or used for antifreeze applications.

MKP is used as a buffer, but in the acidic area because it is an acidic product. MKP is also used heavily as a nutrient source for microorganisms during their fermentation because microorganisms grow best at a more acidic type environment, where DKP is too high in pH. It would kill off the bugs. So the

end uses of MKP and DKP differ significantly.

Likewise, the end uses of the polyphosphates, STPP and TKPP, differ. First, STPP is a triphosphate, meaning it has three of the phosphate building blocks, where TKPP has only two, being a diphosphate or a pyrophosphate. Second, STPP is a sodium phosphate, TKPP a potassium phosphate. Third, STPP is only 13 percent soluble versus 65 percent for TKPP.

Because of these very dramatic solubility differences, TKPP has a lot of applications where high solubility is important; for example, in water treatment or paint where STPP might come out of solution. On the other hand, STPP can do some things that TKPP can't, such as form hydrates and dry substances that contain water. So in some cleaning formulations STPP can be mixed with liquids, absorb those and still be a dry powder. STPP therefore has a lot of uses in industrial and institutional -- we call it I and I -- cleaning and automatic dishwasher detergent, for example.

Also, STPP is a very dominant primary ingredient for processing meat, poultry and seafood. STPP interacts with the meat protein and allows it to bond and maintain moisture so that when the meat is

frozen or cooked it maintains is juiciness. Through chelation, STPP binds iron and magnesium which would otherwise react with the fat in the meat and cause unwanted flavors.

By contrast, TKPP is not heavily used for those applications. Flavor issues related to the potassium in TKPP makes it not as amenable to meat. TKPP would be more of a niche or specialty product in primarily low sodium applications.

Let me conclude with some quick miscellaneous comments. For some of you who participated in the SHMP investigation last year might wonder how do end uses of the phosphates covered by our petition differ from the end uses of SHMP? In water treatment, SHMP is primarily used as a water softener for sequestering calcium. TKPP, by contrast, is used more for iron, magnesium and copper and more for the scale and corrosion control than for softening.

In beverages, SHMP is used for shelf life and stability where MKP is used as a buffer and a nutrient. Unlike STPP, SHMP in foods has little effect on the protein in meat processing. It will not transform them to allow them to bind and hold more moisture.

SHMP is not an effective builder for cleaning, so it is not used in I and I as STPP is used. SHMP doesn't have any potassium with the sodium, so it is not used as a nutrient for fermentation or for fertilizing.

Finally, SHMP is not an emulsifying agent so, unlike DKP, SHMP does not have that functionality for dairy.

A second leftover question is what role do phosphates' different physical forms, in solution or anhydrous; particle sizes, fines, powder or granules; and grades, food or technical, play in end users' choices? The short answer is different end users require different forms, particle sizes and grades.

An end user making a liquid nondairy creamer or a liquid antifreeze will want DKP in solution. Some dairy applications, though, are dry blends. Here the end user might want a dry ingredient so as not to need a liquid handling system. With regard to particle size, a customer making a dry mix, a powder cleaning product or spice mix for meat, needs to have consistent granularity so the blend doesn't separate. Particle size would matter to such a customer.

Product sold as food has to undergo extra testing and meet food related specifications that our petition describes. For the most part, food grade can

substitute for technical grade, but given the pricing no company is going to pay for food grade if it can use technical grade. So, yes, form, particle size and grade do matter.

Lastly, you might wonder why our petition excludes MKP and DKP in solution. This is for two reasons. First, importing solutions does not make much sense economically. U.S. companies that want MKP or DKP in solution can easily produce it themselves by mixing phosphoric acid and potassium hydroxide. Why pay the costly freight to transport heavy solution when you can more cheaply make it yourself?

Second, the people likely to produce MKP or DKP in solution differ from the people likely to produce anhydrous MKP or DKP or in solution STPP or TKPP. To obtain STPP or TKPP in solution, a producer must first manufacture the anhydrous form. This necessarily limits the producers to those companies that have the calciners needed for manufacturing the polyphosphate.

Likewise, a manufacturer of anhydrous MKP or DKP must invest in a drying oven, sizing equipment, packaging equipment and so forth. By contrast, a manufacturer of MKP or DKP in solution mixes phosphoric acid and potassium hydroxide without

needing first to manufacture the anhydrous form. This concludes my prepared statement. Thank you.

MR. CANNON: Thank you, Nancy. Next we'll hear from Angie Schewe.

MS. SCHEWE: Good morning. My name is Angie Schewe. I'm the Business Director of Industrial Phosphates for ICL Performance Products LP. In this position I have management responsibility for industrial phosphates business which includes all of our technical grade phosphate salts. I am personally responsible for set pricing, authorizing discounts and establishing our marketing strategy. I also have financial responsibility for the industrial phosphate business and report directly to our president.

Phosphate salts, including STPP, which we call "tripoly", TKPP, MKP or DKP are produced to standard specifications and in some cases specifications of individual customers. Our standard specifications differentiate between technical and food grade and between different particle sizes. In addition, for tripoly it's common to specify density, meaning low, medium or heavy dense product. A few customers have specifications that are different than our standard specification, but these are not difficult for most manufacturers to meet.

After production of each batch or lot number we test the finished product in a laboratory and issue a certificate of analysis or "C of A". The C of A will identify impurities, the size of granulation and density. Copies of our product data sheets showing the acceptable ranges of these specifications were included in Exhibit GEN-1 to our petition.

Our competitors analyze production in a laboratory and issue C of As. This includes the Chinese producers, who send C of As with every shipment to the United States. These documents identify the chemical purity of the material and essentially define the product. Customers will then accept delivery based upon the C of A.

To compete, you must supply a C of A that meets the specifications sought by the customer, but once you have the C of A phosphate salts are commodities. Our products and the products of our competitors are technically interchangeable.

The specifications are so well established and widely accepted our offers are generally considered to be made in shorthand. Rather than spell out our specific requirements, our offer will state that it is for "STPP Tech Grade Medium Dense." It is understood that a C of A will accompany the material

establishing that tripoly meets technical grade specifications and is medium dense.

These offers circulate through two channels of distributors, distributors and end users. Distributors generally stock a significant inventory of phosphate salts to resell to their customers who are end users. The largest end users, however, prefer to deal directly with the manufacturer and may want to purchase rail cars or truckloads.

Distributors in the U.S. typically serve a regional market. There are two large national distributors, Univar and Brenntag. Brenntag, however, is really a collection of regional companies, each incorporated separately and maintaining its own income statement. Hence, Brenntag functions much like a typical regional distributor.

Regional distributors generally supply end users that do not require full truckload quantities. Distributors will maintain an inventory and ship less than truckload or "LTL" quantities to these customers. Distributors may also consolidate different products into a single truckload delivery. In some cases, for our direct customers we may supply the customer out of inventory of a distributor in order to keep the inventory close to the customer.

For phosphate salts to be held in the distributor's inventory, the U.S. producer would historically issue a price list offering the same price to all distributors. The typical distributor would receive a discount from the list price, allowing the distributor to resell phosphate salts at the list price and make a reasonable margin on the sale.

In some cases, a distributor would approach us about a specific customer account where our list price was above competition. In such cases, we might provide a so-called support price discounted below the normal distributor prices in order to respond to competition. Over time, more and more distributors negotiated off-list prices. These distributors began receiving quotes from brokers supplying Chinese imports at prices well below our list prices.

In order to keep these accounts, we were forced to depart from the normal list price plus discount formula. Currently, about 80 percent of our distributors are buying at off-list prices. In effect, we are negotiating each sale at prices that would remain firm for three months or less until the next Chinese offer.

We send a letter to our customer identifying the terms each time we offer a support price. Since

2008, this has become the prevailing means of negotiating prices. I'm sending support price letters to one customer or another every day. Brokers offering imported phosphate salts from China will send emails or faxes at least once a month. These offers are received by all of our distributors and end users. Customers cite these Chinese prices and ask us to discount our prices for the same material.

At the end of 2007, raw material costs began increasing sharply. In the end, raw material costs increased to unheard of levels. By the middle of 2008, prices for potassium hydroxide had more than doubled compared to prior levels. World market prices for phosphoric acid increased even more, although we have a long-term contract with one supplier that mitigated this increased to some extent.

Also, one of our suppliers of phosphoric acid had supply problems in January and February 2008, forcing us to seek additional raw materials in a very tight market for phosphoric acid. In this market, with raw material costs increasing faster than we had ever seen before, we increased our prices to cover these higher costs and also adjusted our pricing policy.

Starting in 2008, we began to issue prices

that were firm for no more than 90 days rather than six months or a year. Because of contract commitments, our prices did not increase across the board immediately. However, by the middle of 2008 a majority of our customers were paying list price plus a discount.

To deal with the shortage of phosphoric acid, we limited customers to their 2007 purchase volume. We anticipated that the increase in the prices and overall economic conditions would cause demand to decline so that most customers would not be affected by this restriction. In fact, the majority of our customers did not have any problems with these limits.

I was honestly surprised by the fact that the market accepted higher prices announced in 2007 and 2008. As luck would have it, Chinese producers experienced various problems that reduced their U.S. exports at the same time that we were experiencing problems getting raw materials.

Chinese producers always experience reduced supply of phosphoric acid in the winter because of the reduced availability of hydroelectric power. In addition, in 2008 there were earthquakes in China that disrupted the supply chain. Also, the Chinese

phosphate industry reduced production during the Olympics because the government wanted to improve air quality and avoid a chemical spill.

The Chinese industry expanded production of phosphate salts as soon as phosphoric acid was available, but their production went into inventory until the Olympics ended. Then, as soon as the Olympics ended, shipments of phosphate salts surged. Starting in about August 2008, we began to see offers from brokers with Chinese phosphates at lower and lower prices.

Since that time we have struggled to maintain prices at the level that will generate profits and yet hang onto as much volume as possible. Given a bottomless supply of Chinese phosphates, this balancing act is becoming impossible. For example, Univar is our largest distributor customer. Univar purchases our phosphate salts, as well as imported phosphate salts, including imports from China, and sells phosphate salts nationwide.

Because the price for Chinese imports is substantially below our price, Univar has used various strategies to sell domestic phosphate salts. Univar sells a brand of product called Univar I that is imported from China, and it typically carries its

lowest price. Univar also sells phosphate salts produced by ICL and other producers outside China at higher prices. We believe that because of concerns about safety and reliability of supply U.S. made phosphate salts obtain a slight premium in the market.

In 2009, our volume of sales to Univar is steadily declining. We do not know whether Univar itself is losing sales to other distributors supplied with Chinese phosphates or whether Univar has replaced our product with Chinese imports into its warehouses. In any case, though, we are gradually being displaced by the Chinese phosphate salts.

Because distributors do not tell us when they buy Chinese product to substitute for our product, we cannot report these situations in the questionnaire as lost sales, but we do see the drop in volume. This is particularly the case for MKP and DKP. Most customers for these products take LTL quantities. As a result, we sell the majority of MKP and DKP through distributors.

When the distributor encounters import competition and seeks support prices, we will learn about the Chinese prices, but when our distributors simply replace our product with Chinese MKP or DKP we do not necessarily hear about the lost sales

opportunity. Instead, we just see a loss in volume to that distributor. This makes it very difficult to identify any particular situation as a lost sale or lost revenue in the ITC questionnaire.

Turning to the end user accounts, customers used to enter annual contracts. We would negotiate a fixed price to be in place for a year and a target quantity based upon the previous year. Now, with offers from Chinese phosphates faxed or emailed directly to our customers, we cannot obtain fixed prices for one year.

As in the distributor market, we must negotiate and renegotiate. Contract prices now are negotiated for 90 day periods. To keep tabs on the market and manage our business, I hold a commercial sales meeting every Monday. At these meetings I review the latest Chinese offered prices and prepare offers for any of our customer contracts coming up for renewal. I also act on requests for support pricing and implement our overall strategy.

In essence, since we successfully increased prices at the beginning of 2008 we have been gradually managing a slow decline in price levels at the expense of our sales volume. Although shortages in China allowed us to maintain price levels for a large part

of 2008, import prices began to decline in August and September. In November, we were forced to reduce prices 20 cents a pound in response to Chinese competition. In 2009, we have been forced to cut prices again and again

Our strategy is to hold onto price levels that provide a reasonable return even if we lose sales volume. However, we cannot continue this strategy indefinitely. Already our capacity utilization rates are miserable and our sales volumes have fallen to less than half what it was in 2006. Our questionnaire response shows that we were selling 25 million pounds of one of the pricing products on a quarterly basis in 2006. We are selling less than half the volume in 2009.

Consequently, we have been forced to lay off workers, cut back severely on overtime, eliminate contractors and otherwise reduce operations. Currently we operate our plant five days a week in order to avoid overtime on weekends. We announced five percent layoffs and have largely eliminated outside contractors.

Rather than lay off additional workers, we have used our hourly workers to perform maintenance. As a result, we have terminated contractors that used

to supply various services, in effect reducing the overall employment at the plant, even though these workers are not counted in "production and related workers."

We have also experienced shutdowns related to lack of orders. Although we would prefer to run the plant continuously, we cannot support continuous operations at our current levels of sale. We have reduced overtime from 14 percent to 5 percent. We have reduced our inventories by roughly 20 million pounds or from 30 days to 16 days. In sum, the dumped and subsidized imports have had a major impact on our business.

The contrast between 2008 and 2009 tells the story. Because the Chinese imports of phosphate salts did not respond immediately to increased prices in 2008, we experienced an increase in profitability, even though our material costs were raised to all time high levels, but as soon as the Chinese producers began shipping increased volume to the U.S. we started a steady decline that has not stopped.

Without relief from dumped and subsidized imports that are intent upon penetrating the U.S. market, our industry will inevitably suffer. Thank you.

MR. CANNON: Thank you, Angie.

MS. DeFILIPPO: Mr. Sexton, is your microphone on? Thank you.

MR. SEXTON: Good morning. My name is Allen Sexton. I am the Vice President of Sales and Marketing for Prayon, Inc., a leading producer of food and technical phosphate salts. I spent 20 years in the water treatment industry purchasing and selling phosphate salts, blends and other chemicals. For the past three years I've been responsible for sales of sodium and potassium phosphate salts to a host of end users and distributors.

At Prayon, as does other domestic producers, we sell to both channels of distribution, distributors and end users. Like ICL, we must compete with Chinese imports on a national basis at virtually customer account. All of our distributors and all of our end users regularly receive offers from brokers selling Chinese phosphate salts.

As Angie Schewe explained, we sell to distributors both in the stock and what we call third party sales. In the stock sales are sales into the inventory of distributors. We typically do not sell directly to customers that want small volume, less than truckload or LTL quantities. Instead, our

distributors will supply those customers from their own inventory.

In other cases, our distributors have large volume customers that take rail cars or full truckload quantities. We will ship directly to these customers of our distributors. Because we are shipping to our customer's customer, we call these third party sales. We also sell directly to large end users with no distributor involvement.

In nearly every case, we encounter competition from low-priced Chinese imports. Brokers offering Chinese phosphates we are told send emails, faxes throughout the market on a regular basis. These prices are immediately quoted back to us in negotiations for new supply. For this reason, we cannot maintain many long-term or even short-term contracts for more than about 90 days. Given that our contracts typically have meet or release provisions and given that Chinese prices are reduced on almost a weekly basis, virtually every sale is renegotiated.

In past years, it was normal in the industry for suppliers to issue a price list to distributors. The distributor's price would be discounted from this list price. However, with increased Chinese competition in the past year, prices change too

quickly to keep up. We have simply stopped issuing price lists to our distributors. Instead, we negotiate prices effective for 90 days, although it is rare that prices will stay the same for 90 days.

Another way that we experience import competition is on so-called support pricing. Our distributor will tell us the Chinese competition is threatening one of their accounts. They will then ask for a discount below the normal in the stock price in order for us to try to keep their account against competition from a Chinese importer or another distributor.

If we do not provide a deeper discount, the distributor will either lose the business or purchase Chinese phosphates themselves. In many cases we have lost sales to imports, but we cannot identify whether our distributor lost the sale or whether our distributor replaced our product with Chinese material. All we know is that our sales volume to that distributor has fallen off.

We typically sell through regional distributors. We do sell into every region in the United States, but we do not sell a large volume to national distributors. The national distributors have been instrumental in bringing the Chinese product into

this market. We will sell to them on a regional basis to support customers that want LTL delivery. I do not want to sell to those distributors on a national basis because I cannot compete with prices that they get from Chinese importers.

We also have experienced competition from Chinese imports at our large end user accounts. Historically we were able to obtain a small premium against the Chinese imports because of our ability to supply on a short lead time. However, since the economy has declined over the past two years our customers have become more and more price conscious.

For example, some of our customers making pet food, afraid to buy phosphates from China given the problems with melamine, used to refuse to buy Chinese material, but as the economy has declined even these customers have switched to Chinese phosphates to get the lower prices.

In fact, from a technical standpoint the quality of the Chinese material is normally as good as domestically produced phosphate salts. Every supplier analyzes its products and generates a certificate of analysis identified by a lot number to a given quantity of phosphate salts.

Every supplier has its own standard

specification, but will also produce to customer specifications if a given customer has other requirements. All of the major U.S. manufacturers, the Chinese manufacturers and many of the nonsubject manufacturers are technically capable of supplying high quality phosphate salts.

Looking back, 2008 was a high point for our company because of a coincidence of unusual events. Our management team decided to change our marketing strategy. Rather than trying to fill up the capacity to cover fixed costs, we decided to raise our prices to a level that would ensure reasonable profits to maintain as much volume as possible at higher price points.

At the same time we announced price increases in early 2008, the Chinese producers suffered supply problems. Because of the global demand for fertilizer, which uses an enormous amount of phosphoric acid, global prices for phosphate rock and phosphoric acid increased to unheard of levels. For example, merchant grade acid increased from about $400 per metric ton to nearly $2,200 per metric ton.

As a result of several factors, including natural disaster, China withdrew much of their salts volume from the U.S. market, so when we announced

price increases at the beginning of 2008 Chinese imports did not immediately flood the U.S. market.

I was quite surprised that we were able to increase prices in 2008 to the levels that we achieved. Faced with extremely poor operating profits, we tried to raise prices in 2006 and 2007, but were not successful. In 2008, though, our announced prices held at least for the first part of the year.

Because of the huge increase in raw material costs, our customers understood that we had to raise prices. Without an immediate surge in imports, those prices held. Then later in the year, as Angie Schewe also testified, our domestic competitors had supply problems.

Prayon, though, had multiple global suppliers of potassium hydroxide and adequate access to raw materials. In fact, our plant was not running at full capacity so we were able to pick up supply customers that could not obtain all of their requirements from our other domestic suppliers. As a result, we were able to maintain relatively good price levels throughout 2008.

Given the shortage of phosphoric acid in China, the Olympics and problems with the supply

chain, imports did not really begin to flood the market until the fourth quarter. In 2009, however, the factors that helped us improve our margins have disappeared. World market demand for fertilizer has declined, phosphoric acid prices have fallen, and phosphate salts producers in China have had more than adequate access to raw materials

Without limits on access to raw materials, competition from Chinese imports has intensified. Imports of sodium and potassium salts have surged, and our sales volumes have sharply declined. In fact, if it were not for gaining share from some of the other producers our losses to the Chinese would have been more keenly felt.

In addition, even though we had hoped that end user specified food grade phosphates would have a preference for domestic material, the recession has made customers more price conscious than ever. We have been steadily losing sales volumes to lower priced imports from China.

Looking forward, there are several ominous events looming for our industry. First, several states have banned phosphates in automatic dishwashing detergents starting in July 2010. Although this affects only a few states, producers in the ADW

industry have decided to stop using phosphates in all of their products because it is too difficult to make one version of detergent for P-ban states and another version for the others.

Although this ban will not affect institutional and industrial dishwashing detergent such as for hospitals and schools, the consumer market is large. As a result, we may see a decline of as much as one-half of overall demand for STPP starting in 2010.

Our plant and our workers have adapted and evolved when STPP was banned in laundry detergent in the 1990s. It can do the same thing again today. In fact, we just spent $2.5 million on capital improvements to our plant because Prayon is committed to this market. Nevertheless, with a significant decline in demand competition will only intensify.

This brings me to the second ominous trend I see for our industry. Even though the ADW market is disappearing and even though other countries are likely to ban STPP in laundry and dishwashing detergents, the Chinese are, we understand, continuing to build phosphate salts capacity and to encourage foreign investment.

We can compete with any producer in the

world on a level playing field, but if the Chinese Government is willing to subsidize its phosphate industry I fear that we cannot forever compete against the resources of a foreign government. For these reasons, we strongly urge you to find that imports of sodium and potassium phosphates from China are causing material injury to the U.S. industry. Thank you.

MS. ALLEN: Good morning. My name is Beth Allen. I am the Vice President of Finance and Procurement and also the Corporate Secretary at Prayon, Inc. I've been with Prayon since April of 2002, and I currently serve as a board of directors member and also on the capital board. I regularly interface with our parent company and also make decisions based on capital spending.

Our parent company is a fully integrated phosphate producer. Prayon, SA is a joint venture between a Belgian producer of phosphoric acid and phosphate salts and also a Moroccan producer of phosphate rock. Through our parent company we have access to phosphoric acid.

However, our company is measured by its own performance in the U.S. market. Our parent company establishes benchmarks for all of its operating subsidiaries and divisions. That is, our owners

establish a minimum contribution margin or gross profit margin that we are expected to meet.

Our raw materials are purchased from U.S. producers or our parent company. In the case of potassium hydroxide or KOH and caustic soda, we purchase raw materials from various U.S. suppliers. In the case of phosphoric acid, we purchase from PCS Corporation or import from our parent company. In either case, we do pay market value.

Our imported phosphoric acid is valued using a formula based upon the worldwide market price for phosphoric acid as determined from *Fertilizer Week* FOB Antwerp and adjusted for transportation cost. This cost is revised every month. We therefore incur the same raw material costs as any other producer of phosphate salts, and we are expected to earn a reasonable rate of return on this business. In the end, the Augusta plant stands on its own.

For this reason, it has been very challenging for us at Prayon. In 2006 and 2007, we were unable to sell phosphate salts at a reasonable profit margin. Although we sought we move our product line into food grade phosphates and to add other phosphate salts to our product mix, our contribution margins still did not meet our internal benchmarks.

Prayon is just one little plant in Augusta, Georgia. We have to sell at market prices. We cannot dictate the prices. Chinese imports have depressed our prices throughout the market and limited our ability to increase them, and because our plant was built to supply heavy dense STPP to Proctor & Gamble we have sought to run our plant on a continuous basis, keeping our capacity as full as possible.

And then at the end of 2007 our management decided to change this strategy. Our CFO decided to raise prices on phosphate salts to a level that would recover reasonable profits and try to hold onto our sales volume. Because of our position in the market, I was very skeptical that we would be successful.

However, our parent company produces phosphoric acid. They could see by the end of 2007 that demand for fertilizer was soaring and that phosphoric acid prices would skyrocket in 2008, and they were right. As Allen described, raw material prices multiplied in early 2006, and there was a shortage of phosphoric acid and potassium.

Phosphoric acid prices tripled between 2007 and 2008 and KOH prices doubled between 2007 and 2008 and caustic prices also increased. Particularly because of the unprecedented increase in phosphoric

acid costs, our customers understood that we had to raise prices.

Our selling point was that Prayon is back integrated. Our parent company has access to phosphate rock and they make phosphoric acid. Even when other producers such as ICL had problems obtaining raw materials, we were able to supply the market. As a result we were able to maintain prices announced at the beginning of 2008, as well as much better operating results.

Because Chinese imports had their own supply problems early in the year, customers accepted the pricing increases, and Prayon's bottom line improved significantly. By the end of the third quarter in 2008, our contribution margins were starting to meet the target level established for our U.S. business. Nevertheless, Chinese imports began increasing in volume in late 2008.

Since the fourth quarter of 2008, we have watched our bottom line margins steadily decline. We are both cutting prices and losing sales volume. As we have tried to maintain price levels and adequate profits, our shipments have steadily declined. Capacity utilization is less than one-third of our total phosphate salts capacity for 2009.

Because of the loss of sales volume, we have had to campaign the plant, shutting down several times this year because of a lack of orders. In fact, when the ITC staff visited our plant last week we were not operating the production line due to a lack of orders.

This summer we shut down our plant for the 4th of July and we asked our workers to use their vacation, and if they did not have vacation they were temporarily laid off. To date, we have avoided permanent layoff by using our employees to do maintenance and assist with our ISO recertification and NSF audit and other tasks.

We are extremely reluctant to lay off employees. Instead, we use our production employees to perform maintenance work that was formerly outsourced to subcontractors. We have greatly reduced overtime, and we have shortened our campaigns on production, which makes it extremely difficult and very costly to run our plant.

To maintain our employment levels we have to have volume. At the same time, we can't afford to sell phosphate salts at a loss simply to keep the plant open. It's a Catch-22. We cannot maintain high prices against Chinese imports that blanket the market with offers to sell below our variable cost.

At the same time, if we do not respond to the lower prices quoted by the Chinese suppliers we inevitably lose sales volume. A healthy ratio of profits to net sales is not at all healthy if your net sales volume shrinks to zero.

Lack of adequate return on investment also has a negative impact on our capital and R&D spending. You can see from our questionnaire response that our R&D spending is inadequate by any measure. We do try to spend $2 million per year on our plant on capital improvements. Our plant was originally built in the 1960s, and we need to replace older equipment and upgrade our plant.

In 2008, because we could increase prices for phosphate salts, we invested $2.5 million of our profits into a new packaging line designed to improve our ability to deliver food grade phosphate salts to our customers. In fact, we purchased a new packaging line because Prayon is committed to the U.S. market and to production of phosphate salts in Augusta.

But, as the staff witnessed during the plant tour, our cooling equipment is long overdue for replacement. To justify additional capital spending we need higher prices and stronger margins. For these reasons, we strongly urge you to find that imports of

sodium and potassium phosphates from China are causing material injury to the U.S. industry. Thank you.

MR. CANNON: Thank you, Beth.

We have some slides that we gave to you all ahead of time, and you have a paper copy and we can put them on the screen as well. Looking at what we have, the first slide, and I'm sure my colleague will get to it here in a minute. The first slide shows -- you all have a paper copy, right? Are you trying to fire it up, Ben? There we go.

All right. The first slide sort of summarizes some of the testimony from Nancy Stachiw. In her testimony she went through a pretty detailed explanation. Her testimony really talked about these different factors regarding the quality of the product and then how each product fits.

And so as you see from the chart, your polyphosphates, STPP and TKPP, have similar qualities, chelation and dispersing, but what's really different about those two products is their solubility. One is high and one is low. And what that means is that there's a difference in physical characteristics, in the chemistry, and it causes a difference in end uses and so these products are used for very different applications primarily because of the difference in

solubility.

Now, for the orthophosphates, MKP and DKP, you see they're similar in terms of buffering. They're different in terms of fermentation and emulsification. Again, they're very different in terms of solubility. One is high. One is low. And they're also very different in terms of their pH, so once again the products are used in very different applications because of these differences in their physical characteristics, and that in essence is why we think there are four like products.

On our brief or rather our petition, on a confidential basis we compared aggregate industry data for the two producers with the import statistics. You'll have it all in the staff report, and what you'll see, particularly from the Census data -- and I assume the importers' questionnaires will show the same thing -- it will look something like Table 12 in the petition.

What you see there is that imports from China increased every year, but in the first half of 2009 they are soaring. Imports of STPP in the first half of 2009 are higher than even the full year 2008. The market share of all these imports was about five percent or less in 2006, 2007. In 2009, the market

share of STPP is approaching 30 percent. The market share of MKP and DKP is over 30 percent. It's well over 30 percent.

There's not a slide for this. You can just go back. So what you'll see I hope from the staff report is it's similar to what we see in terms of the trend from the Census data is that imports were running at about five percent or less in the market and then they just soar really starting in late 2008 and then into 2009.

As the witnesses testified, in part this was due to supply problems in China and in part they had an earthquake in Sichuan which impacted some producers there and also we had the Olympics and the Chinese didn't want to be shipping chemicals around and risk a chemical spill and they didn't want the factories creating more smog, so basically they wouldn't let them run until August and then in August imports started to take off.

So what happens to domestic shipments during that time period? Well, domestic shipments, if you look at the trends and the confidential data that you will compile and will see in the staff report, what we'll find is that there was a gradual decline -- '06, '07, '08 -- for every product, but in the six months

of 2009, the first half, there's a sharp decline. There's a sharp falloff in volume.

In terms of output, capacity utilization and employment, 2008 is the lowest year for every product on a full year basis. On a half year basis in 2009, 2009 is far below the level at 2008, and when you look at capacity utilization the capacity utilization in '06 and '07 is running 70 percent, 80 percent. In 2009, every product is less than 50 percent capacity. Some of the products are less than 30 percent of capacity.

So the testimony was we have plants that were designed to run continuously. What we're seeing now is we're having to shut down the plant and campaign. You came to the plant tour. The plant wasn't turned on. I think they turned it on Friday night, so it came back on so we could run for an order.

So they're waiting until they get an order now to campaign the plant. What that means in terms of cost is this is a very inefficient way to run a factory. You've got startup costs every time you start up. You've got some yield loss. But certainly plants that were designed to sit there and run 24/7 making heavy dense STPP for detergent, when that

market is gone these plants are suffering.

Now, employment has also declined. In the staff report you asked for PRWs. We've had layoffs, temporary and permanent, but what you don't see and it's not in the staff report is they're using the hourly workers to do things like maintenance and they are not hiring subcontractors and so that is also a loss of employment and a major impact on their community.

Now if we look at Slide 2, Slide 2 is a certificate of analysis. You heard testimony from the witnesses about the importance of this in the market. This is basically what the product trades on. This is a food grade STPP. If you look at the assay it shows 95.2 percent, 92 percent minimum, so for this product what that means is it's 95.2 percent pure STPP.

Then they also have the percentage P-205. In the industry they like to quote everything in terms of P-205. It's just a different way of expressing the phosphate content. If you scan down on the left there, what you see are various impurities such as arsenic, heavy metals, fluoride, lead. These are held to extremely low levels and so you'll see parts per million and it will be less than or equal to, so for arsenic we've got less than or equal to three parts

per million.

This document is prepared by a lab after the product is produced. They test the product coming off the line. Every producer does this. The Chinese have the exact same thing, so they produce also and every customer when they buy insists on this, so product trades basically on this piece of paper.

You can test it and supply this with your product. Once you have this, though, it's interchangeable. It's a chemical commodity. It's functionally interchangeable. It doesn't matter who made it. If the certificate of analysis establishes that it meets the spec it trades. What that means in the market is that once you can approach a customer with a commodity the product is going to trade on price, and that's what happens.

If we turn to the next slide, we start to see a series of slides that really focus on what happened in 2008. You heard testimony about this. The first thing that happened in 2008 was raw material prices soared. This is Census statistics, imports of phosphoric acid.

If you look at the line, the line just takes off in 2008. That is phosphoric acid import prices. Now, the volume also goes up. There were some

domestic supply issues in 2008 so import volume increased, but this is our raw material and that line shows the price.

If you go to the next slide --

There is the price of phosphoric acid. Then we see that line takes the same path, so let's go to the next slide.

Here is the trend in domestic producer prices. This is one of the pricing products. I didn't want to say which one, and I didn't want to put the actual prices, but look at the line.

Let's go to the next one then.

So we're beginning to see a familiar trend here. What you're seeing is that the prices move with the raw materials. In a commodity market where we're creating a supply and demand on the basis of a certificate of analysis, when the raw material prices go up everybody has to raise their prices.

Now let's go to the next slide. This shows the import price, imports from China. The lines got the same shape. It soared in 2008. Prices in the U.S. market go up. What's interesting here is the quantities. The quantity of imports in the first quarter of 2008, the Chinese had problems shipping, and so there was a low quantity of Chinese product in

the U.S. market. The quantity in the second quarter still really hasn't caught up, and there is inadequate quantity in the first quarter.

So basically in the market what's happening prices are being allowed to rise, and that's what the witnesses testified to. They were surprised in 2008 because they tried to raise prices and it actually worked, and that's what you see from the Chinese imports.

The Chinese imports were not really available so prices went up, but by the fourth quarter Chinese imports are back in the market. They are at a bigger share than they ever had before, and then in 2009, with their supply problems out of the way, they are just surging. And so what happens to the price? With this additional supply into the market, a commodity market, prices are going down.

The next chart is TKPP. The price is the familiar trend, the volume we see, the decline in the first quarter; the overall volumes, not quite as nice a picture of STPP, but it's similar.

The next chart is MKP and DKP, the census data combine these two. Basically you see the same trend. The price goes up in 2008. Once the Chinese solved the supply problem they start shipping to the

U.S. The prices are coming right back down.

All right. So by the end of 2008, going into 2009, the Chinese production is back and forth. The imports are surging into the market.

Now, this phenomenon, in the opening statement counsel for the Respondents try to make a distinction between food grade and tech grade. If you look at the questionnaire responses and the quarterly data, in part, and the questionnaire responses of the U.S. producers you can see the volume of food grade separated from tech grade on a quarterly basis, and what you'll see is the food grade product declined just as much as the tech grade products. Domestic shipments of food grade are going down too. So this trend will hold true for both food and tech in terms of the decline in the domestic shipments and also in the pricing.

Now, looking forward -- do we have another side? Oh, this slide lays all the pricing data on top of each other. The dark line is the import price, the dark heavy line is the import price for the raw material phosphoric acid, and then the dotted lines are the down scene products, the phosphate salts. And this just shows that overall we are seeing the same trend in all of them establishing a linkage. We had

them all on separate charts. I just wanted to lay them on top of each other.

All right, the next slide. All right, here we are. Looking forward, looking forward this is what the domestic industry looks at. The left-hand column is Chinese capacity to make just STPP. All right, the bottom bar is a company called Hubei Xingfa, the lowest of the sort of purple one at the very bottom of Chinese capacity. Hubei Xingfa alone has more capacity than the entire U.S. market. Now, this is all based on SRI, SRI reports for U.S. consumption in 2007.

What you're going to see in the staff report, I think, is U.S. consumption is lower in 2008, and it's lower still in 2009. So the U.S. consumption bar is getting smaller and smaller. The Chinese capacity on the other hand stacked up there on the left is huge, absolutely huge, and Hubei Xingfa alone is capable of supplying the entire U.S. market.

Am I out of time? Oh, two minutes.

Given that, this is a pretty stark factor for the industry staring at these numbers. On top of that we hear that demand for STPP, certainly in the technical grade, which is used in automatic dishwasher detergent, demand is declining.

So, we have a shrinking market and we have an enormous amount of excess capacity. We have established channels of distribution. A major distributor, Univar, has named a product, Univar 1, that's a Chinese product. The Chinese are targeted at this market. Our high prices are a magnet for Chinese imports. They have excess capacity, and they are aimed at the U.S. market.

For this reason, to the extent that some of these products may not already be materially injured, a couple of them are still showing profitability, although their capacity utilization and return on assets is terrible, but for a couple of the products they may not be at the point yet where the Commission historically would look at those products and say there is material injury. Nevertheless, looking at this picture there is clearly an imminent threat of material injury for MKP and DKP.

Moreover, for the other products they are gradually in a long-term decline. Their profit margins are simply inadequate, and they are running their plants on a basis that's not sustainable. For these reasons they are materially injured, and therefore we'd ask the Commission to make an affirmative decision in this case. Thank you.

MS. DEFILIPPO: Thank you, Mr. Cannon, and for all the company officials that took the time to come here today. It was very helpful testimony. We will start the staff questions today with Jennifer Merrill.

MS. MERRILL: Hello. Jennifer Merrill from the Office of Investigations. I would like to thank you all for coming out this morning. I will probably ask a couple of questions that may have come from the site visit but I want to make sure they are on the public record.

Okay, my first question is about the automatic dishwasher detergents legislative ban that's going to be put in effect. From what I understand from the testimony, this ban will not affect institutional industrial dish washing detergent, but is this likely -- and also I notice you said in the nineties there was a ban on laundry detergents. Are there likely to be other legislative bans with these phosphate salts in the future? Do you see them coming down the pipeline?

MR. SEXTON: Based on what we're told we have two primary markets. You have the consumer market which is where the ban is scheduled to take effect next year, and then you have the industrial and

institutional side, for laundry and the hospital or in restaurants, and those kind of things.

We are told that some of the larger manufacturers, even institutional industrial, are now considering voluntary banning of these phosphates.

Historically, there was a lot of resistance to that because of the nature of the danger of transmission of disease, the food-borne passages in hospitals and restaurants. But now because of some of the environmental pressures and different interest groups there is some consideration of voluntarily banning phosphates for the most part even in that industry as well.

We have already seen some evidence in Canada of proposes of legislation to ban it in institutional industrial, but so far we haven't heard anything official in the United States.

MS. MERRILL: Okay, thank you. The next question might be geared a little bit more towards ICL. I've this in the questionnaires. However, from discussions with the marketplace there seems to be a perception that there is no U.S. production of MKP. Do you have any idea why this might be? Is what's produced in the U.S. a different grade than what's coming in from imports?

MS. SCHEWE: We offer MKP produced out of our Carteret, New Jersey, facility both include food and technical grade product lines, but much of the product that's actually consumed in the U.S. market is used for fertilizers, and we are not a large participant in that market space.

MS. MERRILL: Okay. What would you say the role of nonsubject imports is in the market and how directly do the nonsubject imports compete with imports from China?

MS. SCHEWE: I would generally say that the volume of nonsubject imports has been pretty steady throughout the course of the last three to four years, obviously declining a bit this year likely as a result of the economy. But I would say that generally speaking that they offer a broad line of products both technical and food. We see them at similar places that we might see the Chinese importers as well.

MR. SEXTON: If I had one comment to make I would say that the other nonsubject importers we would consider them to be pretty much on a level playing field. Their pricing, their marketing tactics are very much like ours. We have typical companies from Europe, Canada, Mexico. We just consider that the normal course of business in competition. Sometimes

we win, sometimes we lose.

The main difference is when we see a really low price we know that it comes from China, and in those cases it's just far more difficult for us to compete.

MS. MERRILL: Okay, thank you. Can you talk a little bit about the difference in demand for the phosphate salts in anhydrous form or in solution, including also MKP and DKP solution which are not subject to this investigation?

MS. SCHEWE: From a demand standpoint, the differences in demand, on MKP most of the product is demanded in anhydrous form. There is very little MKP solution sold in the U.S. From a DKP solution standpoint, the roles are a bit reversed. There is more DKP solution consumed in the U.S. market than anhydrous. The primary markets for the solution would be in applications which Nancy discussed as well as some food processing and that tends to be, I would say, generally speaking on a scale of maybe four to one, four pounds of a solution to one pound of anhydrous. As Nancy mentioned, there is similar applications for DKP solution and DKP anhydrous in the form of the creamers, if it's dry creamer it will use the anhydrous. If it's the liquid creamer, it would

contain typically the DKP solution, and typically in the U.S. there is more creamer in liquid form sold than in dry form.

So again that's kind of the reason why we have a different -- more anhydrous in MKP and more solution in DKP.

MR. SEXTON: From Prayon's perspective, we are not involved in the anhydrous MKP and DKP at all. We do produce very small amounts of liquid DKP, but where we do have a big presence is in the liquid and anhydrous TKPP.

The issue with TKPP is it's difficult to put in solutions. It's a lot of effort. It takes a lot of time, and it's really just a lot of trouble. So most customers would prefer to take it in the 60 percent solutions. It usually ends up being a balancing act between the freight to transport water versus a four or five hours production time that it takes you to go.

So consequently, I would say -- maybe Beth can correct me if I'm wrong -- it's normally about 75 to 80 percent of our customers take the solution rather than the anhydrous.

MS. MERRILL: Thank you. Is there a difference between the inputs and the manufacturing

process for technical versus food phosphate salts?

MR. FYOCK: For technical and food grade, the primary differences are that, for example, if we were to make technical, or excuse me, to make food grade tripoly phosphates, the phosphoric acid would need to contain low levels of arsenic so there would be a pre-treatment and step required to remove arsenic if it was in significant levels. That's the primary control in terms of making sure that the phos. acid is food grade quality for food grade tripoly phosphates.

That's a relatively simply process that involves simply adding sulfide and precipitating the arsenic and then filtering it out. We used to do that a lot when we started with a certain grade of acid, and I'm sure that that would be necessary in any case.

The other requirements are to operate the facility in accordance with good manufacturing practices, which includes things like maintaining screens on the windows to keep the insects out, magnets on the shipping lines to make sure any metal is picked up as you're loading the final product out, and restricting recycle so that floor sweeping, for example, don't end up in the products, but some very simple requirements there to upgrade housekeeping and maintain standards.

And then the third requirement is a much more stringent list of analyses on the final product so that you make sure in the certificates of analysis that the product meets all the food grade standard for shipment as opposed to the technical grade standards.

MS. MERRILL: Okay. So to clarify, you make the technical grade and the food grade separately then?

MR. FYOCK: You can, yes.

MS. MERRILL: Okay.

MR. FYOCK: But you don't have to.

MS. MERRILL: Okay.

MR. FYOCK: I mean, you make these basically in the same facility. We make these in the same facility now.

MS. MERRILL: Okay.

MS. ALLEN: In our plant in Augusta, we basically make them with the exact same inputs. We use a food grade phosphoric acids for all of our products and the manufacturing process is exactly the same whether we are making a technical grade or a food grade. The only difference that we have is in the laboratory specifications.

A food grade customer is going to want much tighter specifications, but our manufacturing process

and our inputs are exactly the same.

MS. MERRILL: Okay, thank you.

MS. DEFILIPPO: Thank you, Jennifer. Next I'll call on David Goldfine for questions. David.

MR. GOLDFINE: Good morning, David Goldfine from the General Counsel's Office.

I wanted to pursue the like product issue. First, for any of you. Do customers ever order any of the salts without specification as to food or technical grade or form? Do they ever just place an order for MKP?

MR. SEXTON: Typically, if they don't specify, we always ask. It depends a great deal on the application, but in general our big concern is to make sure that it's not looking for food grade and we send technical grade. So customers generally would say tech grade or food grade, and if they don't, we ask.

MR. GOLDFINE: Okay. And I think this was touched on my Ms. Allen, but the manufacturing process for tech grade and food grade is the same except that the last step it's targeted to the specification by the customer?

MS. ALLEN: Yes. And generally we might take something and because they are much more tighter

specifications we're going to segregate that for our food grade customer, and usually a technical grade customer is going to accept a wider specification.

MR. SEXTON: But basically the only difference is the testing. It's the same product. In fact, we could go in our warehouse, take a pallet of tech grade product, do the extra testing, and it's now food grade.

MR. FYOCK: And I should have said our processing is exactly the same as theirs in terms of the way that we operate it.

MR. GOLDFINE: And in the end, in the application for these products, to what extent is there an overlap in their end uses, if there is one. Anyone. Are you saying they are exclusive, each completely separate, end uses are --

MS. STACHIW: Well, there are our technical grades. I mean, for example, pet food has requirement to take food grade even though you might not think of that as a food grade application. Some of the fermentations customers they might take a technical grade. You know, we have a customer that buys a technical grade and they are fermenting to make insulin, for example. But if you're making a beverage, you're formulating a sports beverage, of

course, you're going to take a food grade. Or you're using it in a pharmaceutical product as a buffer, they will take the purest grade we have.

MR. GOLDFINE: Yes, I guess I meant my -- the question probably wasn't asked the best way.

MS. STACHIW: But drinking water --

MR. GOLDFINE: When I'm talking about overlap in end use applications I mean between -- forget food and pet grade. I mean STPP, MKP, DKP, TKPP. to what extent are there any overlaps in their applications, or if there aren't any, could you tell me why?

MS. STACHIW: Okay. There are overlaps in their applications.

MR. GOLDFINE: Are they minimal or substantial, or can you give me a --

MR. STACHIW: It's the same application but they might be contributing a different function. Remember I talked about, you know, water treatment, for example, where STPP and TKPP, both can be used but they do a little bit -- provides a little bit different functionality. In beverages, there is differences, water treatments. They do participate in -- there was a chart that we submitted with the different applications and we did a check mark so you

could see there is overlap. But these products are all very different.

When I went through all their functions, and they are very unique, and provide different functional properties to their end products.

MR. CANNON: Let me drop a footnote and they will, of course, correct me if I'm wrong because I don't know anything. But the customer, it may be like in water cement, has kind of a recipe of stuff that they want. One of our other products is sodium hex, which the Commission has looked at before. So water cement comes from sodium hex too, and they might want some STPP, and they might want some TKPP. Each one is in their recipe sort of to do a different function in the water treatment blend.

So in the general overall application, if I'm making food products I might use some STPP, I might use some TKPP, but I don't use it to perform exactly the same function within each food, and I wouldn't -- most importantly -- order some STPP and then have my supplier call me and say, well, I can't ship that, how about if I give you some TKPP instead. That absolutely wouldn't work. We have to ship what the customer asks for, and the applicational use of the product is different depending on which chemical

they want even though the user might be the same. Is that fair?

MS. STACHIW: Yes. I mean, someone may use -- an end user might use all of these compounds, but they are for very different reasons, different functions.

MR. SEXTON: In fact, individual grades of STPP are not usually interchangeable. If you add heavy dense STPP and light dense STPP, you can't substitute one for the other and expect the same performance. They are just two different.

MR. GOLDFINE: I guess it would be helpful in the post-conference brief if you could break out on the like product argument as to each, run through all the factors as to each particular phosphate salts.

Also, are the differences between STPP, MKP, DKP and TKPP, are they any more than the differences between say STP food grade and STP technical grade?

What I'm asking is are the differences within each food and technical grade as to each particular phosphate salts? Aren't those basically -- STP food grade is different from STP technical grades, such as STPP is different from MKP. Are the differences within food and technical as to each one any greater than the differences if you just compare

each one of them individually, if that makes any sense?

MS. STACHIW: MKP, DKP, and TKPP are all the same chemically whether it's food grade or technical grade. Now STPP is a separate chemical compound, and if you look at the chemical structure they are all completely different. But STPP has three crystalline forms, and there is one form that's -- and there are these rafiels in these crystalline forms that make up STPP. And so that kind of dictates how quickly it will dissolve, you maybe noticed on the specification that was put up earlier there was a test called a temperature rise, because when STPP is put in solution it gives off heat, and that is a measure of how much heat it gives off, and it's an indication of this crystalline phase.

So STPP, there is predominance form of this which is used for food, the very fast dissolving, higher temperature rise. And so within STPP there is a hydrated form, there are these other two phases, and what we sell are various mixtures of these phases, these crystalline forms of STPP.

So, STPP is different between what food and technical grades are chemically because it's these different rafiels, but TKPP and MKP and DKP are

virtually the same whether it's food or techs, and we can provide more information.

MR. GOLDFINE: I guess what I was getting at is why wouldn't you be arguing for 16 like products here instead of four. You have SKPP, technical, food, and granular and -- what's that?

MS. STACHIW: They are technically the same products. The only difference, again, is the -- whether it's a food grade or a technical grade.

MR. CANNON: The way you asked that question is interesting because indeed it did cross my mind that we could have 16 like products instead of four.

MR. GOLDFINE: Please don't do that.

MR. CANNON: And the design of like product -- indeed, we could argue for one instead of four.

MR. GOLDFINE: What about that?

MR. CANNON: The design of like product was taken really from the way the industry behaves with respect to those products. In other words, they run their businesses, they collect their data. They face the market. We sell STPP.

You know, if I were to ask them what do you make in your plant. Well, this plant makes STPP. We make -- they have one plant dedicated to that, and

they have another plant that makes potassium. They make TKPP and STPP in their plant but they consider themselves an STPP producer.

And I don't think, Nancy, you really answered his question, which was there is a difference between food and tech, sort of a bigger difference than the difference between one of the sodium or MES3 potassium. In essence, that's kind of what he was asking. Like why do we break it at this level instead of why don't we have eight like products?

MS. STACHIW: Okay.

MR. CANNON: Food STPP, tech STPP, and there is a certain amount of line drawn because it's chemistry. It's not easy. I don't know if you could comment on that, but that's what I thought he was asking, any comments on food --

MS. STACHIW: It's a greater difference in the chemistry versus the food versus pet.

MR. CANNON: I guess another factor here is what Allen said. A tech customer could take a food grade, basically no problem, and in fact their process -- the product that pours out is an identical product, it's just what do you do in the lab and then afterward how do you sift it. You have to sift it in a clean container, and how do you handle it. You

can't like sweep up the floor and put it in a bag too. Tech grade you might get away with that. Right? You don't do that.

But the product itself chemically is the same, and even when you're talking about the speed with which it's dissolved, under tech application you told me there were --

MS. STACHIW: Yes, yes.

MR. CANNON: -- fast dissolving products.

MS. STACHIW: Absolutely.

MR. CANNON: So that's like unique to food grade.

MS. STACHIW: No, but the primary grade is the fast dissolving. No, that function is important for industrial, institutional as well. A lot of these products are used in cleaning formulations that you need a dry powder to go into solution quickly. So, yes.

MR. CANNON: Right, because that's what I thought because I was sort of horrified that the cleaning solutions had the same stuff as, you know, hot dogs.

MR. GOLDFINE: If the Commission were to find a single like product, how would you recommend, and you can do this in the post-conference brief, how

would you recommend analyzing the data? Aggregating the data that we have for the four separately and lumping them together?

MR. CANNON: Certainly in terms of taking them backwards or out of order, the channel of distribution are basically the same. It's the distributors and then users, although the end users themselves are somewhat different. But certainly the production facility can be the same. Prayon makes all the products in the same facility.

So what you get down to is -- in some of the charts -- the physical characteristics, they are physically different and that implies different performance, therefore different end uses. And so in the industry that's how the market reacts to those four products. That's how the producers understand it and that's how the industry, the buyers, the marketers, the users, they all respond to the market as, oh, yeah, I want some STPP or I want some TKPP. They don't think of it as all phosphates.

So we sort of followed what was natural in the industry, and I think the divisions are really dictated by the physical characteristics and uses, but within that, you know, I recognize that the two ortho phosphates, 10KP and 2KP are a little bit closer, and

the two poly's are a little closer together than the orthos --

MR. GOLDFINE: I mean, the reason I was asking those questions about the food and tech, you know, it does seem -- it could be argued it's sort of arbitrary where you drew the line in the petition, and you have a continuum problem, and if you want to address that in the post-conference brief, you know, I think that would be very helpful.

MR. CANNON: Okay. I think we were trying not to be arbitrary. I think we were trying to follow what the industry does much like it's arbitrary to say that steel plate is different than steel seed, because it's really just thinness, right, when you roll it. There is one based on physical characteristics and also what it's used for. You use seed in a different aspect than plates, and that's kind of what we did here.

MR. GOLDFINE: Okay. But just again if we did find one like product, aggregating the volume and the price data you don't see an issue with that here, I mean, in terms of -- assume one like product is what I'm asking. We have the data to analyze that on the record here.

MR. CANNON: Yes, you do, and all of it is

in terms of dry pounds, and so in fact you could do that.

MR. GOLDFINE: And the domestic industry, if we were to find four like products, are you arguing for one domestic industry or -- this might be a technical question, but for four industries?

MR. CANNON: I suppose technically that means there are four industries.

MR. GOLDFINE: Are there any issues here with respect to captive production? I seem to recall that one of the domestic producers, there was some toll -- that had a tolling arrangement with someone.

MR. CANNON: I think that's in the tolling arrangement, if one of you or the other of you all could respond about captive. The only thing in the questionnaire that I recall about captive and it was a specific company, is that there is some internal consumption that is used to make other products that are not one of these products, that you might blend it to make another product, and out-of-scope product.

MR. GOLDFINE: Oh, but not one of the like products?

MR. CANNON: No, there is no internal consumption of any of these products to make another product.

MR. GOLDFINE: Is there any issue as to negligibility here?

MR. CANNON: No. The census data show the imports are well over 5 percent on a July to July 12-month basis, and Commerce asked us that question and made us give them a table. So if you would like I could include that in the post-conference brief.

MR. GOLDFINE: Sure. Thank you.

MS. SCHEWE: Do we need to clarify about our captive production going into specific blends that are not included in this case?

MR. CANNON: If you want to talk about it publicly, you can, or I can just address that in the briefs.

MS. SCHEWE: Okay.

MR. GOLDFINE: If the captive production provisions the Commission has applies here, please address that in your post-conference statement.

MR. CANNON: The short answer is no.

MR. GOLDFINE: Okay. I think that's all I have right now. Thank you.

MS. DEFILIPPO: Thank you, Mr. Goldfine. We will now turn to our economist, Mr. Thomsen.

MR. THOMSEN: Thank you and welcome to all the members of the panel.

If I may touch on a few subjects that were brought up in the testimony first before I get to some of my more general questions. My first question will be to Ms. Schewe, if I'm pronouncing that correct.

MS. SCHEWE: Schewe.

MR. THOMSEN: Darn. My first question is you talked about support price and off-list prices, and I'm trying to determine the distinction between the two. Could you help me out with that?

MS. SCHEWE: That's probably because sometimes they can be the same things. Typically we have our uniform prices and typically they are list price. As the market has come down, we have changed some of our pricing lower than list price, and done it formally throughout our customer base, i.e., distributors.

But in certain cases a distributor at a given account cannot remain competitive with that new in-the-stock price, so they work with us and we provide a price that's actually lower than what we call in-the-stock, the typical price, and that we consider in our terminology to be what we call a support price, so it's off of the uniform price. It may be just for a selective customer, not for all the product that they receive from us; just on that one

product to that one customer, if that makes sense.

MR. THOMSEN: Okay. So I understand the support price as being, you know, in support of a certain customer at a ceratin product. The off-list price, would that then be a discount from the price list that your customer is then giving to their customers, that they're selling that price list and saying, oh, actually the prices are 5 percent lower than what this price list is showing, or is the off-list price even further below the support price?

MS. SCHEWE: First off, we don't set prices for our customers, but typically speaking the support that we provide the customer would be lower than in-the-stock or the off-list price that we already afforded that distributor.

Now, then we mark that up, you know, to whatever they choose and sell it to the customer, but typically the premise there is to try and be competitive at that end user with whoever else is bidding on that business.

MR. THOMSEN: Okay. If I can move to a little bit later on in your testimony, Ms. Schewe. You noted that there was a shortage of phosphoric acid in 2008, and you limited your customers to the 2007 purchase volume.

MS. SCHEWE: Correct.

MR. THOMSEN: Was this for all the salts that are subject to this investigation?

MS. SCHEWE: As a mater of fact, it was for all phosphates, including phosphoric acid. We actually not only produce phosphate salt, but we actually sell phosphoric acids in the market as well, so that includes all products that we currently market and sell into the U.S.

MR. THOMSEN: Okay. Do you have to turn away any customers besides put them on an allocation?

MS. SCHEWE: We chose from a business standpoint not to add spot customers during this time period. Obviously, we're very loyal to our customers, and we were trying to provide them the best service possible given a very difficult situation. So we did not entertain any growth business to help maintain as much supply to our customers as possible.

MR. THOMSEN: Okay. And did Prayon pursue the same type of program that ICL did during this time?

MR. SEXTON: Actually, we were not short on material. In fact, we picked up business in the market that was our competitors had difficulty supplying. If there were issues with ICL or whoever

it may be, they couldn't get material, they would call us and many times we supplied them. If we chose not to, it was for business reasons and not for lack of supply.

MR. THOMSEN: Okay. Did you at any other time since 2006 have to put any customers on allocation or pursue any of these or were you fine throughout the entire period?

MR. SEXTON: We were completely back integrated, and if anyone has material, we have material.

MR. THOMSEN: Okay.

MR. SEXTON: It doesn't mean we have to pay market price for it as a U.S. company, but I have no knowledge of anytime we put anything on allocation.

MR. THOMSEN: Okay. If I may turn back to Ms. Schewe. What was the reason for this decrease in availability of phosphoric acid?

MS. SCHEWE: It was largely related to the demand for the fertilizer industry. Phosphoric acid is also used in that industry. It's actually the largest consumer of phosphoric acid, and that was at the time the driver.

MR. THOMSEN: I will return to that in a moment but I want to finish up with some of the things

you said in your testimony.

You also noted that you are gradually being displaced at Univar by Chinese phosphate salts. Is this for all four of these salts?

MS. SCHEWE: Yes. Based upon the import statistics, it does appear as though Univar as brought in products under all four of the categories from China.

MR. THOMSEN: Okay. A little bit later on you noted that you used to be able to fix a price for one year and target the quantities. When did that change?

MS. SCHEWE: That was sort of a -- I guess I would call it sort of a U.S. practice, and that really changed beginning in 2000. We had had -- as an industry I think we could characterize it as being some pretty flat prices as far as our raw materials. They escalated, you know, GDP, but given the run up in fertilizer there was a significant run up in our raw materials. We talked about phosphoric acids. We also talked about potassium hydroxide which is also somewhat related to fertilizer given the fact that it's produced from KCL and also soda ash. And for those reasons it was difficult for us to as an industry to no reasonable returns. So in an event

where pricing was changing on us really rapidly we could not afford our customers a firm price. We had to have a shorter period of price firmness.

MR. THOMSEN: So that happened early in 2008 rather than later 2008?

MS. SCHEWE: Correct.

MR. THOMSEN: Okay. And it was more related to then the change in costs of your inputs rather than up flow of imports from China?

MS. SCHEWE: That's correct.

MR. THOMSEN: Okay. If I can turn to something that Mr. Sexton had said. You noted that other countries are likely to ban STP in laundry and dish washing detergents. What countries are likely to do so? I think you noted Canada in response to one of Jennifer's questions. They are thinking about banning all phosphates or can you tell me just a little bit more about what you know?

MR. SEXTON: What we understand in Canada there is legislation already been proposed in some of the various cities in the country for eliminating it in both commercial and consumer auto dish. In Europe, they actually still allow phosphates in laundry detergents but it is restricted, depending on which of the countries you live in.

The same trend in coming in ADW. We also know that there are some expectations in Latin America, particularly in Brazil, for some restrictions on consumer ADW. Basically what normally happens in the U.S. as far as environmental restrictions tends to happen in other North and South American countries to a degree as time goes on, but our belief is that first in the United States, then Canada, then Europe, and then probably South America and some of the Asian countries.

MR. THOMSEN: And then based on your experience, how long after the United States bans them would you expect?

MR. SEXTON: It's difficult to say because we don't have that much experience. One of the issues is that in Europe their waste water treatment facilities have a significant ability to remove phosphate before it gets into the environment. But even with that capability there still are restrictions.

What normally happens, or it didn't happen this way in the U.S., but we would expect first to be restrictions on the percentage of phosphates allowed, and that's already happened in some of the Scandinavian countries, and then as time goes along we

expect a full ban.

The problem with ADW is from what we're told by the producers there is no substitute for phosphate. You can make an automatic dish washing detergent. It does perform as an automatic dish washing detergent, but the performance is far different and the cost is far different. So in the end as an industry we'd question the decision to do so because you end up washing the dishes two or three times, and you know, whether they get clean or not. So we do expect that the other countries will continue to drop off. We just don't know how soon.

MR. THOMSEN: Would it be fair to say two to three years or maybe even longer?

MR. SEXTON: The process in Europe and the U.S. was more or less parallel. There is pressures in Europe and there is pressures in the U.S, but the process there tends to take a little longer than it does here, so within three to five years we expect the landscape to be very different in Europe.

MR. THOMSEN: Okay, thank you.

MR. SEXTON: We are European producers, but we are very familiar with that.

MR. THOMSEN: Great. Okay, given the changing markets then, how has the percentages of

these different salts going to various market segments changed since 2006? There is more, I guess, going to the fertilizer market now, or at least there was in 2008. If you could touch on where your salts are being shipped to and if that changed over the last few years. You may need to do it in a post-conference brief, but if there is something that you can just give me a general trend now, I'd love to hear about it.

MS. SCHEWE: But generally speaking our demand has shifted away from the use in automatic dishwash and in INI applications and more towards food applications, which tend to be growing. As we I think have mentioned a couple of times INI and ADW, you know, for environmental reasons there are greener preferable products, so there has been a decline in that. So our shift has gone from technical to food, you know, on these subject products here.

MR. THOMSEN: And is the market for food larger or smaller than technical?

MS. SCHEWE: It's much smaller. The largest use of the products included here by far is automatic dishwash and the ELAs.

MR. THOMSEN: And how about for the potassium salts, have there been changes since 2006?

MS. SCHEWE: I would say that primarily the HEP is sold into water treatment, a few types of food applications, and paints and coatings. And given the increase in water consumption here in the U.S. I would typically say that that has grown the more ADA population grows versus GDP.

MR. THOMSEN: And still I guess you have a little bit in the fertilizer market with your sales of MKT. Have you noticed a lot more sales going into this market also?

MS. SCHEWE: We did notice in 2008 an increase.

MR. THOMSEN: Has it subsided?

MS. SCHEWE: Yes. The market, the consumption of fertilizers in the U.S. in 2009 was down markedly from 2008, likely because fertilizers are a lot more expensive in 2009 and given the crop prices there was a lot of concern with the U.S. farmers about putting too much input into their fields, so they didn't apply as much fertilizer as they typically would. So therefore consumption's down.

MR. THOMSEN: Okay. Do you have a general sense of how large of a decline that would be, 5 percent, 20 percent?

MS. SCHEWE: Based on what I've seen in magazines like Fertilizer Week, I believe it's in excess of 10 percent in ELAs.

MR. THOMSEN: Okay. If I can turn to your raw material inputs, we've talked a little bit about phosphoric acid and we heard from Mr. Sexton that they use only food grade phosphoric acid, is that the same for ICL?

MS. SCHEWE: That's correct.

MR. THOMSEN: Okay, and are there different grades, such as food grade, for your pot ash and your caustic soda or is it all just one standard grade?

MS. SCHEWE: I believe we purchase all one standard grade.

MR. SEXTON: We purchase only food grade product for our inputs. In fact, as I said, all of our products are produced to the food grade standard, it's just a matter of whether you prove it or not.

MR. THOMSEN: Okay. And what is the price difference between a food grade phos acid and one that's either feed grade or technical grade? Do you have any idea? You may not be purchasing that so you might not know.

MR. SEXTON: Are you talking about raw materials?

MR. THOMSEN: Raw materials.

MS. SCHEWE: So we sell a lot of phosphoric acid and so we have price lists as well on those products, and so typically instead of talking a -- 5 cents, which is what we showed on the C of A, we usually sell 75 percent concentration, that's kind of the standard by the industry, and typically the difference between a tech and a food grade, 75 percent is 2 cents a pound.

MR. THOMSEN: Could both of your companies submit for the record at least quarterly if not monthly your cost for your inputs for these chemicals, for your phos acid and your caustic and your pot ash?

MR. SEXTON: Sure.

MR. THOMSEN: Great.

MR. CANNON: Do you want all three? What do you want, you want phos acid, soda ash?

MR. THOMSEN: Phos acid, your sodium and potassium hydroxide.

MR. CANNON: Okay, so you want the sodium, the potassium, and the phosphorous.

MR. THOMSEN: Right.

MR. CANNON: Maybe the witnesses answered this, but I thought you asked them, is there a food or tech grade of the like soda ash, caustic, and

potassium.

MR. THOMSEN: Right.

MR. CANNON: Are there food and tech grades?

MR. THOMSEN: So if you could submit the food grade because that's what you use, that's what I'm looking for, thank you. Okay, with what you produce there are low density, medium density, and high density STPP. Are there also those densities in the potassium salts?

MS. STACHIW: No, that's in the before STPP.

MR. THOMSEN: Okay, and what is the price difference between a low, medium, and high density STPP?

MS. SCHEWE: Typically light density is our highest priced product, but it's pretty minimal price difficult, less than three cents a pound on our product, you know, for a food application that is selling for approximately $1.45, before tax approximately $1.32 according to our published list price.

MR. THOMSEN: Okay, and have there been any changes in the preferences of customers between these grades, between these densities over the last three years?

MR. SEXTON: Typically a customer can only

use one grade for one application. They'll use the heavy density because they need the performance characteristics of the heavy dense. So let's say you're making automatic dishwashing detergent, you're not going to decide one day, I think I'll use light dense instead of heavy, it doesn't work.

MR. THOMSEN: Okay. And I guess based on dishwashing liquids, how has the phaseout of the STPP as a detergent builder affected your operations now and how do you see them as affecting your operations in the future?

MR. SEXTON: On our operations in general, we have two plants in Augusta, we have what we call a calcium plant where we make calcium phosphates, and adjacent to it we have what we call the NaK plant, or the sodium potassium plant. The sodium and potassium plant this year, and Beth can give better details, but the production is off significantly from 2008. It's an eerie feeling to drive down the street and see nothing coming out of the plant.

In the past we would never see that, and now, you know, we've had several shutdowns this year because of lack of orders. Going forward we expect it to become more difficult because although the ADW is in decline this year, it'll be gone next year. So

basically we expect by the end of the year to have a substantial decline in demand for the NaK plant.

MR. THOMSEN: How much has ADW gone down this year?

MR. SEXTON: For us, can you comment on that, Beth?

MS. ALLEN: I would say that our ADW year over year, if I look at where we were in year to date August to year to date August of 2009, we've gone down 10 million pounds, or approximately 10 percent of our production capacity.

MR. THOMSEN: Okay.

MS. ALLEN: So most of the decline that we have seen this year is due to the ADW, the remainder is due to lower volumes that are related to loss of customers and some due to the recession. But overall I would say that the recession has not a great impact on our business because we are a commodity, we are not something that is tied to any luxury items. We're not recession proof, but certainly not the same as many other businesses.

MR. SEXTON: And it's also important to note that the ADW business that we have lost, some of that's gone to Chinese material this year, a significant portion of it.

MR. THOMSEN: Okay. And how about the, has the automatic dishwashing detergent manufacturers, have they started their switch over to their alternative products?

MR. SEXTON: Very slowly. Most of our customers tell us -- we have two main customers, one says it's over December 1st and the other says that it's over by the end of the year. But one of them has now converted what we understand 100 percent Chinese. But even in that case it's gone by the end of the year.

MR. THOMSEN: And for ICL for your customers?

MS. SCHEWE: Our customers have begun the switch in advance of July 2010. But in doing so they experienced some difficulties with their formulation. So we've kind of seen a little bit of a decline late last year and early into this year, but lately because of the issues they're having with their formulations their tripoly's a little higher than it has been running the last six months. But again as Allen mentioned, we are expecting that, you know, early in 2010 that they will cease using it for their automatic dish applications and will be, you know, using it for some specialty applications that they have where STPP

is required.

MR. THOMSEN: Okay. And have there been any other changes in laws or regulations that have affected the markets for these products?

MS. SCHEWE: I would say broadly speaking no. But with regard to the effects of phosphates on the waterways, there have been selected areas that in addition to banning the use of phosphates in home laundering and automatic dishwash applications, they've also started to implement no P in residential fertilizers. So as an example in Wisconsin there is I know at least city bans if not state bans in place right now for phosphates in fertilizers, residential fertilizers. So there is a little bit of a patchwork activity going on from an environmental standpoint in that particular market as well.

MR. THOMSEN: Okay. Is there a price difference between anhydrous salts and the salts in solution on a P-205 basis?

MS. SCHEWE: Typically there is because of the cost to take the solution and calcine it and pack it, there is typically a premium paid for a phosphate salt versus the solution.

MR. THOMSEN: Oh, okay. And how much higher is an anhydrous salt than a solution?

MS. SCHEWE: If you very -- I can't tell you exactly on a dry basis, but --

MR. SEXTON: There's actually two issues. On NK and --

MR. THOMSEN: Okay, are you going to answer what I was asking her?

MR. SEXTON: Yeah, there's two different issues. MKP and DKP can be made in solution or made as anhydrous. It's more expensive to make the anhydrous form because you have to dry it and mill it and put it into the package. TKPP is a little bit different. To make TKP solution you have to make the dry first. So you'll perform the process to make the dry product, run it through the calciner, and then put it in solution.

So on the TKPP side, the solution on a P-205 basis is a little more expensive because you make the dry material and then you go through all the extra process, put it in solution, filter it, and make the liquid. On the MKP and DKP side, it's more expensive to make the powder because you start off with the liquid. So it's a little bit different one way than the other, but in either case it's just, on the TKPP that we do, it just reflects the extra cost of putting it in the solution.

MR. THOMSEN: So what's coming in from Canada and Mexico via truck, would that be more anhydrous or it costs less at least for STPP, or is it the solution that would be coming in?

MR. SEXTON: Well STP is typically not sold in solution.

MR. THOMSEN: Or not, yes, just TKPP.

MR. SEXTON: TKPP is, in fact I don't know that TKPP is brought in from Canada and Mexico very much. It's typically not.

MR. THOMSEN: Okay, what about MKP and DKP?

MS. SCHEWE: On DKP, the difference between DKP solution, which is again a solution makes a potassium hydroxide in 75 percent phosphoric acid. On a dry basis that price is roughly on technical grade $1.52 on a list price basis, whereas the DKP anhydrous for technical grade is $2.10. So there's quite a premium between the two, and again that's related to the additional processing costs as far as taking it from a solution and making it into a granular product and packing it out.

MR. THOMSEN: Okay. Are you familiar with what types of, in terms of grades or densities that are coming in from both China and nonsubject countries? We've heard that it's mostly tech grade

coming in, not food grade, in terms of the STPP, right, do we know anything about the other salts that are coming in from China whether they're tech grade or food grade that are coming in? Do you have any information on that?

MS. SCHEWE: I mean it just depends on the description provided by the importer as far as whether they're actually identifying the product as technical grade or food grade, sometimes they do and sometimes they don't. It does appear that, you know, just from the data that there may be more technical grade product being brought in. Obviously STPP we talked about, but on MKP as well. On DKP though, if you look at the import statistics I would say it's probably the opposite, meaning that food grade's probably being brought in more readily than tech grade.

MR. SEXTON: Anecdotally on the STP side, we do hear that customers are buying Chinese food grade STPP. We don't really know necessarily whether it's for sure or not, but that's what we're told.

MR. THOMSEN: Okay, and how about what's coming in from say Israel or Mexico?

MR. SEXTON: There's really not a lot of difference between any of the producers that we see. I mean we get good quality from Israel, good quality

from Holland, the Chinese product is very good. So we don't have that much of an advantage, or at all really, on quality issues.

MR. THOMSEN: A difference between tech grade and food grade?

MR. SEXTON: Some of the producers will not use food grade acid to make tech grade product. But what we understand, and again the Chinese obviously know their process better than we do, but what we're told is they use a thermal process to make the acid, which actually is a very high quality product, and we also understand if they make the salts of this product that for the most part they will meet food grade quality. Now whether they import it and call it food grade or call it tech grade is a different issue.

MR. THOMSEN: Okay, and in other countries do they import -- tech grade or food grade in the market as a whole --

MR. SEXTON: -- for example Thermfos, the guys from Holland, we see a lot of food grade material from them. And then it's not so much whether they can make food grade or tech grade, it's whichever market they happen to be focused on. For example I believe it's Haifa, the Israeli guys, we see them more in the tech grades than the food grade, but again they're in

both markets.

MR. CANNON: Is that your question?

MR. THOMSEN: That was. Thanks for the clarification, Mr. Cannon. How have the Chinese export taxes on these salts or on the inputs and the corresponding increase that has taken effect from 100 to 175 percent affected your business or the prices that you're seeing in the marketplace?

MR. SEXTON: Upon which time period?

MR. THOMSEN: Since 2006, and I believe the increase was in 2008 though I may be wrong on the exact timing.

MR. SEXTON: Well, all we really know from our perspective is when they're here and when they're not here. In early 2008 they really weren't here. There's a lot of factors, we know that a part of the issue was because of the export taxes. And again these are what we hear, we don't know the facts for sure about what happens in China. But what we understand is worldwide fertilizer was very short, and for strategic geopolitical reasons it's a very good idea to keep enough fertilizer inside your country to feed your own people.

So a lot of times they'll put these export taxes on for those types of strategic reasons. But

there were a lot of issues in early 2008, there was the earthquake, there was a shortage of phosphoric acid, and they were actually from what we understand net importers of fertilizer. So when these issues went away the exports into the United States increased dramatically, and that also coincided with the market pricing in the United States going up.

MR. THOMSEN: Okay. We've heard about the Chinese earthquake and that effect on the phosphorous market, and it may have even destroyed a few of the phosphorous plants. Do you know whether these plants have been rebuilt, whether they're operating at capacity or are they still rebuilding?

MR. SEXTON: From what we hear I think they've probably recovered to some degree. But I doubt that it's where it was before.

MS. SCHEWE: Yes, so the area that was affected by the earthquakes was in the Szechuan province. There was two primary phosphate producers that sell into industrial and food markets, Norwest and Blue Sword. And we believe based upon import statistics that both of those companies are now capable of producing product and indeed are importing material into the U.S. and other world areas as well.

MR. THOMSEN: Okay. Another supply

disruption is, did the Szechuan potassium miners strike affect your inputs or sourcing at all? I'm guessing probably not because you're fully integrated in the -- is that right?

MR. SEXTON: Are you talking about the KLH?

MR. THOMSEN: Yes.

MR. SEXTON: We're not integrating KLH, it had a dramatic effect.

MR. THOMSEN: Oh, okay.

MR. SEXTON: But what we were able to do, we have global suppliers of KLH, we have KLH contracts in Europe and in North America. We were shorted in North America but we were able to bring in KLH from our Europe contract. So we didn't experience any supply disruptions in that respect.

MR. THOMSEN: Okay.

MS. SCHEWE: We did institute for a short period of time a allocation on our potassium based phosphates. As you mentioned, the strike in Canada actually had a very prominent effect on our business. Both of our KLH suppliers were sourced out of Canada. As far as our work that we did to supplement the KLH coming in from those suppliers where we were on allocation, we brought in finished products from a couple of our sister companies, one in Brazil and one

in Europe, and we also supplemented with some material from China.

MR. THOMSEN: Okay. I believe I only have one more question and it's actually a request. And it's, if you can submit for the record any of your price increases or decreases, I believe Prayon had stopped making price lists from your testimony.

MR. SEXTON: Yeah, we cut that out in very early 2008, it just moved too quickly.

MR. THOMSEN: Okay. Ms. Schewe, can you submit those? Great. And actually one more thing, and this is just a data --

MR. CANNON: Are you looking for like a letter to the industry or what are you looking for?

MR. THOMSEN: Yeah, just a letter to the industry. I'm trying to get the timing of price increases for here.

MR. CANNON: The only reason I ask, I mean you'll know better, Andrew, but contracts come up in the end, it wasn't like on one day all of a sudden all the prices rose because you had customers that the contract was still going on, it hadn't ended yet. Am I wrong? I mean the beginning of 2008 it would have gone out to customers, so what is this going to be like, are they going to be 100 letters?

MS. SCHEWE: Yeah, obviously we've had several price actions. I'm assuming what you were referring to is our standard list price versus what we might have negotiated with a particular customer.

MR. THOMSEN: Correct.

MS. SCHEWE: I mean as I mentioned in my testimony we did have about a six-month lag from when the prices went up to when we could actually see all the price increases in the market, you know, given contracts that we had. So if you're talking about the general letter that we sent out just informing customers of the list price increases, yes we can definitely provide that information.

MR. THOMSEN: Yeah, that's all right. I'm looking for a general across-the-board price list increases, not for each customer. Okay, the last thing is actually just a data question, and I just wanted to know whether blends have been included in any of the data that has been submitted in terms of the quarterly pricing data.

MS. SCHEWE: Our data does not include blends.

MR. THOMSEN: Okay.

MS. ALLEN: No, ours does not either.

MR. THOMSEN: Okay, great. I will

relinquish my microphone. Thank you.

MS. DEFILIPPO: Thank you, Mr. Thomsen. I will turn to Mr. Ascienzo in a minute. Just for the court reporter, if you could remember just to say your name at the beginning of a response, it's helpful. Thank you.

MR. ASCIENZO: Thank you very much. I'm here today on behalf of Mr. G who is away on business. He apologizes that he can't be here. But I have some questions on his behalf, and before I start he just wants to thank all the parties for answering all the questions that he's asked so far and he looks forward to your continuing cooperation in answering all of the rest of the questions. Thank you very much.

Can we start by looking at the C of A, or certificate of analysis? I think it's slide 2 or page 2. I just want to ask a few questions. It looks like this is a food grade C of A, is that how this -- oh this is a Prayon, yeah. Looking at the product? Anyway. Looking at the product it has sodium tripolyphosphate and then underneath dentifrice grade, is that for toothpaste?

MR. SEXTON: Yes, sir.

MR. ASCIENZO: Okay. So the bottom line is this would be, this is a food grade C of A?

MR. SEXTON: Yes.

MR. ASCIENZO: Okay. And I see your product code, you've got STPP 188, so I presume that's just some sort of formulation for a specific customer or is that a general grade on your part?

MR. SEXTON: The numbers differentiate between things like density, granulometry, just as a different specifications for that particular product. We sell the same product to several different people.

MR. ASCIENZO: Like an SKU?

MR. SEXTON: It's not an SKU, it's more of a product naming system.

MR. ASCIENZO: And then down at the bottom here we have some identification test A and B. Do you know offhand what those are?

MS. ALLEN: No. I could find out for you.

MR. ASCIENZO: In your brief, that's fine. Thank you very much. And then I guess because this is food grade but maybe not, I see some of the very important characteristics such as arsenic, heavy metals, fluoride, they have an asterisk next to them under "Test Results," and that says "guaranteed analysis." So I'm assuming that the real important ones are guaranteed some way somehow?

MS. ALLEN: I can find out for you from our

lab manager.

MR. ASCIENZO: Okay, thank you. And this is done by Prayon internally?

MS. ALLEN: Yes, that is our laboratory that performs all of these tests. All of the specifications for each customer are entered into our lab management system, and the laboratory analyst would go in and do these tests and they would not necessarily know what the specifications are, it would either be that it meets the test or it doesn't meet the test for the specific customer. And if it did not meet the test for the specific customer it might be downgraded to a different type. So this particular one might go to, if it did not meet the specifications for this particular customer, may get downgraded to a technical application.

MS. STACHIW: And can I clarify for you?

MR. ASCIENZO: Sure.

MS. STACHIW: On the C of A, all the different tests, there are some that are actual analysis and performed and the actual number is down, and then there are other tests that are guaranteed, and they are not run on a specific batch but they're run, you know, statistically they're validated, they're not run for every single batch but we

guarantee that it will be at meet the specification. So that's the difference between -- a guarantee means that it was not run on that specific batch but it is guaranteed, and the others would be actuals. And you can, you know, when you put it up it will be easy to point out. And that's pretty standard for the industry.

MR. THOMSEN: Okay. So I don't want to beat this into the ground but I want to make sure, it sounds as if at least for the two companies here, your inputs are such that they are certified for food grade, and it sounds as if you attempt to make food grade product 100 percent of the time, does that sound right, am I right?

MR. SEXTON: Our standard procedures generally will yield food grade product. Now, there may be cases where, as Beth said, we'll have a particular lot that doesn't meet some specific thing and we'll downgrade it to tech grade, to a lower standard. But in general we expect every lot to meet food grade quality.

MR. ASCIENZO: Same for ICL?

MR. FYOCK: Yes, it's exactly the same.

MR. ASCIENZO: So it sounds as if, with that being true, the cost difference if there is any

between food grade and tech grade would be a C of A?

MR. SEXTON: There's a little bit more to it than that. The handling, the packaging, the warehousing, the transportation are all different quality and different requirements frequently than food grade. For example, just to use phosphoric acid as an example, it has to be in a food grade carrier, has to go in a food grade truck, has to meet food grade specifications for cleaning and all of those issues.

For STPP food grade it has to be in a food grade warehouse, the requirements and the costs of running a food grade warehouse are very different than a tech grade warehouse. So it's basically how you treat the product and how you prove that it meets these qualities that's the differential. It's a significant cost.

MR. CANNON: From an accounting standpoint, the cost differences would not affect raw materials, labor, or factory overhead, but the cost differences we're talking about here would be below the line, is that correct, Beth?

MS. ALLEN: They would be because they would be after the point of manufacturing, so they would get into warehousing costs which are considered sales and

general administration. So it's not a cost of manufacturing.

MR. ASCIENZO: Okay, but just as a point of clarification, I think for the Commission's purposes below the line is below operating income, so it would be part of operating income. So in your post, you can do it now but you probably want to do this in your postconference brief, could you provide an estimate of the added cost to produce food grade versus technical product? ICL also, please. Thank you very much.

And do we know for the producers on their manufacturing processes or no? Do they do things about the same?

MR. CANNON: These are the only producers in the U.S.

MR. ASCIENZO: Really?

MR. CANNON: They're the only two left.

MR. ASCIENZO: Okay, thank you. How many suppliers are there of the raw materials? I know that Prayon is vertically integrated at least for some of the inputs, but it sounds as if you can buy them on the outside if there's a cost differential that is favorable to you, but how many are there?

MR. SEXTON: In fact we do buy outside asset as well. For certain applications, such as the Food

for Peace program that require 100 percent U.S. sourced raw materials, we purchase acids from PCS.

MS. ALLEN: At a higher cost.

MR. SEXTON: At a higher cost than our own cost. So there are many places around the world where you can get acid, but as far as the United States that we're aware of, there are two primary production facilities, one's PCS and Innophos has a plant in Geismar, Louisiana that does the purification step.

MR. ASCIENZO: Does that sound about right to ICL?

MS. SCHEWE: You asked the number of suppliers that we had nominally?

MR. ASCIENZO: Yes.

MS. SCHEWE: We're similar, we have internal source of phosphoric acid and we also have a long term contract with PCS, so we have two suppliers of phosphoric acid. As I mentioned earlier we currently have two suppliers of KLH, which is one of the raw materials that go into the potassium phosphates. And then we also have once supplier of soda ash that goes into the STPP.

MR. ASCIENZO: The production processes for the four different products, are they essentially similar, are there big differences, can we address

those to some extent anyway?

MR. FYOCK: The production processes are somewhat similar in that all of them involve a reaction step between the phosphoric acid and the base, whether it's potassium hydroxide or soda ash, into a solution, and then that solution is processed through a drier or calciner to make the dried product. If it's an orthophosphate like DKP or MKP it's a low temperature drier.

If it's a condensed product or high temperature product like STPP or TKPP, it's a high temperature calciner. And then following that step there's generally a milling operation and screening operation to get the product to the right granularity followed by usually, in fact always we pass the product past magnets again for GMP standards and then into our shipping operation. So they are similar in many respects.

MR. ASCIENZO: Are those separate dedicated lines for each of the four products, or can you stop one batch and then start another?

MR. FYOCK: At ICL we make our tripolyphosphate pretty much, at our -- for example, all that process makes is sodium tripolyphosphate. And we make our potassium products at Carteret, but we

make all of our potassium products on the same unit. And one of the reasons for that is that that minimizes the amount of downtime for cleanout, washout, and product changes. Conceivably we could make all the products on one line, but from the standpoint of efficiency and operation we choose not to do that.

MR. ASCIENZO: I think for now that's it. Thank you very much.

MS. DEFILIPPO: Thank you, Mr. Ascienzo. We will turn to our commodity analyst, Mr. Cantrell. Do you have questions for this panel?

MR. CANTRELL: Yes, I have a few questions. I'll try to keep this brief. I might say the light is ahead of you all here this morning with us. And to hear something of the technical side, industrial side of phosphates, my background is in primarily nitrogen and phosphate fertilizers area, so, you know, a lot of similarities there in raw materials, especially phosphate rock and phosphoric acid, although perhaps in different forms.

So I prepared several just very fundamental questions to ask, and I think I'll limit those. But, you know, perhaps I could give you my outline after, you know, posthearing conference, and if there are any that you feel are worthy of responding to that I don't

ask, if you would do so I would appreciate it. So what I have outlined is just like a domestic industry overview, and then the feedstocks to an extent, and then a few questions on various four products.

First, and I'm taking the industry here, the domestic industry, in aggregate. And so my first question is, you know, what's your view of the five-year supply-demand outlook for these four subject products in aggregate, particularly say your average annual growth rates, do you expect it up or down? And then in that light, if you could break down, you know, which products do you think are going to show perhaps negative or no growth and which products show the more potential for growth within the next five years?

MS. SCHEWE: I'll try and address that. Typically we try and talk in terms of markets. A product can go into multiple markets, and so each one of those markets may have different drivers behind them. From a total product standpoint as we look at, let's say STPP as an example, we talked about the fact that the largest use for that particular product is in ADW, automatic dishwash, formulations.

So with the environmental issues associated with that and the subsequent bans in many states, we believe there's going to be a significant shift in the

supply related to STPP, meaning that demand is going to go down significantly in 2010 and as a result the supply dynamics will change significantly, utilization of tripoly overall in the U.S. will decline significantly.

So overall if we look at it from a product standpoint we would say that it will, you know, decrease significantly perhaps as much as 50 percent in 2010 or by 2011. And then after that you'll be looking at a market that I would characterize closer to 50/50 between technical and food grade applications. We talked about industrial applications in industrial and institutional cleaners. There's been a lot of reformulation already in that area moving to more environmentally preferred products.

So we would expect slightly lower than GDP growth but yet growth going forward on that particular product. And then if you look into the food type applications that we have, in general meat, poultry, seafood tends to be the largest market segment for STPP food grade. And based upon the type of market we're in here in the U.S. we would expect that that would have approaching 2.5 percent increase going forward just based on, you know, market analysis.

PKPP, both the anhydrous and 60 percent, is

primarily a tech market. There are some food sales, but they're very minimal. Typically sold into water treatment and also into paints and coatings to a lesser degree. Given the movement from surface water to groundwater in the U.S. that will increase the use of PKPP, we believe, going forward in water treatment, but at a population growth versus a GDP, which I believe is, you know, approximately what, a little over a percent here in the U.S.

Paints and coatings obviously has suffered from the economy, you know, the last couple of years, but the projections going forward in that industry in the U.S. are a return to about a 3 percent growth rate. MKP, I plan one customer group or market that we sell to for MKP, it's about 50/50. One of the largest users is in beverages for fortification, nutritional fortification, and we expect that that will grow in excess of 3 percent, you know, with brands like Powerade, Gatorade gaining momentum in the market.

And then on the technical grade side, that MKP, neon fertilizers, which obviously we talked about how we had a decline this year in fertilizer in the U.S., but going forward we would expect that that would see an increase. Globally we're expecting

fertilizer increases of about 3.5 percent. So that market will grow, and then the other application that we participate in on technical MKP is in specialty cements.

Again, that's an area largely associated with building and construction, which has obviously been severely affected by the economy. And as we move forward we at least expect some kind of a rebound in that activity going forward, so again very similar to paints and coatings of about 3 percent. BKP anhydrous is primarily a food grade product, and heavy concentration in the dairy area. And given the movement towards convenient foods in the U.S. we would expect that would also have a relatively high growth rate going forward in excess of 3 percent.

MR. CANTRELL: Okay, thank you. Just based on the import volume data that I've looked at coming into the U.S., it appears that, I mean STPP must dominate the market volume wise. I mean it appears to me when, you know, you just do the simple mathematic calculation of the overall imports STPP appears to account for 75 to 80 percent of the total volume of these four products, so I know how important that must be.

One question I had, I go back a ways so I

can remember, it appears that there have been trends downward for STPP demand over a number of years, I think starting with laundry detergents. They had problems up on the Great Lakes eutrophication and so forth. Is there any STPP still used in laundry detergents?

MS. SCHEWE: In the U.S. it's very limited. As I think we mentioned, the actual legislation is somewhat of a patchwork, but large producers like Proctor and Gamble decided because of skew management to eliminate the phosphate containing formulations, but we have seen a bit of a resurgence in some of the southwestern states that have a growing Latino population because that's a preferred type of laundry detergent in Mexico and other parts of Latin America. And so we do see a little bit of use in home laundry in the U.S. We also see, again as we mentioned, the use of phosphates in laundry detergents for institutional applications like a hotel, a school, penitentiary, things of that sort.

MR. CANTRELL: Okay, thank you. So do you believe the bleeding will essentially stop in the STPP market after this detergent ban is done with and the other markets that are going upwards will tend to stabilize STPP, although at a lower level I would

assume?

MS. SCHEWE: Yeah, in the U.S. we would anticipate that after ADW goes away that there will be a stabilization of STPP. And I think, you know, we talked about a potential for some environmental issues around the use in industrial applications, but I think that, you know, recent events with the swine flu and things of that nature there's, you know, a resurgence in the need for us to keep our homes and hotels and hospitals clean. So I think that we feel that this will become the new baseline and there will not be any further reduction in demand in the U.S. going forward for that particular product.

MR. CANTRELL: Okay, thank you. Now I really want to get into some basic things here, and this has the concern with -- and again this is aggregate for the domestic industry, and if you can't respond to these I would ask for guesstimates on percent distributions and so forth -- but the first one is, I'm curious about the relative percent distribution of phosphoric acid use by the different types. The first would be, you know, breaking this down so that it would account for 100 percent, thermal acid, I mean what percent of the U.S. market is accounted for by thermal acid?

MS. SCHEWE: So from a U.S. production standpoint are you referring or are you referring to just thermal phosphoric acid in general?

MR. CANTRELL: Yes, I mean from a domestic production standpoint.

MS. SCHEWE: Right, we're the last standing thermal acid producer in the U.S., and we produce it for very high end applications. And I would say that generally speaking as far as total U.S. phosphoric acid consumption, from a merchant area, that it takes up no more than 10 percent.

MR. CANTRELL: Okay, thanks. And what about solvent purified wet process, what percent of the total?

MS. SCHEWE: The rest of it is what we would consider as purified phosphoric acid.

MR. CANTRELL: Well, I mean however is there some, say, green phosphoric acid fertilizer type that may be cleaned up, precipitated I believe is a term, impurities precipitate out. Is that also considered, purified phosphoric acid?

MS. SCHEWE: Yeah, it can be used for certain industrial applications, it's obviously not a food grade material. And there is a producer that does take green acid and goes through not a solvent

extraction process but a different process that provides a product that is clean and does not bear a lot of color. But that production is rather limited, and I would say that it makes up about 7 percent of the overall sales in the U.S.

MR. CANTRELL: Okay, so most of it is the solvent extracted purified phosphoric acid.

MS. SCHEWE: Correct.

MR. CANTRELL: Okay, thank you. And now, staying with the various forms of acids, I was curious about the percentage breakdown between food and industrial grades for the three types of acids. One would be thermal, I mean if you had to make a guess would you say what percent of thermal goes to food, high analysis food and the other to industrial?

MS. SCHEWE: The majority of it goes to food, but there's also a portion of it that goes actually beyond a food grade standards to the electronics industry. And so I would characterize that generally speaking as an industrial type application although the requirements for that industry are far superior to that within the food industry. So if I had to split out though I would say probably it is 60/40 food to industrial.

MR. CANTRELL: Okay, thank you. And what

about for solvent purified wet process phosphoric acid?

MS. SCHEWE: As we look at the sales; the product to the industry, it typically, so merchant sales versus the product that we may consume in our plants and then sell as a phosphate salt, but the merchant phosphoric acid market is about 70 percent industrial requirements and 30 percent food requirements.

MR. CANTRELL: Okay, thanks. And I would assume this last type, the green acid that we talked about that's the minority of the purified types, I assume that it would go primarily into the industrial uses?

MS. SCHEWE: Correct, yes.

MR. CANTRELL: Is that right? Okay. I just have two or three questions about the choice of either whether you use soda ash or sodium hydroxide in the production of STPP, and which is the most prevalent method and why?

MR. FYOCK: Either can be used. It depends a lot on the pricing comparison whether soda ash is less expensive or caustic soda. It's the same, but we generally end up using soda ash, but it's strictly a price calculation.

MR. CANTRELL: So it is price dependant primarily. Let's see, I just had a couple of questions on the potassium phosphates, which I assume volume wise kind of fit in between sodium tripoly on the high side and TKPP on the low side, volume wise anyway at this point. Anyway, my question is, what's the predominant form of MKP used in fertilizers, solid or liquid?

MS. SCHEWE: Sorry, we're juggling the microphone. Typically you're using an anhydrous product MKP going into specialty fertilizers like a Scotts fertilizer or a MiracleGro, that would be anhydrous form of either MKP or in various small situations TKPP.

MR. CANTRELL: Okay, and I believe you indicated, perhaps I misunderstood, that these types of fertilizers are, the MKP fertilizers, are also produced using the standard fertilizer grade wet process phosphoric acid or is that not true? I mean that may be in fertilizer statistics rather than industrial food grades.

MS. SCHEWE: I believe that for the most part most producers, both here in the U.S. as well as other places, use purified phosphoric acid for the production of MKP because of the quality requirements

to meet the standards for fertilizers, except for the Chinese which are obviously I think using the thermal acid route. But our product that we are using is a food grade purified phosphoric acid versus, you know, a lower quality like a merchant grade acid.

MR. CANTRELL: I was thinking that perhaps some of this MKP may be used in fertigation, in other words aqua systems for gold courses, and to an extent for crop production.

MS. SCHEWE: There is MKP also used in liquid, but it's not sold to the manufacturer in solution form, it's sold in anhydrous. And then they add, I'm not exactly sure what the components would be. But there is a solution market that MKP goes into but not as the solution itself, some other person is taking it and further manufacturing it into a solution.

MR. CANTRELL: Well the producers that produce the potassium phosphate solutions exclusively, going that route, which I understand are not subject product or proposed subject product in this case, what's that type of product used for that's different than the types that the technical food grade folks produce here?

MS. STACHIW: You're asking why would

someone want to use a solution versus the anhydrous?

MR. CANTRELL: Yes, and I mean is it for a different use or are there overlapping uses?

MS. STACHIW: Well, as the example that Angie gave you of DKP, the dipotassium phosphates, it's used in coffee creamer. So it's a creamer but the anhydrous is used in the dry blend product and the solution is used in the liquid. That would be an example. Or, you know, someone might want to use the liquid, they're making a processed cheese and they're feeding the liquid, the dipotassium making it on site and feeding it right in. Dipotassium phosphate is used, the solution, almost exclusively for the antifreeze liquid production.

MR. CANTRELL: I had one question I was just curious about, it's does the proposed exclusion of directly manufactured MKP and DKP solutions from subject product imply that captive grades are not like merchant grades? Or does that make any sense?

MR. CANNON: You mean captive in the sense that we first make solution before we dry it out?

MR. CANTRELL: I guess what I was thinking about are the producers that go directly to solutions, are they considered captive producers versus merchant producers for your industry?

MR. CANNON: We don't consider those part of the industry because they don't have the drier to be capable of even making anhydrous. And we don't buy solution from a company that mixes phosphoric acid and potassium hydroxide, we wouldn't buy that solution from them and ourselves dry it out I don't think. And they make that product based on the economics of buying phosphoric acid and potassium hydroxide, mixing it themselves.

And then they just immediately use that solution, they don't go through all the downstream processing that we would in terms of drying it out and everything else that went on in the plant, correct? Is that what you're question is? I mean we don't consider that the same industry, they are not the same producers at all. And perhaps it relates to your previous question, what do they use the product for.

MR. CANTRELL: Yeah, that's what I was interested in. And also, I mean I didn't understand the difference in uses, do they produce technical grades, food grades, that they sell these solutions to end users for?

MR. CANNON: Can you provide that?

MS. SCHEWE: Yeah, so --

MS. DEFILIPPO: I think you need to turn on.

And to the extent you don't have the information because it's not your clients's and you want to provide it in a postconference brief, that's also maybe an option too.

MS. SCHEWE: Well in general, the solutions market, DKP solutions market, is primarily a food market. So most of the manufacturers actually are in the Midwest, upper Midwest, because that's actually where a lot of the food manufacturers are, and, you know, with the exception of a couple of Nestle plants. And really it's primarily in dairy application that this product is being used in, and I assume that they're using it for one reason because they typically deal with liquids. I mean, you know, if the stuff comes in the form of liquid for the dairy applications there is a small amount of DKP solution that goes into -- which I believe Nancy talked about, but that is probably no more than 15 percent of the overall solutions market. So it is really a food market.

MR. CANTRELL: Okay, thank you. Those are all of my questions. If I may, I may send you or correspond with someone on a few other questions that I had that are outstanding that can wait for right now. Thank you very much.

MS. DEFILIPPO: Thank you, Mr. Cantrell. We

will turn to Mr. Corkran.

MR. CORKRAN: Thank you. And thank you to all the witnesses today. It's been very enlightening testimony, and one of the benefits of coming late in the questioning order is I've already had the benefit of many good questions and many very good answers. So I have really just a few followup, and I'd actually like to stay very closely with the issue of MKP and DKP in solution. We were just talking about some of the different applications, very early in the testimony we established that there are distinct producers of MKP and DKP in solution, can you give me an idea of who those are and whether we're talking a few or a great many different producers?

MS. SCHEWE: This is not meant to be an all inclusive list. DKP solution, the folks that we have dealt with over the past 15 or 20 years in this market include FBC Industries, Incept International, it sometimes goes by the name Xena, Hydrite Chemical, Hawkins Chemical, GS Robbins. I'm sure there's a few other distributors that, you know, for smaller uses probably do perform some solutions of DKP. To the best of our knowledge those same customers also produce MKP solution. And we're all easily aware of about one customer that actually uses MKP solution,

and they use it at a rate of 22 percent, so I don't have a lot of knowledge except just understanding who bid on that business.

MR. CANNON: In that SRI report there are a couple others who maybe they don't sell to them. I can tell you in the postconference though.

MR. CORKRAN: Very good, that is very helpful. There was testimony to the effect that there were specific differences in particle size for STPP that were mentioned in the standard specifications, and my question was do those differences translate into price differences?

MR. SEXTON: Not really. You can produce different particle sizes, it's just really a matter of what mesh screen you use. If you have a very very tight spec where you have to have, you know, 100 percent meeting this one thing, you know, the more strenuous the application, the more strenuous the requirement is the more expensive it is. But in general there's not a lot of price premium for that.

MR. CORKRAN: Thank you. My next question goes to differences in sales to distributors versus end users. Do you typically see substantial price differences in your sales to distributors versus end users based on such things as the volume of sales

whether you're selling by rail and truck or whether you're selling in other quantities or volumes?

MR. SEXTON: In most cases the idea for a distributor is to provide the service of providing product in less than truckload quantities. So there is generally expected to be a significant premium for the smaller volumes. So we would sell I think historically we would sell to them at a little bit less than list price. Whereas the direct customers tend to be much larger and they tend to pay a lot less than the distributor would.

MR. CORKRAN: Earlier this morning, we heard testimony regarding national distributors, although I have a pretty good idea who those are. Can you specify who you would consider national distributors of these products?

MR. SEXTON: Brenntag and Univar.

MR. CORKRAN: Thank you; Mr. Sexton, on pages eight and nine of your prepared testimony, you talk about a decline in sales generally; and you then mention that the recession has made certain customers more price conscious. Were you implying by that, that you've been losing sales for food grade applications; or is your discussion of losing sales volume more general?

MR. SEXTON: When I say losing sales volume, that would mean to individual customers. You know, Customer A would buy less than they did last year. But if we're able to take market share from competitors, you know, we would have more individual customers.

So although our overall sales have declined, it would have been much worse, had we not picked up some share. Did that answer your question?

MR. CORKRAN: It did mostly.

MR. SEXTON: Okay.

MR. CORKRAN: You opened your statement by saying that you hoped that end users for specifying food grade phosphates would have a preference for domestic material; but the recession has made them more price conscious.

MR. SEXTON: Right.

MR. CORKRAN: And then your next sentence is, we've been steadily losing sales volume to lower priced imports from China. So my specific question was, reading those two together, it implies that you've been losing food grade sales to imports from China; although that may be something different than some of the line of argument we heard laid out possibly early this morning.

THE COURT: Absolutely; in fact, if you go back to 2006/2007, there were some food producers that would absolutely never even consider using Chinese product. In fact, we've even had to certify that our materials contained no Chinese ingredients, period, after the fallout with the melamine issue in the pet food.

Today, some of the same customers that were so adamant are now using Chinese material because the cost pressures are such a big problem; and we are losing volume in food grade products and customers for that very reason.

MR. CORKRAN: Okay, thank you, that clarified things greatly for me.

Earlier we heard testimony regarding heavy dents, STPP; and then later, distinctions between that and light STPP. Can you give me a better sense of what the distinctions between those two forms; and does that correspond to other differences that you see like fines versus granulars?

MR. SEXTON: Heavy dents is strictly -- it's a density issue; how many pounds per certain volume. Generally, if I'm not mistaken, it's based on water. You have a density of .4. It would be .4 times the density of water. Did I get that right, Nancy?

MS. STACHIW: The light dense.

MR. SEXTON: And it goes all the way up to .8.

MS. STACHIW: To one.

MR. SEXTON: To one.

MS. STACHIW: Or higher.

MR. SEXTON: So in general, you have different performance characteristics for a lighter density than a heavier density. And in a general sense, a light density will go into solution much faster than a heavy density.

So if you have an application where you don't want it to dissolve very quickly, like in an automatic dishwasher, you want to have that material available during the whole cycle. So you use a heavy dense material, as we produce in Augusta for those applications.

There may be applications like in food processing where you want to make a solution. You want to make it quick. You use a light dense material, because it goes into the solution faster.

MR. CORKRAN: Thank you; that was very helpful. Let's see, I did not write down who made this particular statement. But there is discussion of the fact that using the term "campaigning" plants --

can you give me a sense of how that differs from the previous practice of continuous production?

THE WITNESS: And explain to me -- I believe in the testimony that was attributed to various events in 2009, perhaps including imports from China. But I thought that the policy change away from continuous production occurred in 2007; and I'm sorry, I didn't write down whose testimony it was.

MS. ALLEN: I briefly talked about campaigning the plant. What we try to do is to keep our plants running as much as possible. Because at the very beginning, you do get a lot of what we call flush-out, which is product that we have to put back through the process; and that is very expensive, because we have melt the product back down. And at the end, when you also shut down the plant, you get a lot of flush-out going from one product to another.

Another problem you have when you first start up the plant is, it takes a long time to get up to the specifications that you are looking for. So you may start out at only making only 100,000 pounds an hour. But once you get to a point where you're running your plant at a fast rate, you can continue that for a long period of time.

So the idea is that you're going to keep

your plant running for a long period of time at the highest through-puts that you possibly can, to make it the most cost efficient that you possibly can and make the most product that you can.

But at the beginning of this year, we changed practices, because we had way too much inventory. You know, we were expecting a level of sales that reminiscent of what we had in 2008; and so we just have not had to run our plant very much. We've gone from, you know, a campaign that possibly lasted 10 days, to a campaign that lasts sometimes as much as a day and-a-half. So that makes it very costly to run the plant, and you get a lot more waste product.

MR. CORKRAN: Okay, but let me ask, wasn't that an inevitable consequence of your management's decision to change its strategy of continuous production at the end of 2007?

MS. ALLEN: I'm not sure which phrase you're looking at; because we want to continue on continuous production.

MR. SEXTON: If I might add a little bit here, when we went from making just STPP heavy dense for Proctor and Gamble, we made the decision to become a multi-purpose plant. And as a multi-purpose plant,

we realized that we will have changeover costs, when going from STPP to TKPP.

The problem is, when those runs become shorter, the increases in costs become greatly amplified; and we lose a lot more than we would when we had our longer runs. So although we have multiple runs, in the past, we may run STPP for 200 days. But now we would expect, under better circumstances, maybe we'll have a 30 day run of STPP, a 30 day run of TKPP and something like that.

Now we're in a situation where it's two or three days of STPP, two or three days of TKPP; then back and forth and back and forth. Because of the lower demands, we can't build up these larger inventories to serve the smaller market. So the costs are even greater than they would have been if we were strictly a one product plant.

MR. CORKRAN: Okay, thank you very much; I appreciate it. Both answers were very, very helpful. Did I understand the testimony correctly that in general for the chemical MKP that domestic producers do not typically participate in the fertilizer portion of that market?

MS. SCHEWE: We're the only producer MKP in the U.S., and we do not participate largely in that

market. We do have a sister company that produces material, MKP in Israel, and imports it and does compete in that particular market.

MR. CORKRAN: And with the specific reference to MKP, are you seeing competition from imports from China in your markets for MKP; or are they most largely concentrated in the fertilizer portion of the market, and thus competing with your sister company, which also imports?

MS. SCHEWE: We've seen, you know, a large amount of competition in the fertilizer area, which we don't compete in. But we've also, through distribution, been recognizing a significant amount of share loss, or volume loss, I should say; and also recognizing imports of both true technical grade -- not fertilizer grade MKP -- as well as food grade.

So I think we're grading a conclusion against, as we mentioned, somewhat difficult to identify losses through distribution, because they're selling in such small quantities. But we would assume that we're probably losing to small folks that may be producing some form of like pharmaceuticals or something like that, where MKP is utilized.

MR. CORKRAN: Thank you very much; that's very helpful.

Just exploring very briefly the impact of the shortage in phosphoric acid and how that had a ripple effect through the market, given that some customers had to be put on allocation, even for the particular chemicals that we're talking about, and that there was a practice of not adding spot customers, the question I had was how much inventory do distributors and end users typically hold of these chemicals; that is, how long would they be insulated from any sort of supply shortage before they had to start looking for alternative sources of supply?

MS. SCHEWE: Typically, I would tell you that they try and keep as little inventory as possible. They try and push the burden onto the manufacturer.

But I would say, generally speaking, they probably keep about a month's worth of inventory. If I talk to a distributor, that's typically what they tell me.

So in effect, as we talked about 2007, volumes being allocated to 2007 levels, let's assume that a customer, which most of them weren't buying any more in 2008 than they were in 2007. They were actually buying less than that.

Let's assume you call up and all of a

sudden, you've reached your monthly average take, and you're in the middle of the month. I'm not going to accept the order for delivery until the beginning of the next month. So you're really talking about the potential for maybe a two week lead time for a product.

So when we talk about, you know, allocations, they weren't significant in terms of, you know, they were able to get product. It was just that it was more of a lead time extension versus what they had historically received from us.

MR. SEXTON: And one thing I can confirm, I mean, we made an effort to take their business on STPP during the shortage, and we were not very successful.

TKPP -- we were a little bit more successful. But that was a function of the KOH issue. So the asset was tight. Lead times tended to stretch out a little bit. But especially on STPP, it was not to the degree that we were able to do any damage.

The KOH was a little bit more of an issue, and we were a little more successful on gaining share there. But, I mean, we tried to gain share, and it just wasn't there to be had.

MR. CORKRAN: Thank you; that was very helpful. And last request -- actually it isn't even a

question for a response. As you prepare your post-conference brief, would you please review the testimony? In most cases, it was very clear whether you were talking about an individual chemical or all four chemicals that we're looking at today in conjunction.

But in just a few places, it may have been unclear whether you're talking about particular market conditions or raw material conditions that were largely focused on one chemical or all four. So if you could indicate, if there are any ambiguities there to kind of help us out as we refer back to your testimony, that would be extremely helpful.

And with that, I'd like to thank you again for all your testimony and all your answers to questions today.

MS. DEFILIPPO: Thank you, Mr. Corkran; just as a quick administrative matter -- Mr. Cannon, would you like this included in the transcript as an exhibit?

MR. CANNON: Actually, I was going to give it back to you in the brief with source notes and confidential data filled in and so forth. It was just to give you an idea. It's up to you, if you want me to include it.

MS. DEFILIPPO: Okay, and I thank you all for your answers. I know you've been sitting at the table answering questions for awhile; and I've tried to go through and cross them out. So I don't have too many, and I hope I don't repeat something that has already been asked.

We talked today about the increases in raw material costs that occurred during the period, and how that was part of the reason, I think, that price increases were able to stick.

When you increased prices, were they as a general price increase, or were they some sort of escalator in contracts? I guess the question being, do you have any price escalators in the contracts that would address changes in raw materials over the period of that contract?

MR. SEXTON: We always try for it. We try to protect ourselves from raw material increases as much as we can. Unfortunately, on the other side, they try to shield themselves from raw material price increases as much as they can.

Basically, the way things worked for us, at the end of 2007, we were in the midst of negotiating contracts for 2008. We really didn't know what was going to happen. So we had to estimate what the price

was going to be.

We made this estimate, and then we were far under what the actuality was. So we were faced with going back and actually renegotiating contracts were we could. Because it was a "C" change from one year, a very stable year over the year, long contracts to, I can't tell you what it's going to be tomorrow. It was almost that abrupt a change.

MS. DEFILIPPO: And in terms of how that changed from sort of these annual contracts to a more shorter term, was that mostly focused on changes in price; or were the qualities sort of also unknown and those were sort of renegotiated?

MR. SEXTON: For us, quantity wasn't an issue. I mean, we had capacity; we had raw materials. But unfortunately, because of the way things are set up for us, we immediately see an increase in our costs when there's an increase in raw material costs.

However, our contracts don't allow these immediate situations. For the first two quarters, we're losing blood left, right, and center; and we never really even caught up on that until the third quarter, because it was changing so rapidly.

We went from the situation where we had contracts. We had to re-renegotiate. We had to

change things; and by the middle of the year, we were given nothing more than 30 days firmness, and it was finally being accepted.

MS. SCHEWE: We were similar to Prayon in the fact that up until this event, we did not have any cost escalators in our contracts. Typically, you know, we had a firm price for the year. But given the unprecedented run-up in raw material costs, we had little to know price firmness with our customers.

We did agree to requirements contracts with them for up to 120 percent of their historical take-in; and then beyond that, it had to be re-negotiated. So it's not like they could really run up their volumes to us without us knowing it, and then re-negotiating it at that point in time.

MS. DEFILIPPO: Thank you; to follow on a question, I believe, Mr. Corkran was asking about the different channel sales to end users and distributors, I think he was asking about different price levels. You may have said this already, and I apologize if you have. Do you compete against the Chinese in both channels; and if so, is it a similar degree of competition, or are you feeling more pressure in one channel versus the other?

MR. SEXTON: We compete in both markets.

But for us, as Prayon, it is much more prevalent, we believe, in distribution. We know that distributors are buying Chinese product. We know that our volume disappears into the distribution market.

Actually, it started more as a distribution, because that is generally an easier market to enter. And as time has gone along, we've seen it more and more in what we would consider to be direct customers. So as the volume has grown, their presence in the general market as a whole has grown.

MS. SCHEWE: We have a similar situation.

MR. SEXTON: We compete in both.

MS. DEFILIPPO: Ms. Schewe, just a quick question -- you were talking in your testimony earlier about Univar's product, and the brand of product that they use; the imported product from China. You indicated Univar sells phosphate salts produced by ICL, other producers outside China.

Are the products kept separate, based on country of origin, if someone is buying from multiple sources; or is there any blending that you know of, in terms of inventory and all the product in one spot?

MS. SCHEWE: From a blending standpoint, there could be two aspects to that. My understanding would be that from a warehousing standpoint that, you

know, they would have a pallet of Prayon material sitting right next to a pallet of ILC material with, you know, little hesitation, as well as the Univar.

So I don't think there's any issues, I guess, mixing product. But there was a concern that it's possible that there could have been some blending of material and then re-packed, like ICL material, being mixed with Chinese material. But we can't really confirm that.

At that point, it would still be somewhat known, because they would be required to have the country of origin being both China and, in our case, the U.S.

MS. DEFILIPPO: That's helpful. We talked earlier about sort of overlap of end use, and how the products can be used increases in raw material costs that occurred during the period, and how that was part of the reason, I think, that price increases were able to stick.

When you increased prices, were they as a general price increase, or were they some sort of escalator in contracts? I guess the question being, do you have any price escalators in the contracts that would address changes in raw materials over the period of that contract?

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At that point, it would still be somewhat known, because they would be required to have the country of origin being both China and, in our case, the U.S.

MS. DEFILIPPO: That's helpful. We talked earlier about sort of overlap of end use, and how the products can be used in this same application, but not

for the same reason. So I'm assuming that you may have a given customer buying more than one of these phosphate salts.

When they do that, do you guys have different sales reps for a given phosphate salt, or is there someone that deals with all of them; and is there any sort of bundling of the products together when you sell the different phosphate salts to an end user or distributor? Is the pricing separate?

MS. SCHEWE: Pricing is based on each product. But as you mentioned, we do have several customers that may buy four or five different products.

From a sales standpoint, we have a sales rep defined to a particular customer. So it's not product based. It's customer based; and that also holds for distributors, as well.

MR. SEXTON: I would say that in general, the majority of our customers will buy more than one phosphate, because they're looking for different functionalities in different products that they make.

On our sales organization, we have generally a corporate accounts manager that will manage the larger customer and some of the larger distributors; and after that, it's based on geography, with whoever

in Chicago covers whatever is there, whether it's Foodtec or what.

MS. DEFILIPPO: Thank you, that's helpful; a couple of quick questions on the presentation. I'll address these to you, Mr. Cannon.

The one slide that has Chinese MKP and DKP imports, you see imports going down in the first quarter of 2009. And I was wondering if there's any reason whereas for the TKPP and the STPP, they tended to be higher in 2009. I didn't know if you have any information on why those two products had a different trend.

MR. CANNON: We're hoping that when we get the importer questionnaires, we can tell you what that is. It could be inventory built from the fourth quarter, which is still holding over; and that would be the most obvious thing, that there was going to be a lot of inventory.

The other issue is, because in here is a lot of MKP, this could be fertilizer related, too. That spike -- I mean, when I put this chart up there, I mostly talked about the price, Because as you heard, our competition really is more in the food grade area on this product, MKP.

MS. DEFILIPPO: Okay, the last slide in your

packet is information on Chinese STPP capacity; and this is more of a question, I think, for your post-conference brief.

To the extent that you have similar information on any other capacity increases or for the other products, that would be helpful. And to the extent you have any information on what, if any, the demand for any of these four products is in the Chinese home market, that would be helpful.

MR. CANNON: Okay, we'll do that.

MS. DEFILIPPO: And my last question is on pricing. I'm just going to be a little bit of a devil's advocate for the last question.

We have the price graphs where they are in a fairly narrow range for a while, and then we see the large increase in 2008 and then prices come down; and we've talked a lot about the decline in prices in 2009.

If you look at it, the 2009 prices are still higher than 2006. So couldn't it be an argument that there were unusual events that occurred in 2008, that allowed for this large price increase, and now it's just more of a market correction down to a regular price level, which appears to be higher than 2006?

MR. CANNON: Correct; the unusual events

were the limited supply in the market. When the domestics both raised their prices, there was initially a limited availability of Chinese product. Everybody else in the world had raw material prices. So everybody was able to move their prices up and hold them there in 2009.

Once the Chinese supply problems -- they're past them in August. You see the surge in imports from China; and when you look at your price declines, you see the Chinese prices coming down quicker and steeper than the domestic prices.

That's because the U.S. producers are trying to basically hang on to those higher price levels and make some money. They're trying to stay at a level where they actually are profitable. We essentially don't want to go back to the bad old days of 2006 and 2007, where we were making no money.

But what's happening is, they're losing sales volume in 2009. In the effort to hold onto higher prices, they're losing sales volume.

Then the other issue about the price decline is that even though phosphoric acid and soda ash and potassium prices the raw materials, have come down in 2009, I don't think they've come back as far. And you can see that in the first couple of charts.

If you look at the potassium hydroxide raw material chart or the phosphoric acid, phosphoric acid has come pretty much back. Potassium hydroxide has not. But you can tell from looking at the P&L that the profitability has come down in the first quarter of 2009, as well. Largely, I think, analysis would show its volume effects. We're trying to hang onto higher prices. Is that responsive?

MS. DEFILIPPO: That's responsive; thank you. With that, I have no further questions. Are there any other questions from staff, before I say thank you very, very much? I know we had a lot of questions for you, and your answers were extremely helpful, and I appreciate that.

We will now take a break of 10 minutes -- so, say, about six or seven after 1:00, we'll come back for Respondent's presentation; thank you.

(Whereupon, a short recess was taken.)

MS. DEFILIPPO: We will now turn to those in opposition to the imposition of countervailing and anti-dumping duties. Ms. Mendoza, please start when you're ready.

MS. MENDOZA: Thank you very much; this is Julie Mendoza for the record, and I'm appearing today with members of Wenda America, who will be testifying

as to various aspects of this investigation.

Before I turn it over to them though, I'd just like to make a couple of comments. First of all, I wanted to clarify that we are not making a like product argument, splitting out food grade from technical grade. We're arguing that there's attenuated competition between those two segments.

The second thing is that we're not saying that there's no competition from Chinese imports in the food segment of the market. There clearly is; and in fact, we'll be putting on the record information regarding the exports in 2009 from China, when they first break out food grade from technical grade.

You're going to see that it's less than 10 percent to the U.S. market. And in fact, if you look at overall exports from China, food grade, it's an even smaller percentage of their total exports. So we're going to be giving you that data.

I just wanted to clarify, we're not saying there's no competition. We're just saying, you know, it's very small; and that there are a number of barriers to entry to China being able to compete with domestic manufacturers in that food grade segment.

So I just wanted to clarify those things so that there weren't any misunderstandings. With that,

I'd like to turn it over to the President of Wenda, Mr. Wei.

MR. WEI: Good afternoon, my name is Xiong Wei. I am the President of Wenda Co. Limited, the Chinese parent company of Wenda America.

Wenda imports phosphate salts and other food additives into the United States through Wenda America, and also imports U.S. produced phosphate salts into China. We also sell phosphate salts produced in China, including STPP all over the world.

I have been in the food additive business for more than 20 years, and I am familiar with the market for phosphate salts in China, the United States, and in many third country markets around the world.

It is important to understand that the production and sale of STPP and other phosphates is divided between food grade and technical grade STPP.

The great majority of Chinese production and exports of STPP is of technical grade STPP. Food grade STPP production in China is limited, and it is my understanding that only a handful of Chinese suppliers export food grade STPP to the United States.

There are several reasons for this. First, the specification for food grade STPP are very

different. The Food and Chemical Code of the FCC specifies a very narrow specification for PH and also states maximum limits: fluoride, heavy metals, and other elements.

This means that manufactures must use only food grade phosphoric acid and soda ash or caustic in their production products. Technical grade STPP does not have to meet these specifications, and can be produced using lower grade raw materials.

Second, to produce food grade STPP, manufacturers must use only stainless steel vessels, tubing, and other manufacturing equipment. Technical grade STPP is produced using less expensive carbon steel equipment, in a much larger capacities.

Third, production facilities producing food grade STPP must meet food sanitary standards for the overall production facility, which determine the materials that can be used in factory floors, windows, and other surfaces; and have detailed standards for cleaning, ventilation, and other sanitary conditions.

Food grade production also requires using more inspection and testing, and other support workers, on the line to ensure quality control.

For these reasons, food grade STPP must be produced only in dedicated facilities. I know of no

producer of food grade phosphates anywhere in the world that produces food grade and technical grade on the same production lines. Even if it was possible to do so, no food grade customer would accept such a product, because of the risk of cross-contamination.

These production factors mean that Chinese producers cannot easily shift from the production of technical grade STPP to food grade. A producer who wanted to make that switch would need to essentially build a new plant, with all new equipment, and entirely re-design the facility.

Another limitation on Chinese exports of food grade STPP to the United States or to U.S. suppliers located anywhere in the world is the supplier qualification process. As my colleague, Brian Metzger, will explain, even Chinese factories that meet the food grade specifications must undergo a long and detailed qualification process in order to be able to sell to U.S. food manufacturers.

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focus of Chinese manufacturers on the Chinese domestic market on certain country export markets, I cannot understand how the U.S. industry can claim it is being injured or threatened by imports of STPP and other phosphates from China; thank you very much.

MS. MENDOZA: Before we turn to our next witness, I'd also just like to clarify that this morning, we heard a lot of testimony about how you can use food grade to go into technical grade uses, and we agree with that.

But the important point is you can't do the reverse. In other words you can't use technical grade material for food use, okay? So what we're going to talk about is how the industry in China is structured.

It sounds like the industry in the U.S. only produces to food grade standard. So everything they produce, they can sell to either market.

Our position, and what we will explain to you now, is that in China, that's not the case; that there are producers who are dedicated to technical production, who would have to switch over to food production, and that will be the testimony. So with that --

MR. METZGER: Good afternoon, my name is Brian Metzger, and I'm the National Sales Manager at

Wenda America. I have been with Wenda for six months.

I previously worked four and-a-half years at Skidmore Sales as a Regional Sales Manager; and prior to that, I was a Senior Account Manager at Innophos, another phosphate company for one and-a-half years. I have a Master's Degree in meat science, and have been in the food additives for over 11 years.

During the period covered by this investigation, Chinese imports had a very limited, and for the most part, stable presence in the food additives business.

There are a number of reasons for this. First, imports from China are at a significant logistical disadvantage, due to the long lead times involved in ordering and shipping from China, and the risk of attendant supply chain disruptions.

For example, in some parts of China that depend upon rail transport, spring floods, as well as earthquakes, have been known to significantly disrupt delivery schedules.

We see lead times of approximately six to eight weeks from China, under normal circumstances, while the U.S. producers are able to supply in one week from order. The vast majority of our sales were made under contract.

Second, the qualification process for a Chinese producer to become a supplier of food additives to the U.S. food industry is long and difficult. There are many obstacles to overcome. In order for a food producer to qualify a factory in China, the supplier must satisfy the customer's requirements for safety and reliability, meet kosher standards, and satisfy rules concerning the identification and exclusion of allergens.

In addition, the supplier must also provide documentation demonstrating compliance with country of origin labeling, liability insurance coverage, and other requirements that may vary from customer to customer.

Many customers insist on personally visiting and auditing the manufacturing plants, or scheduling an outside approved auditing firm to come in and audit before they may proceed on the approval process.

Customers also require extensive product samples, both for analysis and for use in test runs. Typically, the qualification process for a new supplier takes one to one and-a-half years to complete.

In years past, the qualification process consisted of the spec sheet, material safety data

sheet, and a kosher letter that were current. In today's world, in addition to the three previously mentioned documents, we are required to provide, at a minimum, the nutritional analysis; continuing letter of pure food guarantee; Dundar quality system survey; notification of product containing allergens; Dundar information form; certification of natural, if applicable; organic certification, if organic; country of origin; allergin statement; and proof of insurance.

In addition, many customers have various other requests, including third party audits by specifically designated auditing firms, that can differ from customer to customer.

Customers may also have specific requests for additional labeling on the bags, pallets. or placards. They may only have a three lot shipment rule for traceability purposes.

We are required to provide certificate of analysis information on every shipment, plus provide information on safety procedures for our plant security, transportation, and HACCP certification, which stands for Hazard Analysis Critical Control Points.

We are also required to provide the following documentation concerning the manufacturing

process: specific testing conducted on our products, packaging tamper evidence, GMP or Good Manufacturing Practice compliance, and training provided to employees; and soon everyone will be required to provide an audit sanctioned by the GFSI or Global Food Safety Initiative.

After all of these safety and compliance issues have been dealt with, there is still the additional hurdle of actually qualifying the product in the customer's production process. This means supplying the customer with material for testing to ensure it runs on the customer's production equipment; and in the end product, satisfies the customer's own specifications and standards.

Recent scares involving contaminated pet food and other consumer product safety issues involving Chinese imports have only made companies more cautious about buying from China. Some food producers, particularly small to mid-sized companies that cannot afford to invest in extensive compliance and testing programs, refuse to use Chinese ingredients entirely.

More recently -- which requires that all food ingredient suppliers be audited and certified by one of four global auditing consortia.

Recently, Walmart became the first national grocery chain to require factories from which it purchases to comply with GSFI standards for its meats, poultry, fish, ready-to-eat foods and private label products. Other retailers are expected to follow suit.

We have no doubt whatsoever that the STPP and other products that we import from China meet or exceed the safety and purity levels of domestically produced phosphates. But we are very selective about our suppliers, and we deal with only a very limited group of companies that we know, and that are reliable and in compliance with all U.S. requirements. The risk is just too great for us to gamble on using suppliers that don't meet our high standards.

Even after all these efforts, we still find that consumer perceptions are a major obstacle. Given the massive publicity surrounding the pet food and other safety incidents of the past few years, food producers remain extremely nervous about using Chinese ingredients.

Many companies still specify no Chinese supply at all; and for those that will buy Chinese ingredients, the qualification process remains long and difficult. The number of Chinese factories that

can pass the qualification process for both safety and purity, and for reliability and logistics, remains limited.

Food grade processing facilities have many special requirements to be fulfilled before they are approved to make food grade materials. One does assist these facilities, to help them bring their manufacturing practices up to food grade standards, if they would like approved through Wenda.

We will only represent manufacturers who meet our quality assurance SOPs, standard operating procedures; and sometimes this means re-tooling the facilities, addition of buildings and equipment, procedures and policies that need to be written and implemented, and a plethora of other important details that must be completed to meet the food safety regulations to ship food products to the United States.

It is impossible to switch from technical grade material to food grade material. As noted by Mr. Wei, there are specific requirements on the production side for food grade products, and these must be followed in order to bring high quality, safe, food grade materials for our manufacturers.

Given the natural and very significant

competitive advantages enjoyed by the U.S. producers, we, at Wenda, frankly can't understand why these companies are demanding protection from the U.S. Government; thank you.

MS. DEFILIPPO: Excuse me, one second; I'm not sure -- is that one working? Yes, I apologize; thank you, Ms. Crull.

MS. CRULL: Oh, you're welcome. Would you like me to start?

MS. DEFILIPPO: If you don't mind.

MS CRULL: No, not at all.

MS. DEFILIPPO: That way, it's for sure in the transcript.

MR. CRULL: My name is Deborah Crull, and I am the National Account Manager for Wenda America, Incorporated. Wenda America is an importer and distributor of food additives, including phosphate salts.

I was the first employee to be hired for a position with Wenda, America on June 1st, 2007. I have 27 years in the food manufacturing industry, representing food ingredient additives and preservatives. I am here today to give you Wenda's perspective on the U.S. phosphate salt market and role that imports play in that market; particularly with

respect to food grade STPP, MKP, DKP, and TKPP.

Simply put, imports of the food grade phosphates from China serve a very limited market, and have not injured U.S. phosphate salt manufacturers, either in terms of their sales or their prices.

The STPP we sell goes mainly into small and mid-sized food manufacturers for use in meats, poultry, seafood, where it is used to improve quality. It is also used in pet foods daily, canned foods fruit juices, products made from milk or soybeans, yeast nutrients, and to maintain the balance of electrolytes in drinks.

Starting in early 2008, prices for the major feed stocks used to product STPP and other phosphate salts such as phosphoric acid, phosphoric rock and potassium hydroxide increased dramatically.

These same raw materials are also used in the fertilizer industry, and demand for that application soared as rising oil prices caused farmers in the U.S. and Brazil to plant more corn for use in the production of ethanol. Given the strong demand in these fertilizer applications, producers of the raw materials began diverting more supply to the fertilizer applications, leading to skyrocketing prices and shortages of these materials for use in the

manufacturing of phosphate salts.

This rapid rise in costs for raw materials led to higher prices and tight supply conditions for food grade STPP. Some U.S. producers reneged on supply contracts by raising agreed-upon prices and/or imposing allocations and similar supply restrictions.

U.S. producers are dependent on obtaining their raw materials from abroad; and when they can't get that supply, they have to stop shipping phosphate salts.

This led to some food manufacturers turning to the Chinese suppliers to try and fill in for shortages, rather than be faced with plant shutdowns and worker layoffs. We were contacted by a well-known meat producer, because one of the U.S. producers of STPP refused to supply them under their annual supply contract.

I was told on April 11th of 2008 that the meat producer had been informed by its U.S. supplier of STPP that they would (A) not be able to provide material to them at the agreed-upon contracting pricing; (B) that not only this U.S. producer, but also others such as Innophos and Buddenheim, were pulling back on their ability to supply and see that they would be placed on allocation. Even in this

environment, that particular customer ultimately got cold feet and said they would not buy from China.

This inability of U.S. producers to supply their customers was nevertheless a significant factor in the market in 2008, that forced customers to at least consider alternate sources of supply. The worst of the supply shortages came in the latter part of 2008, when demand typically is highest as production of holiday food items, such as turkeys and hams, are at their highest.

To the extent that the Chinese imports increased sales to food additive customers in the second half of 2008, those gains were not due to lower prices; but rather due to supply shortages, as the U.S. producers could not supply.

The food sector is one sector of the economy that has been less adversely affected by the recent economic crisis. People still have to eat. And in recessionary times, many families tend to cut back on going out; meaning that he demand at the grocery store level, if anything, has increased.

We have not seen a major drop-off in demand for food grade STPP and other phosphate salts. For this reason, when prices for phosphoric acid and other food stocks increased last year, ICL and Prayon were

able to simply pass those costs along to their customers in the form of higher prices, and they have kept those prices at or above the 2008 levels through the first half of 2009, even though raw material prices dropped rapidly this year.

Despite the lessons of the 2008 shortage, however, we do not except Chinese exports of STPP and other food grade phosphates to increase in the foreseeable future. As my colleague, Brian Metzger, discussed, there are formidable barriers to entry for Chinese food grade phosphates that are not easily overcome; thank you very much.

MS. MENDOZA: I'd just like to make a few comments with respect to the conditions of competition on our legal arguments, and then I'm going to turn it over to Will Planert, who's going to walk through the statutory criteria, and just talk about each of them and how they demonstrate there's no material injury or threat of injury.

You've heard a lot from our witnesses today about the distinctions between food grade and technical grade; and we understand that the U.S. producers have already begun shifting out of the technical products for obvious reasons. In its 2007 annual report, ICL states that it had already begun

this process. It says, "Sales of STPP detergents are declining in the U.S. and Western Europe, due to governmental regulation and environmental pressures. ICL has de-emphasized this business in recent years, focusing on additional value added markets."

Now in terms of China, as we heard from Mr. Wei, Chinese producers can continue to focus on the Chinese market for both technical grade material and food grade material, and in their markets both of those products are continuing to grow in terms of demand.

In contrast here in the U.S., obviously, the focus has been much more on the food grade, which I think explains the reason why U.S. producers now produce all of their production to food grade, as we heard this morning.

Chinese producers, on the other hand, or to be more accurate, cannot shift into food grade material from technical grade material without going through, as Mr. Wei explained, some substantial changes in their facilities, which right now use carbon steel products for large production raw materials that are dedicated to technical uses and don't comply with any of the standards that have been discussed, let alone the certification process in the

United States.

In addition to our testimony, I think there are a number of public sources that also have identified this distinction, in terms of technical grade and food grade. We would just note that both ICL and Prayon list these products separately on their websites; and Innophos, a producer of STPP in Mexico and Canada, produces food grade and technical grade STPP in different divisions of the company.

These differences have significant implications for the Commission's analysis. First, it means the competition between Chinese imports and the domestic industry is significantly attenuated. As I said before, Chinese export statistics show that in the first eight months of 2009, more than 90 percent of China's exports were of technical grade material.

In fact, if you look at the statistics for all of Chinese exports everywhere in the world, only five percent of their experts were of food grade material.

In contrast, as I said, the U.S. is increasingly focusing on these specialty salts and other food grade materials. ICL's annual reports for 2007 and 2008 state that the company is moving towards these more specialized salt products to increase their

profit margin.

A second key condition of competition is that imports have long played a role in the U.S. market -- all imports have long played a role. As shown in the public import data, throughout the period, imports have accounted for a large share of U.S. supply, led by Mexico, Canada, and Israel.

Until recently, China was a relatively small supplier to the U.S. market; and as recently as 2007, China imports accounted for over six percent of total imports, and an even smaller share of the U.S. market. And as I'll discuss in a moment, Chinese imports into the U.S. increased in 2008 and the first half of 2009. But these increases, as Debbie has explained, came entirely at the expense of other subject imports.

A third condition of competition is the impact of raw material costs. You heard a lot today about how everybody understood when they raised their prices, they did so because raw material prices were increasing.

Mexican and Canadian suppliers experienced those exact same raw material cost increases and supply shortages. In fact, it was testified to this morning by ICL that they had their customers on allocation.

Innophos states in their May 2008 transcript of their call with investors, "As you know, the strong agriculture demand creates demand for phosphate supply. The effect on our North American market is a tightening of competing specialty phosphate supply. Because our largest competitors are also major players in the phosphate fertilizer marketplace, they can shift their supply toward this market.

What we do have is factual knowledge that we're having many parties come to us to ask for supply, especially phosphates. This includes STPP, because they can't get it from their existing suppliers." That's dated, I believe May of 2008.

Chinese producers, on the other hand, tend to be more back integrated, so they were less severely impacted, which is the reason that China was able to come in and supply some of the U.S. market in these supply shortage periods.

And as we said, those increases did come at the expense of non-subject suppliers. In fact, you saw that Mexico's exports to the U.S. actually declined on an absolute level much more than Chinese imports increased. With that, I'll turn it over to Mr. Planert.

MR. PLANERT: The Commission must consider

the volume of subject imports, the price effects of subject imports, and the impact of subject imports on the domestic industry. Each of these factors strongly supports a negative determination in this case.

First, the volume of subject imports from China has not been significant either absolutely or relative to the sales and production of the domestic industry. Chinese imports of STPP were small and stable in 2006 and declined in 2007. Imports then increased in 2008. But as we have discussed, this increase, which was mostly in the second half of the year and came in response to significant supply constraints from the U.S. producers. Imports from China also increased in the first half of 2009, but this increase was entirely at the expense of non-subject imports. Based on the public Census data, imports from Mexico alone declined by 31 million metric tons between the first half of 2008 and the first half of 2009. This decline is more than twice the increase in the volume of Chinese imports during that period. As we will be discussing in our post-conference brief, because the figures are confidential, the domestic industry's market share remained remarkably stable during this time. And as ICL's public annual report makes clear, the U.S.

industry has been shifting over into specialty salt products, particularly for the food industry, since even before 2007.

Second, with respect to the price effects of subject merchandise, we believe the record shows no evidence of price depression or suppression. As has already been discussed by a number of witnesses, prices for phosphate salts have increased significantly in 2008 and into 2009, as the cost for raw materials skyrocketed. Rising prices means no price depression. Furthermore, the confidential record shows that U.S. price increases have equaled or exceeded the cost of their increases in raw material costs. Because producers were able to fully pass through these cost increases, there was also no price suppression. As raw materials cost have retreated in 2009, the gap between the lower raw material costs and the record STPP prices was simply not sustainable and there is some evidence that prices are starting to come back down.

Again, this morning, Mr. Cannon mentioned that on the upside, you could attribute the price increases in the STPP to the raw material price increases. But then when it came to 2009 and the beginning of the downside, suddenly we were

attributing all of that to subject imports and there was no discussion about what was happening with raw material price increases and we will be putting -- decreases, I'm sorry -- and we will be putting information in our post-conference brief to address that. But, again, we believe there is no basis to attribute any decline in domestic prices over the past few months to the effect of Chinese imports.

Third, there has been no adverse impact on the domestic industry. Public data indicate that both ICL and Prayon experienced record years in 2007 and 2008. While some of this profitability is attributable to the fertilizer sector, the annual reports are positive with respect to all sectors. The confidential data on the domestic industry's price to cost ratio, sales values trends, and profitability all support this conclusion. These data are in accord with the following public statement of ICL in the 2008 annual report: 'During 2008, ICL pursued a profit margin improvement strategy that emphasized price increases over volume gains. Despite rising raw materials cost, it was able to improve its financial performance during the period by renegotiating contracts, instituting surcharges, and eliminating price protections.'

Finally, I would like to turn briefly to the issue of threat and we believe there is no reasonable indication of threat of injury on this record either. Technical grade exports from China to the U.S. are set to decline very significantly over the next six months, as phosphates are fully eliminated from consumer dishwashing detergents. Chinese producers, as you've heard from our testimony today, simply cannot just divert all of that technical grade production to food grade STP for all of the reasons that have been discussed. More than Chinese producers have an economic incentive to switch significant capacity from technical grade to food grade simply to attempt to expand sales to the U.S. market. The United States accounts for less than 10 percent of Chinese exports to all markets of STPP and is even less important to China when its home market consumption is considered. SRI Consulting stated in the summary of its report for industrial phosphates that while demand in the U.S. and Europe of STPP used in detergents will stagnate and decline, the growth in China, India, and other Asian countries and South America is expected. In fact, in both 2008 and the first eight months of 2009, India was China's single largest export market for STPP.

Import levels from China over the period of investigation have correlated with supply conditions in the U.S. market and, therefore, the record requires a conclusion that the same pattern will continue and Chinese imports will decline. Demand for phosphates will be strong in China and Indian and other developing countries where demand is growing and the use of industrial -- the industrial use of phosphates in dishwashing detergents is not prohibited. While worldwide financial turbulence has depressed markets, there are strong indications that China's market is returning more quickly, as is Asia generally.

In terms of food grade STPP and other phosphates, China produces and exports very little. Given the high barriers to entry, it is unlikely that Chinese producers can begin supplying more of this product in the imminent future. In fact, Petitioners did not identify int heir petition or in their testimony today any increases in Chinese capacity to produce food grade material. Their exhibit on capacity increases in the petition refer to increases in the capacity for the production of raw materials, not phosphate salts. At the same time, demand is expected to grow worldwide in the food segment by three percent a year and most of that growth will be

in developing countries, as Mr. Wei has testified and is confirmed by the SRI report from January of this year. Thank you, very much.

MS. MENDOZA: And with that, we conclude our testimony.

MS. DEFILIPPO: Thank you, very much, to all of you on the panel for your very helpful presentation. We will now turn to staff questions and I will go to Ms. Merrill first.

MS. MERRILL: Good afternoon. I would like to say welcome to this panel, as well. I would like to start with -- I know Ms. Mendoza mentioned earlier that imports from China food grade STPP is less than 10 percent of the volume. However, do you have any idea what the breakout would be for companies that produce either both food grade and tech grade or just food grade versus the number of companies that produce just tech grade. Is it a small segment?

MS. MENDOZA: I can let Mr. Wei talk bout that, too, but my understanding from talking to the association, that there are a very limited number of food manufacturers, who can produce food grade material. I think he said less than five. Is that right?

MR. WEI: Much less food grade producers

than technical grade in China. Also, the capacity is much less.

MS. MERRILL: Then going from that, Mr. Metzger, in your testimony on page two, the last -- it's the first paragraph, you said typically, the qualification process for a new supplier takes one- to one-and-a-half years to complete. Does that apply to -- the one-and-one-half years, is that just to new suppliers, in general, or would that also apply to someone if they were transferring into the food grade segments from the technical grade?

MR. METZGER: I'm not sure I follow that very last part of that question. But, usually ,it does take about, we figure 12 to 24 months for qualification, especially if you're a new vendor. It definitely takes longer if you're trying to qualify a product at any customer. I'm speaking solely for food grade.

MS. MERRILL: Okay. But when you say --

MR. METZGER: Technical, I'm not sure.

MS. MERRILL: When you say 'as a new vendor,' does that mean a new vendor for phosphate salts or STPP in general or a new vendor to food grade STPP?

MR. METZGER: It would be for food grade

STPP and any food grade ingredients for that matter.

MS. MENDOZA: I mean, I think what Jennifer is trying to ask you is if you were going to -- if you produced technical grade and you switched over to food grade, how long would -- is that still the qualification process?

MR. METZGER: It's still the same time frame --

MS. MERRILL: Okay.

MR. METZGER: -- because you're going to have to go through all those steps that I outlined in the testimony --

MS. MERRILL: Right.

MR. METZGER: -- especially considering the fact that, you know, the melamine issues that happen in China. Customers are very leery. They've got big plants to protect, especially the larger customers. So, they put you through a very arduous process to make sure that you're meeting all the safety qualifications that you're going to need to meet and then they have to check the quality of your product, the functionality of your product in their applications. They simply can't afford to have any mistakes made. We saw what happened to the pet food industry when that happened.

MS. MERRILL: Okay, thank you. Next, I'd like to ask about the other major North American markets and whether these markets are structured similarly to the United States market or if you know.

MS. MENDOZA: And by that, you mean the same thing versus technical grade or -- I don't know, do you guys know that?

MR. METZGER: Since you sell to Mexico -- we sell to Mexico.

MR. WEI: Yeah. We have a French company in Mexico. We, also, sell food grade STPP there. The approval process is the same, no big difference. It's a very long process.

MS. MERRILL: Okay. Those are all the questions I have, so thank you, very much.

MS. DEFILIPPO: Thank you, Ms. Merrill. Now, I will turn to Mr. Goldfine, our attorney.

MR. GOLDFINE: Good afternoon. This is for Mr. Wei and Mr. Metzger. Has Wenda Company or Wenda America, to your knowledge, taken any sales from Prayon or ICL, any customer accounts or any sales?

MR. METZGER: I think we want to talk about that in confidence.

MS. MENDOZA: We can answer that in our post-hearing brief. That would probably be the

appropriate place to do it, particularly about these issues we talked about, remember, in the supply situation in the second half of 2008. I think we can elaborate on those --

MR. GOLDFINE: Okay. More specific as you can be in the post-conference brief, I think that will be helpful.

MS. MENDOZA: Yeah. I mean a lot of it is confidential, obviously.

MR. GOLDFINE: Yeah, sure. On the like product argument, first of all, what is your argument on like product?

MS. MENDOZA: Basically, our position on like product for purposes of the preliminary determination is that we accept the four separate like products that the Petitioner has identified. We believe that even within those products, there is attenuated competition, particularly with respect to STPP, between technical and food grade. But for purposes of the preliminary determination, we're not suggesting a different like product.

MR. GOLDFINE: Would you address -- if you would like to address the one like product issue in your post-conference brief.

MS. MENDOZA: We will certainly do so.

Since you've asked us to, we'd be happy to.

MR. GOLDFINE: Okay. And analyzing the volume, price, and impact along those lines, too, if the Commission were to find one like product.

MS. MENDOZA: Right. I understood you. In fact, I thought it was -- for me, this morning, it was a little bit confusing, because when we talked about trends and pricing and trends and profitability and trends and market share, you know, I mean, if you look at those four products, they were pretty distinct and, yet, they were kind of talking about them as if they were all the same. And I was very confused about that. But, yeah, we will address it as a single like product and all the --

MR. GOLDFINE: Yeah. And by the same token -- I guess I would like you to address it both in terms of four like products and one like product, because if we were to go four like products, you have to have a volume, price impact discussion on each of those, like you're suggesting. If it's one like product, then we can do it all together. So, if you could do it both ways --

MS. MENDOZA: We'd be happy to do that. We'll be happy to address the one like product and then we'll address STPP. We'll have some information

on the other products, but our focus is primarily on the STPP portion. But, we will --

MR. GOLDFINE: Okay. On the non-subjects, it was mentioned that to the extent Chinese subjects gained any share, it was all taken from the non-subjects. What time period, when you say -- are you referring to?

MS. MENDOZA: I'm talking specifically about the only time that China really increases, which was the second half of 2008 and into 2009, and that is the time period when we took some of the market share against subject imports. And I think you heard a lot of testimony about how all of these imports are very competitive with each other and can easily -- I believe the gentleman from Prayon testified that all these imports basically compete together in the marketplace. So, we're saying in late 2008, early 2009, that's when that replaced --

MR. GOLDFINE: Okay. If I could ask the witnesses, what's your experiences, in terms of competing with the non-subject imports and the domestic industry? I mean, do you have more success against the non-subjects or more success against the domestic industry?

MS. MENDOZA: I guess they'll answer for

food grade, because I was kind of answering overall. Okay.

MR. WEI: Sorry. Can you repeat the question?

MR. GOLDFINE: Oh, sure. In terms of your experience in competing against non-subject imports from Mexico, Israel, or wherever else they come from, sources, what's your experience with those?

MR. WEI: The most difficult thing to compete with them in the food safety issue.

MR. GOLDFINE: Is what?

MR. WEI: Food safety issue.

MR. GOLDFINE: Oh, okay.

MR. WEI: I think we are probably the only company in China, who has a trading company, who has own quality assurance and quality control team helping Chinese manufacturers to approve their production, food safety standard. And in our experience, there are very few of them can meet the standard of U.S. food manufacturers. So, very few companies we can choose in China to help them be approved standard -- to meet the U.S. manufacturer's requirements. So, that's the most difficult part. I don't know if I answered your question.

MR. GOLDFINE: What about in terms of price,

are the non-subject imports -- are you priced below those? The non-subject imports, are they priced higher than your product?

MR. WEI: Sometimes, we sell higher price, because more can be made to a customer's requirements. Some customers need, for example, very special, very narrow size specification, probably, the U.S. producers, they don't want to meet because the volume is very small. Then, we can pick up this kind of business and sell at quite a high price. But, price is never the first important thing for the food industry.

MS. MENDOZA: Deb has another comment for you, if that's okay.

MR. METZGER: The most important thing, and I was just at a large company, is quality and safety are number one. If you can't get past that step, you don't get anywhere. And then, you know, price is a factor and so is ability to supply.

MS. CRULL: I will tell you that I had a recent conversation with one of our multinational companies that we were working on a bid with and it's concluded, we didn't get a portion of the business. And I asked them, I said, you know, overall, were we competitive and they said, yes, you were competitive,

but you weren't the cheapest. So, we aren't out there trying to bring the market down. We're trying to be competitive with high-quality product. And that's not the first one. So, I was very happy to hear that.

MR. GOLDFINE: Okay. On threat, which I'm sure you'll address at length in your post-conference brief, but just, how do you respond to the argument that was made this morning, especially the last chart showing, well, there's this massive excess capacity? And I understand the food versus technical, but is there anything more to your argument other than -- well, I guess, here's the excess capacity and you're saying it's all -- it's mainly in food grade.

MS. MENDOZA: Well, actually, I believe that the questionnaire responses from the foreign producers, particularly for 2008, and I will admit that even though we stayed late last night, I haven't reviewed all of them. But, I would say that I think that that provides quite good coverage, in terms of the exporters. And I think you'll see that those capacity figures they've got in that chart really are way over what the capacity figures are that are reported in the foreign producer questionnaires, which I think have good coverage for 2008.

MR. GOLDFINE: Okay. And on your attenuated

competition, in terms of just if there are any other Commission decisions that you want to point to that would raise -- I know they're sui juris, but that would raise sort of a similar situation.

MS. MENDOZA: I mean, we would be happy to do that. I mean, one of the reasons I clarified our statement that we're not saying that we're not in that market at all, right. We're saying we're in that market, but it's a limited extent and there are high barriers to entry. And I know when we did the CFS paper case, I guess 2007, the original case, that one of the issues there was attenuated competition between web and sheet and I think that's analogous, although in that case, I think there had been no imports of the web grade material. But, I think there are a couple of others. We would be happy to address those.

MR. GOLDFINE: Okay. That's all I have.

MS. DEFILIPPO: Thank you, Mr. Goldfine. We will turn now to Mr. Thomsen.

MR. THOMSEN: Good afternoon to the panel. Thank you for coming here to present your testimony. Do you sell to end users or distributors or both? Or do you have a particular pattern that you sell to?

MR. METZGER: We sell to both, but mostly end users.

MR. THOMSEN: Okay. And has that changed since 2006?

MR. METZGER: Deb? I just joined, so I will let Deb answer that.

MS. CRULL: Our primary focus is to focus on the end user. We have two distributors that we work with right now and those were because of relationships. We were asked to work through them by their companies. So, our focus is not distributors. So --

MR. THOMSEN: Okay. And have you been increasing the number of food grade purchasers that your STPP is qualified at over the last year or last two years?

MS. CRULL: Let me say very slowly. We're talking about a year to a year-and-a-half and sometimes even longer. I mean, it's slow. You have to have a lot of patience to do this because, again, we have the Chinese issue to overcome with the melamine. You know, there's a lot of conversation about our food safety program. It is very important to us, but it's also very important to the manufacturers.

MR. METZGER: I would make one comment. We talk about the year-and-a-half qualification process.

That's when they start allowing you to qualify. It still takes time to get in and establish relationships and get to the right people. So, there's additional time for that.

MR. THOMSEN: Of course.

MS. CRULL: Right. And in some cases, they may have already contracted for a multi-year, two-year contract. So, you're in the process of trying to even get an audience with the right people. You may have to wait another year to get in on the ability to quote on material. So, the obstacles are huge for us.

MR. THOMSEN: Could you, in your post-conference brief, give us an idea of how many companies you are in the process of qualifying at? I think that would be helpful.

MS. MENDOZA: We'd be happy to that.

MR. THOMSEN: Thank you. With regard to the food grade that you're bringing in, is this light dense, heavy dense, or both?

MR. WEI: Only one specification. We only have fine granular. I believe it's something like -- more like light dense.

MR. THOMSEN: Is that typical of what you've seen in the marketplace when you're competing?

MR. WEI: So far, we only have this breed.

We don't have ours.

MR. THOMSEN: Okay. If I can switch gears for a second and speak about the Chinese earthquakes and the suppliers of food grade STPP in China. Do you have any idea of where they are, in terms of getting back on line, or whether they're up to full speed yet? I'd like to know a little bit more about what's happening in China.

MR. WEI: I don't understand well what you want.

MR. THOMSEN: Well, we have these Chinese earthquakes that, I guess, had taken some capacity offline a year-and-a-half ago or so. I want to know whether those were back up and running as of now, your competitors.

MR. WEI: Some of them stop production. Some of them come back.

MR. THOMSEN: Okay. And can you describe the impact of the Olympics, that the Olympics had on your firm in 2008?

MR. WEI: Not big influence to the phosphates because the major five provinces where the phosphates producers are located are all in the central to west, southwest, so very far from Beijing. The industries nearby Beijing were all very much

affected. But the ones in the south and the southeast, they're okay.

MR. THOMSEN: Okay.

MS. MENDOZA: So, basically, because I had asked this question beforehand also, I mean, basically, he explained, and I think this was clear, but is that because of where they're located, they really had no effects from the Olympics at all.

MR. THOMSEN: Okay. And can you predict where you see demand going in the next five years for food grade STPP in the United States, please?

MR. WEI: I believe that the market will grow here, but very modestly, not like in China. I think in China, it will grow much faster. And I have no doubt China, in the future, will be the largest market even for food grade STPP because of the population there.

MR. THOMSEN: Okay. To the best of your knowledge, have any Chinese producers that are able to produce their food grade STPP, have they sold it as technical grade STPP or have you been able to sell some of yours as technical grade?

MR. WEI: It makes no sense to do that because food grade, you know, always need much higher investment and also much smaller capacity. No one

likes to do that. Even if you can do that, no one likes to do that.

MR. THOMSEN: I can understand that no one would like to do that. I just wanted to know --

MR. WEI: I don't know if it had been done.

MR. THOMSEN: -- if it had been done. Okay.

MS. CRULL: I'd like to say, too, that all we sell in the United States is food grade material. We don't have any technical business here.

MR. THOMSEN: So, if there was a time when you were unable to sell, you would rather inventory it for a later sale and sell it as food grade rather than selling it quickly as technical grade?

MS. CRULL: Yeah. We produce to order. All of the material we brought into the U.S., with the exception of maybe four full container loads, have been contracted material. So, we only bring in -- we bring in to warehouse for approximately a month as backup and then we keep the pipeline full. We bring it in for a month as backup stock. It's not for sale to anyone else. It's just backup stock for that particular customer, because we develop business, which, again, has been slow and laborious. We warehouse for that customer based on their forecast.

MR. THOMSEN: Okay. Do you want to add

something, Mr. Metzger?

MR. METZGER: No.

MR. THOMSEN: Okay. Does Wenda sell chemical blends?

MR. WEI: Yes, some blends.

MR. THOMSEN: Okay. How large of a market is it for your blends compared to just straight selling STPP?

MR. WEI: Quite small so far comparing.

MR. THOMSEN: Okay. And what type of chemicals do you blend with the STPP?

MR. WEI: It's, you know -- it's a customized blending for some customers. So, it's their recipe. I cannot disclose now.

MR. THOMSEN: Okay.

MR. METZGER: We can address it in the post-conference.

MR. THOMSEN: Yes, post-conference will be fine. Thank you. We heard testimony earlier this morning about Chinese -- importers of Chinese STPP and other salts that would have price lists and fax them out once a month or even faster. Do you prepare price lists for your customers or is it all through negotiation that you come about with your prices?

MR. WEI: All through negotiation.

MR. THOMSEN: All through negotiation. So, you don't have any kind of set price list that you go out and solicit new customers with?

MR. WEI: We don't have a price list for customers because we don't have a big customer base to do that.

MR. METZGER: I would say that we rarely send out prices cold. It would be -- first, you have to get through the whole quality story and it -- you know, you have to sell people on, one, to even try Chinese product first and you do that by telling the whole quality story. So, rarely do we do that.

MR. THOMSEN: Okay.

MR. METZGER: I can't say we've never done it. I've done it before, but rarely.

MR. THOMSEN: Okay.

MS. CRULL: I'd also like to add to that. I know that earlier this morning, someone made a comment about the fact that the Chinese are always sending out e-mails or faxes with pricing. Frankly, that is not true of us or Xingfa. That may be true of some of the other names that I saw in this list, but that isn't how we operate. We compete against ICL and Prayon and Interfox and Guttenheim in the same manner they compete with us.

MR. PLANERT: I think that that's one area, as Julie mentioned earlier, where there was a little bit of confusion, at least in our mind, about whether we were talking about STPP, whether we're talking about other products, whether we're talking about food grade versus technical, because I don't think that reflects the experience of at least this company, in terms of how that product gets marketed or sold.

MR. THOMSEN: Okay. And as my final question, I wanted to know a little bit more about the effect of the Chinese export taxes on your business. Can you tell me how either the increase has affected it or just what effects you have seen in the marketplace from the increase in Chinese export taxes?

MR. WEI: We have had no export duty of tax.

MR. THOMSEN: Okay. But for the imports for what you produce, there is an export tax on the phosphoric acid; is that correct?

MR. WEI: Only for technical grade.

MR. THOMSEN: Only for technical grade.

MR. WEI: Yeah. For food grade, no.

MR. THOMSEN: Okay. Thank you, very much. I have no further questions.

MS. DEFILIPPO: Thank you, Mr. Thomsen. Mr. Ascienzo?

MR. ASCIENZO: I have no questions.

MS. DEFILIPPO: Thank you. Mr. Cantrell?

MR. CANTRELL: Thank you. I have a few questions. Mr. Wei, is that correct?

MR. WEI: Correct.

MR. CANTRELL: I am trying to get some sense on what's going on in the elemental phosphates industry in China. I noticed that starting from a base of 2003, that's the last date I have, it shows that China's exports of elemental phosphates are declining quite dramatically with each and every passing year. And, apparently, China imposed, I guess you would call them safeguards in 2008 to prevent a lot of shipments going outside of China. And I was wondering, what was that designed for? What industries to protect in China? Was it the fertilizer industry that needed more thermal phosphoric acid or was it the industrial sectors?

MR. WEI: You are asking the export duty, what it protect for?

MR. CANTRELL: Yes.

MR. WEI: There are export duty for the fertilizer phosphates, two period a year. It's to protect the farmers benefits only in the high peak season, you know, for planting, they have this export

duty. And in other time, I don't know in our time, there's no duty or the duty is very small.

MR. CANTRELL: Well, there's a good deal of thermal acid use in fertilizers still in China. I know they have quite a large wet process, phosphoric acid, fertilizer grade acid over there.

MR. WEI: I don't know very well this market. But, at least I know producer of fertilizer like Winfoo, they use the white precise, no thermal acid in fertilizer. It's not competitive in today's market.

MR. CANTRELL: White process you said?

MR. WEI: White process.

MR. CANTRELL: What is that, purified acid or --

MR. WEI: They produce the three acids first. They produce the three acid and maybe from clear acid to produce fertilizer. I'm not expert in this aspect.

MR. CANTRELL: Well, I believe it was stated that China is using primarily thermal acid for the industrial phosphate projects, industrial and food grade, say sodium tripoly and so forth.

MR. WEI: Yes. They use thermal acid to produce the phosphate salts.

MR. CANTRELL: Are there any purified phosphoric acid plants going in, in China?

MR. WEI: I think only one. I think only one, to my knowledge.

MR. CANTRELL: Okay. Let me turn to my import sheet here on sodium tripoly. I followed your line of thought about what has been going on this year between Chinese shipments to the United States of sodium tripolyphosphate and their replacement of non-subject. And I was just curious as to how the Chinese shipments through July, year to date, were about 300 percent relative to year-to-date 2008 through July, and I note the prices were down marginally by about 14 percent. But then, Mexico has been brought up and they're the big kicker in this thing on the non-subject side as to why China showed a rapid increase and Mexico showed such a very large decline.

MS. MENDOZA: Yes. We're very aware of that issue and we're going to be talking about that extensively in our confidential brief. I can't say anything here about it.

MR. CANTRELL: Okay, thank you. That's all I have.

MS. DEFILIPPO: Thank you, Mr. Cantrell. I now turn to Mr. Corkran.

MR. CORKRAN: Thank you and thank you, very much, to the panel and witnesses for very helpful testimony. I have really just a few questions, which have already been covered. The first question is for Mr. Wei. Do you import the other phosphate salts that are part of this investigation or do you focus on just the STPP?

MR. WEI: We, also, import others.

MR. CORKRAN: Okay. Can you elaborate a little bit on the market conditions for those products, because a lot of the testimony that we heard focused on -- even though we talked about there were similar conditions of competition, one of the big items that was focused on was the use of STPP in dishwasher formulations? But does that actually apply to the other phosphate salts?

MR. WEI: There is no similar limits to other phosphate salts.

MR. CORKRAN: That's what I thought. So, I guess my question --

MR. WEI: Yes. If you talk about the difference between food grade and technical grade, yes, there is a big difference.

MR. CORKRAN: Okay. But in terms of -- and Mr. Planert, this question might be for you. In

addressing the threat issues, that was a very key factor, I thought, was that future imports of technical grade would not be coming -- would not be drawn into the United States because of the sharp decline in that one particular application. But, that doesn't really address the other three phosphate salts that are at issue here. That's simply for the one.

MR. PLANERT: Right. That's correct. I mean, you know, as Julie mentioned, we're focusing primarily STPP. And I think just from our overall size basis, that's the biggest product and that's a very significant factor, in terms of what's going to happen in the future there. In terms of the other three products, we can try to explore that a little bit in the post-conference brief. I think it may be, to some extent, a slightly different story for each one. But, you're correct, as far as we're aware, there's no major sort of shift in or elimination of a big end use the way we're -- the way we're going to have with the technical grade STPP.

MS. CRULL: I remember right towards the end of their presentation, they were talking about the fact that DKP is primarily a liquid and to ship, you know, 50 percent water doesn't make sense. So, you know, with the MKP and the DKP and the TKPP, those are

sort of liquid-based. I think one of them was a dry. So, there's just not a huge market for that. So, that's why we really didn't address them a lot. To try and ship liquid material from China would be difficult, almost impossible. So, you know -- and they're the ones -- they actually have their people here in the United States -- I believe they mentioned G.S. Robins, I know for sure, Hodkins -- I have it written down here, but I can't remember all of them. But, all of these guys, they do their own blending. They have their own blending facilities right on site and so they can do that.

MR. CORKRAN: Thank you. Thank you all. That was very helpful. And just as with the morning panel, I'm trying to keep lines of argument straight for the individual chemicals and that's why I wanted to address that.

I believe this question might also go to Mr. Wei. Your testimony focused in part upon some of the favorable growth rates for food grade applications in China or at least favorable trends in the consumption of meat products and, in particular, processed meat products. Presumably that would lead to greater consumption of food grade phosphate salts. How will that increase be supplied? Will we see -- are we

likely to see producers of technical grade converting to food grade? Is there a lot of available capacity amongst producers, who currently produce food grade? How are we going to see that favorable growth trend in China supplied?

MR. WEI: First, technical grade cannot come -- you know, to food grade. So, when the market grows, either China import from other countries their food grade or enlarge the capacity in China. I think these are the only ways. Actually, China is importing food grade a lot, food grade phosphates; not only STPP, but many others from Europe, also from U.S.

MR. CORKRAN: Okay. Just to delve into that a little bit further, so it's not your view that the current Chinese producers of food grade have large amounts of available capacity now, that they can continue to provide for the growth in food grade in China?

MR. WEI: I don't think Chinese food grade, for example, STPP, can meet the current domestic demand because, one, market factor like seafood sizing, the main STPP they use are imported from U.S. and Canada, not Chinese products.

MR. CORKRAN: Thank you. That was very helpful. The final question I had is with respect to

the food grade STPP and the technical grade STPP that's sold in the United States. Is there any sort of direct linkage, in terms of the prices? I mean, if you are trying to sell food grade, are you or your customers monitoring technical grade prices and basing your food grade prices off of that?

MS. CRULL: No, I don't believe so. Everybody bases their pricings or their quotes off of is food grade to food grade. There's really no reason for technical because nobody can use it. So, it's not an issue.

MR. METZGER: Back to your last question, Doug, I did notice in ICL's annual report that they are actually focusing on China as a growth area for their phosphates.

MR. CORKRAN: Thank you, very much. And with that, I would very much like to thank the panel. It has been a very enlightening afternoon. Thank you all for your time.

MS. DEFILIPPO: Thank you, Mr. Corkran. I just have a couple of questions, kind of clarification, to make sure I'm understanding correctly. Mr. Metzger, I think you answered a question of someone on staff about sales and you indicated you sell both to end users and distributors;

is that correct?

MR. METZGER: Yes.

MS. DEFILIPPO: And that is food grade?

MR. METZGER: Yes, it's all food grade.

MS. DEFILIPPO: In terms of distributors buying it, they, then, would have an end customer. In terms of the specification, are you -- is it just sort of a general food grade or are you communicating with the distributor, who may have an end user --

MR. METZGER: Food grade requires all the -- the distributors require the same documents for their customers that we need for the other customers.

MS. DEFILIPPO: Okay.

MR. METZGER: And, usually, they have to go through a qualification process, as well. Although, I would say for smaller customers, maybe it's not quite as long. But, at the same time, some of those smaller customers are that much more resistant to Chinese product because of the fact that they don't necessarily have the resources to do all the evaluations.

MS. DEFILIPPO: Are there more sales of the food grade to end users or is it fairly equally distributed between end users and distributors?

MR. METZGER: End users.

MS. DEFILIPPO: That's what I thought.

MR. METZGER: End users.

MS. DEFILIPPO: Okay. And staying with you for a minute, in your testimony, you did mention that the vast majority of sales were made under contract and I think Ms. Crull referred to some as being a year or maybe even multi-year. We heard this morning some testimony that what the U.S. producers were experiencing were early in the period, sort of annual contracts were the norm. However, most recently, the contracts had shortened in length or they were doing more sort of 90-day type of contracts. And I was wondering if you had any comment whether or not you were experiencing that same sort of issue or if your contract length had stayed consistent throughout the period.

MS. CRULL: The reference to multi-year contracts was in the past. That was fairly common, I would say, back in 2005, 2006. If a multinational company could get a two- or three-year contract, they jumped on it because less maintenance. I have seen contract offers go from an annual contract to quarterly contracts because the market has moved so much. But, I didn't start seeing that until the market started --

MR. METZGER: There's --

MS. CRULL: -- coming down.

MR. METZGER: I'm sorry, make one comment. I've seen that. When prices are going up, customers want to lock in a contract at the lower price.

MS. CRULL: Of course.

MR. METZGER: Prices went to historical and very, very high compared to what they had been. When prices are coming back down, they don't want to lock in a high price. So, yes, we're seeing -- I'm seeing customers, some are thinking about long-term, but sometimes they'll consider quarterly and some say they will only do quarterly.

MS. DEFILIPPO: Do you know if the customers generally tend to dual source the produce or are they more often -- or they tend to single source from one supplier?

MS. CRULL: Absolutely dual sourcing and we encourage that for exactly what happened here. You know, we do not want to see our customers shut down, have to close a plant. It is huge in the industry.

MR. METZGER: They'll go out of business. They have to. For most cases, they're at least dual source.

MS. CRULL: Yes. That's been a trend in the

last probably five years --

MS. DEFILIPPO: Okay.

MS. CRULL: -- to dual source rather than single.

MS. DEFILIPPO: Thank you. And one last question sort of in the whole contract area. I talked this morning and asked a question on the discussion we had, in terms of raw material, significant increases and difficulty in getting raw materials and had asked the Petitioners whether or not they had any formal sort of price escalators built into their contracts to deal with raw materials. And I'm asking that of you, whether you do, and feel free to say you prefer to respond to that in a confidential manner, if you choose.

MS. MENDOZA: Maybe, I think there -- could you just repeat the last part of your question?

MS. DEFILIPPO: Sure. We talked some about whether the price increases were just sort of -- they wouldn't increase their price or whether stated in a contract that says if raw materials increase x percent, then the price will follow and increase x percent, whether there's a sort of formal escalator clause in a contract to deal with raw material price increases.

MR. METZGER: I'm going to defer to somebody else on this one.

MS. DEFILIPPO: Okay.

MR. METZGER: I've been with them six months, so --

MS. CRULL: Yeah, I think I do have one piece of business that I can address, but I would like to address it in a post-hearing.

MS. DEFILIPPO: Absolutely. That's fine.

MS. CRULL: And we can go into detail on it for you.

MS. DEFILIPPO: The last question I have is for Ms. Mendoza and I didn't know if there were any other AD or CVD orders on STPP in any other countries.

MS. MENDOZA: I'm sorry to say, I'm not sure I know the answer. I think the answer is no, but we will -- as far as we know, but we'll double check it.

MS. DEFILIPPO: Thank you, very much. Any other questions from staff?

(No further questions from staff.)

MS. DEFILIPPO: With that, I thank you all very, very much for sticking with us to a late hour in the afternoon and for coming and providing testimony. It's always very helpful to hear from the people in the industry. With that, we'll take a five-minute

break, so that people can get ready for their concluding statements. Thank you.

(Whereupon, a brief recess was taken.)

MS. DEFILIPPO: Mr. Cannon?

MR. CANNON: Thank you. How much time?

MS. DEFILIPPO: Five minutes.

MR. CANNON: First, I'd like to address what we just heard. We just heard from a company that serves a small segment of the market, food grade. You have quarterly pricing data. You can see how big that part of the market is and they're a small supplier in that part of the market. And so, I hope the Commission won't take that as at all representative of what's happening in the market as a whole. Quite clearly, Chinese imports of technical grade product are taking sales volume from the U.S. producers and injuring us. And this company, among others, are bound and determined to do the same thing in the food grade market. You heard the clients testify, they essentially are focusing more and more on food grade to try to get away from import competition.

Now, they mentioned that it's difficult to switch a plant in China. First of all, the largest producer in China, Beijing Fa, one of their two facilities, the one in Hubei, makes nothing but food

grade product and they have plenty of capacity. They said there were five producers in China. Norwest also makes food grade capacity. And I suspect we will be able to name them all for you in the post-hearing brief. But suffice it to say, there is plenty of food grade capacity, even if the issue was really just food grade.

Moreover, look at Prayon. Prayon started out making STPP for laundry detergent. What do they make now? Food grade. They converted the whole factory and really wasn't much of a conversion. In fact, the equipment that we walked through on the plant tour, some of it was original from the original installation, such as where the chemicals are mixed.

Next, they argue that prices haven't declined in 2009. In fact, prices have been declining all year and they've declined every month. So, the overall market, prices clearly all declining. Yes, prices did go up because of raw material costs. Everyone agrees. But, imports surged at the end of the year. Domestic producers are now losing sales volume to those Chinese imports and they are unable to hang on to the price levels. In that context, their capacity is not utilized, they are laying off workers, and their profit margins are coming down. That is

material injury. Those are the key statutory factors and on that basis, we ask the Commission to make an affirmative determination. Thank you.

MS. DEFILIPPO: Thank you, Mr. Cannon. Ms. Mendoza?

MS. MENDOZA: I just have a few comments. Basically, now that we've heard testimony for both sides, I think we can -- we would summarize our case as follows. First of all, we saw no price effects. Prices were up in 2008. They pushed through those price increases, 2009 prices based on the Commission's record. You're going to see it. You're going to see the cogs to sales ratio during 2009. We'll stand on that. Again, we're talking only about STPP. I'm not sure how many products he's talking about.

Of course when prices went up with raw materials, the prices went up. When raw material prices are coming down in 2009, I believe after the first half, it's not surprising that prices are following suit. They said that's what their customers expect. They expect to see the raw material prices reflected in their prices. ICL testified that in terms of their client base, all of their clients were on increase prices by mid-2008. By mid-2008, every single customer they had, she said, was at increased

prices.

In terms of volume effects, as we've testified, China came in basically during a period of very tight supply. ICL has admitted that they had clients on allocations. We've seen other indications in the public record that, in fact, supply was very tight. ICL admits that they don't really know when they see fewer sales from distributors, they really don't know why. They just know that those distributors aren't buying as many volumes as they were in the past. I would submit that given the large presence of non-subject imports in this market, that's a very important concession. Because if you don't know why you haven't been able to make the sale to distributors, it's very possible that that sale went to non-subject imports. And, obviously, that can't be attributed to subject imports.

And, finally, I will just say that the other very positive factor that was testified to was the fact that now they've brought down inventories very significantly. They testified at ICL that inventory levels now are among the lowest levels and I'd say that's a very positive development for them. So, thank you, very much.

MS. DEFILIPPO: Thank you, Ms. Mendoza. On

behalf of the Commission and the staff, I would like to thank the witnesses, who came here today, as well as counsel for helping us gain a better understanding of this product and the conditions of competition in this industry. Before concluding, I would like to mention a few dates to keep in mind. The deadline for the submission of corrections to the transcript and for submission of briefs in these investigations is Tuesday, October 20th. If briefs contain business proprietary information, a public version is due on October 21st. The Commission has tentatively scheduled its vote on the investigations for November 6th and it will report its determinations to the Secretary of Commerce on November 9th. Commissioner's opinions will be transmitted to Commerce on November 17th.

Thank you, again, for coming. This conference is adjourned.

(Whereupon, at 2:51 p.m., the preliminary conference was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Sodium and Potassium Phosphate Salts from China

INVESTIGATION NOS.: 701-TA-473, 731-TA-1173 (Preliminary)

HEARING DATE: October 15, 2009

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: October 15, 2009

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: Gabriel Gheorghiu
Signature of Court Reporter